

The Juridical Analysis of Registration of Business Permits through the Online Single Submission (OSS) System by Notaries

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Abstract. *This study aims to find out and analyze the registration of business licenses through the online system, Online single submissions is a new licensing system based on PP No. 5 of 2021 where there is no notary authority in terms of business licensing in accordance with these regulations, but in practice there are many notaries who register business licenses for business actors. This research approach method includes sociological juridical research. Sociological juridical research is legal research using secondary data as initial data, which is then followed by primary data in the field or on the public, examining the effectiveness of a Ministerial Regulation and research that seeks to find relationships (correlations) between various symptoms or variables, as a data collection tool consisting of study of documents or library materials and interviews (questionnaire). The results of the research in this thesis entitled "Juridical Analysis of Registration of Business Permits Through the Online System (OSS)" namely, among others, Mandatory UUJN does not regulate the authority of a notary to provide services for handling all types of documents including the processing of business permits, but on the basis of the trust of the appearer who considers the notary having the ability and knowledge of all legal aspects and their derivatives, the appearer authorizes a notary to assist them in obtaining a business license for a business entity whose deed of establishment is drawn up by a notary. Reasons for the entrepreneur requesting the help of a notary to obtain a business license, OSS Basically, the appearers or entrepreneurs present before the notary do not have extensive legal knowledge or updates on new government regulations. especially when PP. No. 5 of 2021 for the promulgation of OSS, entrepreneurs are very confused about the registration of the intended business license, because since the birth of OSS, registration or application for business licenses has been carried out online (in the network) through the website www.oss.go.id, moreover, entrepreneurs have told the notary they have not received socialization on how to register a business license through the site so that entrepreneurs request the services of a notary.*

Keywords: Authority; Business; License; Registration; Submission.

1. Introduction

One of the developments in technology itself is Online Single Submission (hereinafter referred to as OSS), OSS is one of the advances in information technology at this time, OSS also has an impact on the economy. The rapid development of today's technology encourages society to enter the post-industrial era. This condition is a continuation of pre-industrial and industrial society. The main difference from pre-industrial society is the emphasis on the economy in the service sector and technology.¹ OSS itself has been implemented and ratified on June 21 2018. OSS is a One-Stop Integrated Service (PTSP) in Indonesia, the OSS institution gives new hope for the investment climate in Indonesia to run a business. The meaning of OSS has also been explained in Government Regulation Number 5 of 2021 concerning Electronically Integrated Business Licensing Services, namely business licenses issued by OSS Institutions for and on behalf of Ministers, institutional leaders, Governors, or Regents or Mayors to business actors through an integrated electronic system. .

According to Surya Jaya, Cyber Notary is the use or utilization of information technology such as computers, computer networks, and/or other electronic media such as teleconferences or video conferences in carrying out the duties of a notary's authority.² The OSS institution is responsible for issuing Business Identification Numbers (NIB), location permits, and business licenses. Basically, this regulation aims to cut down the complicated process of issuing business licenses. Every permit throughout Indonesia, both at the central and regional levels, only goes through one door, namely OSS.³

Services that are still manual-based are also vulnerable to extortion outside of established procedures, so they are considered ineffective and inefficient. Therefore the government drafted and ratified Government Regulation Number 5 of 2021 concerning Electronically Integrated Business Licensing Services to solve this problem. Electronically Integrated Business Licensing or Online Single Submission, hereinafter abbreviated as OSS, is a Business Permit issued by the OSS Institution for and on behalf of ministers, heads of institutions, governors or regents/mayors to Business Actors through an integrated electronic system. This system was created because of the many complaints from business actors regarding the length of time and bureaucratic chains that must be passed to obtain business permits. thereby hindering business actors in running their

¹Dyukisana Frahmawati, 2013, "Implementation of Trading Business License Service Policy in the Manado City Integrated Service Agency", Journal of Public Administration at Sam Ratulangi University, No. 3, Vol. II, p. 6. url: <https://10.26858/jiap.v13i1.42944>

²Surya jaya, Cyber Notary in the Legal Perspective of Proof, [www. Hukumonline.com](http://www.Hukumonline.com), accessed on Thursday, March 11 2018.

³Arrum Desi Arianing, 2019, Legal Certainty in Electronically Integrated Business Licensing (Online Single Submission) in Indonesia, *Junral Jurist-Diction*, Vol. 2, No. 5. p. 12

business. Therefore this system was created in an effort to simplify licensing and create an integrated licensing service model that is fast, cheap and modern. In this Government Regulation it is explained that this OSS service is an integration between the regional government and the central government in terms of business licensing. Thus, OSS is also provided in the regions, not only to provide permits but also to supervise this system. So, do not be surprised if there are sanctions imposed on governors and regents or mayors who do not implement OSS.⁴

The understanding of the OSS system is still weak, therefore the community still complains that there are procedures and work mechanisms for services that are considered to be complicated, and do not guarantee certainty (legal, time and cost) even though business licensing services are integrated electronically. regarding government regulations stipulated by President Joko Widodo on June 21, 2018 governing the OSS system.⁵

2. Research Methods

This study uses empirical legal research, the object of study is sociological juridical. Legal research that examines people's behavior. The behavior of the people studied is the behavior that arises as a result of interacting with the existing system of norms. This interaction appears as a form of community reaction to the implementation of a positive legal provision and can also be seen from the behavior of the community as a form of action in influencing the establishment of a positive legal provision.⁶

3. Results and Discussion

3.1. The Role and Authorities of a Notary Regarding the Registration of Business Permits Through the Online Single Submission System

The authority of a notary in Article 15 from paragraph (1) to paragraph (3) which can be divided into: general notary authority, special notary authority, and notary authority which will be determined later. Article 15 paragraph (1) UUN emphasizes the authority of a notary, namely making deeds in general. this is referred to as the general authority of a notary with limitations as long as

1. No exceptions to other officials determined by law

⁴ Kontan.co.id. 2018. This is a regional sanction for not serving online single submission (OSS).<https://nasional.kontan.co.id/news/ini-sanksi-kode-yang-tak-layani-online-single-submission-oss>

⁵Bisnis.com (28 July 2018)

⁶Mukti Fajar and Yulianto Achmad, 2010, Dualism of Normative and Empirical Legal Research, Student Library, Yogyakarta, p. 104

2. Concerning deeds that must be made or authorized to make authentic deeds regarding all actions, agreements and stipulations required by law or desired by the person concerned

3. Regarding the legal subject (person or legal entity) for whose benefit the deed was made or desired by the interested party.⁷

The notary is authorized by law to state all actions, agreements and decisions desired by the party or parties who deliberately come before the notary to confirm the statement in an authentic deed, and so that the deed he makes has complete and valid evidence. The notary must comply with all the provisions of the position of a notary and other regulations. A notary is not merely a scribe, but a notary needs to examine whether what the appearer wants to be stated in an authentic deed, does not conflict with the applicable laws and regulations, besides that a notary in carrying out this position must rely on UUJN. The obligation to know and understand the terms of authenticity,⁸

What underlies a notary to take care of a business license, OSS as a notary certainly adheres to what is mandated in the UUJN, where the authority of a notary is regulated in such a way in one UUJN and another as stipulated in Article 15 UUJN. One of the Notary's authorities is to conduct legal counseling in connection with the making of the Deed, when the appearers are dealing with a notary of course as a notary who wants to make and express all the wishes of the appearers in a deed must submit all legal arguments.

Mandatory UUJN does not regulate the authority of a notary to provide management services for all types of documents including the management of business licenses, but on the basis of the trust of appearers who consider notaries to have the ability and knowledge of all legal aspects and their derivatives, the appearers authorize notaries to assist them in matters of processing business license for a business entity whose establishment deed is drawn up by a notary. Therefore, as time goes by, appearers or entrepreneurs tend to ask for the services of a notary to help them complete various business legalities needed so that the business being carried out can operate as it should, especially if the work is carried out perfectly.

Reasons for the entrepreneur requesting the help of a notary to obtain a business license, OSS Basically, the appearers or entrepreneurs present before the Notary do not have extensive legal knowledge or updates on new

⁷Tan Thong Kie, 2007, All-round Notary Study of Notary Practice. New Ictiar van Hoeve, Jakarta, p. 452

⁸Sjaifurrachman and Habib Adjie, 2011, Aspects of Notary Liability in Making Deeds, Mandar Maju, Bandung, p. 27

government regulations, especially when the PP. No. 5 of 2021 for the promulgation of OSS, entrepreneurs are very confused about the registration of the intended business license, because since the birth of OSS, registration or application for business licenses has been carried out online (in the network) through the website www.oss.go.id, moreover, entrepreneurs have told the notary they have not received socialization on how to register a business license through the site so that entrepreneurs request the services of a notary. Notaries get socialization from seminars organized by notary organizations, where the OSS system is integrated with all ministries, meaning one data can be concluded. OSS also adheres to the 2017 Indonesian Business Field Standard Classification (KBLI), entrepreneurs must choose the KBLI code according to the business they are running when registering a business license.

When an entrepreneur wants to establish a business entity, whether incorporated or not, the aims and objectives and business activities listed in the deed of establishment must be in accordance with the 2017 KBLI code, because the notary will access the approval of the establishment of a business entity in the Directorate General of Legal Administration system. General called AHU Online. If the business entity is a legal entity in the form of a Limited Liability Company, then it is registered in the Legal Entity Administration System (SABH), but if the business entity is not legally incorporated, such as a CV, Firma, Individual Partnership, then it is registered in the Business Entity Administration System (SABU).

3.2. How is the Juridical Analysis of the Implementation of Business License Registration through the Online Single Submission System

OSS is only a system, however, PP.No 24 of 2018 requires all permits that fall within its scope to be issued "through the OSS Agency," which in PP.No 24 of 2018 is defined as 'a non-ministerial government agency that carries out government affairs in the field of investment coordination. It should be noted that issuing permits through OSS does not transfer authority and responsibility for issuance to OSS Institutions, because OSS Institutions issue permits "for and on behalf of" ministers, heads of institutions, governors or regents/mayors in accordance with the attribution, delegation, or delegation of authority given to them.⁹

PP.No 5 of 2021 regulates business licensing issues, but the regulations also include regulations regarding the obligation to register business entities. In Article 16 of PP.No 5 of 2021 it stipulates that the registration of firms, as well as limited partnerships, is carried out through the OSS at the Directorate General of

⁹Margaretha Quina and Angela Vania, 2019, Environmental Licensing Through Online Single Submission, Indonesian Center for Environmental Law, Jakarta, p. 4

General Legal Administration (Ditjen AHU) of the Ministry of Law and Human Rights of the Republic of Indonesia. In addition, it is also determined that the registration of cooperative business entities is also carried out through the OSS at the Directorate General of AHU.¹⁰

Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing, as a mandate for the implementation of the Job Creation Law, which changed the implementation of the OSS 1.1 system to an Online Single Submission Risk Based Approach (OSS RBA) system or often referred to as Integrated Online Licensing with Licensing Approach Risk Based. As an effort to simplify and accelerate the business licensing process, the changes to the OSS RBA system require that business actors only need to arrange permits in accordance with the level of business risk.¹¹

There are several weaknesses in the OSS 1.1 system, including the application for licensing on a business scale that does not require a permit, such as a business that only requires an NIB as business legality, the difference from the type of business scale is that when an application is made, the business license will be effective without being accompanied by fulfillment. commitment. This of course will have a direct impact on the environment and the surrounding community, because of this convenience, these business activities are often outside the government's control. Based on this, the OSS system was improved by changing the system to OSS RBA. In OSS 1.1 in the form of a License Approach, every business activity is required to have a permit, so that many regulations tend to arise, and the implementation of supervision of business activities does not have standards, whereas in OSS RBA business actors process permits in accordance with the risks of business activities, the regulations created determine the level of risk and the type of permits required. The concept of risk-based licensing was initially used by the UK since the late 90s. The system was originally used for regulation of gambling using a risk basis and supervision, and then towards the 2000s, this system was recommended for other fields, such as taxation. Housing, Education, etc., which are then recommended for all sectors to use a risk-based regulatory system. The implementation of the risk system in licensing in the UK is carried out sectorally from the bottom up (bottom-up), this is enforced because the lower sector is considered the most understanding of the inherent and

¹⁰Sulistiowati and Nindyo Pramono, *Electronic Registration of Business Entities After the Issuance of Government Regulation Number 24*

¹¹Twotik Lestaringtyas and Muhammad Roqib, 2020, "Protection of Personal Data for Users of the Electronically Integrated Business Licensing Service System OSS 1.1 and OSS RBA (RiskBasicApproach)", *Window Hukum Journal*, No. Vo. VIII, 2, p. 14. url: <https://10.24929/fh.v8i2.1576>

managerial risks in each sector¹²

The association of micro, small and medium enterprises considers that the implementation of OSS RBA provides obstacles in carrying out business activities, types of businesses such as CV, PT, and so on that have been established are required to enter or migrate to OSS, even though they previously had an NIB. Provisions for using the OSS system require that the form be connected to the AHU system, so data changes and KBLI changes must be made at a notary and require a fee. The implications of the implementation of the OSS RBA system are also felt by business actors, especially MSMEs, who feel that the OSS RBA system is not flexible because it must continue to make changes if the system changes.

Recentralization, which previously had authority in licensing through the local government, then became the authority of the central government in several fields, especially related to the issuance of NIB. Based on Article 31 of Presidential Regulation Number 91 of 2017, regarding the acceleration of implementation, it tries to state that all permits that fall under the authority of ministers, governors, mayors of regents are carried out by the OSS Institution in the form of electronic documents. The implementation of the OSS RBA system has not been supported by regulations covering various fields, so the Government is not ready in terms of implementing the RBA system, because the population database is also not perfect, including in several other sectors related to the OSS system, there is a risk of legal abuse if the RBA system applied with immature preparation.¹³

4. Conclusion

OSS as a Notary of course upholds what is mandated in the UUJN, where the authority of a Notary has been regulated in such a way in one UUJN and another as stipulated in Article 15 UUJN. One of the Notary's authorities is to conduct legal counseling in connection with the making of the Deed, when the appearers are dealing with a notary of course as a notary who wants to make and express all the wishes of the appearers in a deed must submit all legal arguments. Mandatory UUJN does not regulate the authority of a notary to provide management services for all types of documents including the processing of business licenses, but on the basis of the trust of the appearer who considers the notary to have the ability and knowledge of all legal aspects.

¹²Muhammad Mova Al afghani, 2021, "The Concept of Critical Analysis of Risk-Based Regulation in Its Application to the Job Creation Law", Journal of the Constitution, No. 1, Vol. XVIII, p. 76. url: <https://.academia.edu/48977172>.

¹³Rimawan Pradiptyo, 2014, Risk-Based Licensing: Confusion in Thinking about the Omnibus Law on Job Creation, Collection of Studies on the Omnibus Law on Job Creation, Economist Workshop on Transparency in Indonesia, Gajah Mada University, Yogyakarta, p. 41

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