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Government Policy on Licensing for the Development of Micro, Small and Medium Enterprises (MSMEs) as an Effort to Accelerate the Realization of the Goals of a Welfare State

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Abstract

According to Republic of Indonesia Presidential Regulation Number 98 of 2014 concerning Licensing for Micro and Small Enterprises, it states that to encourage regional economic growth, empowerment for MSME actors is needed. This empowerment is carried out by simply granting permits to micro and small business actors. Micro, Small and Medium Enterprises (MSMEs) need protection because of the various limitations and constraints they have including licensing issues, while on the other hand micro, small and medium enterprises (MSMEs) are currently making a very large contribution to Indonesia's economic growth and are the largest contributor to the country's gross domestic product. The benefits of issuing these permits are business legality, ease of obtaining capital, access to business assistance from the government, and empowerment from the government. Government policies in terms of easy granting of permits for the development of MSMEs can accelerate the goals of the welfare state.

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1. Introduction

Indonesia as a country with a large population and heterogeneous economic distribution, has a very large potential to develop Micro, Small and Medium Enterprises (hereinafter referred to as MSMEs) as one of the important pillars in realizing the vision of the Welfare State. MSMEs have a strategic role in the Indonesian economy, because MSMEs contribute to job creation, improving regional economies and improving community welfare. The crucial role of MSMEs in Indonesia certainly needs to be considered, one of which is regarding MSME development permits.

Licensing is a separate part of the State Administrative Regulations that are applied in the guidelines considering the requirements and technicalities as determined in the legal regulations. Micro stratification related to licensing is very important because, first, the regulation of Micro stratification related to licensing by public policy has a legal basis and clear legal reasons for implementation and has legitimate and clear signs. Second, working on the work of state policy experts and other government employees, for this situation various complicated legal instruments, for example, guidelines and a set of principles have been available. Both tools have not functioned to strengthen the state's duties and are less focused on recognizing the improvement and responsibility of machine assembly in the administration of government.

Micro, Small and Medium Enterprises play a vital role in the nation's economy. MSMEs play a key role in driving inclusive and sustainable economic growth and providing significant improvements to the welfare of society. Due to the scarcity of economic resources and the resulting disputes between citizens over these resources, legislation is needed in economic operations. The government has a duty to implement policies that encourage the growth and development of MSMEs in a welfare state so that they can grow and develop optimally. According to data from the Central Statistics Agency (BPS), MSMEs are increasingly prevalent in Indonesia. According to the latest statistics, there are 56,534,592 MSME owners in Indonesia ^[1].

¹Central Bureau of Statistics, 2014

The belief stated in the Indonesian constitution states that the Indonesian majority government does not only fight for political liberation and support but also for economic liberation and cooperation. The origin of the state government assistance for the Indonesian region is stated in the Preface to the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) paragraph four which plans to advance public welfare. The state's idea of the general welfare of the government is what is then used as the reason for the position and ability of public policy (ability to *bestuur*) in countries today. The substance of the government's idea reveals that the state has a commitment to provide government assistance to the community, one of which is by empowering micro, small and medium enterprises ^[2].

In an effort to achieve a welfare state, the Indonesian Government realizes the importance of supporting and strengthening the MSME sector as a form of fighting for emancipation and participation in the economic sector. One of the important steps taken by the government is to take serious steps in licensing the development of MSMEs. Efficient and transparent licensing is a key factor in facilitating the growth and development of MSMEs and efforts to improve the investment climate for business actors. Policies in the form of permits must reflect a policy that is in accordance with the life and comfort of the entire community. As a form of policy, of course, this permit must not conflict with the norms of life that apply in society and applicable laws both vertically and horizontally, so that the goals of the state in the concept of a welfare state can be realized.

So far in licensing issues there are obstacles and barriers in licensing MSMEs in Indonesia. Some of them are complex bureaucracy, complicated procedures and lack of accurate and easily accessible information. These obstacles hamper the growth rate of MSMEs and in turn can affect efforts to realize the goals of the state in the concept of a welfare state. In response to these challenges, the Indonesian government has made various efforts to formulate policies that are expected to allow MSMEs to grow and develop better, increase the contribution of MSMEs to the national economy, and ultimately realize prosperity for the Indonesian people. In the legal context in Indonesia, government policies regarding licensing for the development of MSMEs are a strong legal basis for protecting the rights and interests of MSME actors, as well as regulating better and more efficient public service governance.

Thus, in order to support the growth and development of MSMEs in the global era and as an effort to accelerate the achievement of the welfare state goals, it is necessary to strengthen the role of MSMEs which are placed within the framework of the agenda of strengthening the structure of the business world and the structure of the economy.

2. Formulation of the Problem

In the background presentation, the following problem formulation was obtained:

1. What is the government policy regarding licensing for MSME development in Indonesia?
2. How is the analysis of government policy regarding

MSME licensing as an effort to accelerate the realization of the goals of a welfare state?

3. Research Methods

This research uses the method normative legal research, namely research conducted by examining library materials ^[3]. This research has a descriptive nature, namely a study that provides a detailed, clear, and systematic description of the object to be observed. Descriptive research is carried out with the aim of obtaining a complete description of the Government's policy regarding licensing for the development of MSMEs as an acceleration of the realization of a welfare state. The research approach used in this study is the statute approach which is an absolute thing in normative legal research, because what will be studied is the legal rules that are the focus or central theme raised in a study ^[4].

In this normative legal research, the data needed is secondary data. Secondary data is data that has been obtained through literature studies covering laws, as well as, namely legal reference books. In this study, the primary legal materials used are laws and regulations related to this research, namely the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 195 NRI Constitution) and Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises (MSMEs).

4. Results and Discussion

4.1. Government Policy Regarding Licensing for MSME Development

Micro, Small and Medium Enterprises (MSMEs) are organizations that have been proven to grow open doors to work, especially during the pandemic, MSMEs are supporting organizations that clearly affect the Indonesian economy. The MSME sector also takes part in the value and increase in salaries, and overall drives economic growth. Referring to Regulation Number 20 of 2008 concerning Small and Medium Enterprises (MSMEs), in this regulation MSMEs have many implications, namely especially organizations that are framed for economic activities and not non-profit activities; not part, branch, or member of another business either directly or indirectly.

According to Law Number 20 of 2008, which is referred to as the "UMKM Law", the following is the definition of "Micro Enterprises, Small Enterprises, and Medium Enterprises": First, micro enterprises are profitable business opportunities organized by individuals or legal entities that meet the requirements of the UMKM law for micro enterprises. While small businesses are profitable economic business opportunities that stand alone and are run by individuals or organizations that are not subsidiaries or branches of large or medium-sized businesses but still meet the definition of small businesses according to the UMKM law. Small businesses can be owned, controlled, or integrated directly or indirectly into larger or medium-sized businesses. Third, medium-sized businesses are productive for the economy ^[5].

Policy is an effort to achieve certain goals or targets regarding a predetermined focus in a certain succession. Meanwhile, government strategy has a standard meaning, namely a choice

²Marsudi Dedi Putra, 'Welfare State in the Perspective of Pancasila', LIKHITAPRAJNA Scientific Journal, 23.2 (2021), 139–51, p. 140

³Soerjono Soekanto and Sri Mamudji, Normative Legal Research: A Brief Review, (Jakarta: Rajawali Pers, 2011), pp. 13-14

⁴Jhonny Ibrahim, Theory and Methodology of Normative Legal Research, (Malang: Banyumedia), p. 295

⁵Law of the Republic of Indonesia Number 20 of 2008, 'Law of the Republic of Indonesia Number 20 of 2008', 1, 2008.

that is planned and made methodically by state leaders, in this case public policy, to achieve certain goals that concern the public interest ^[6]. While licensing is the granting of legitimacy to a person or business actor or certain organization, either as a license or business registration approval. Licenses or permits are one of the main instruments for the business world ^[7].

Business activity permits are related to government regulations or regulations on certain business activities that are directly or indirectly related to the physical, economic, and social environment, as previously stated regarding policies and permits. Institutional approaches, the quality of MSMEs, and many other variables can affect how well MSMEs are formed. These two formulations must be used in every effort to create an efficient licensing system that leads to MSME empowerment. First, institutions include businesses or organizations that offer permits, rules for obtaining permits, socialization, counseling, and assistance, as well as impacts and guidelines for MSMEs who want to obtain permits. They also include institutions that provide ways to obtain permits, including costs. Second, related to the characteristics of MSMEs which include capital ownership and location. Business activity permits are very crucial. Business activity permits are more needed for: the first is to carry out business activities, expand businesses or develop MSME networks; the second is for business formalities that can be used as collateral for prospective partners and/or stakeholders; the third is to avoid illegal levies. It cannot be denied that the current condition of licensing services is complicated, requiring long procedures, relatively long times, unclear costs for licensing, and illegal extortion practices are a dark portrait of licensing from less than optimal public services.

The investment climate reform package is included in Presidential Instruction Number 3 of 2006 issued by the government. This directive basically orders many government organizations to immediately implement a number of program policies and activities to improve the business climate, one of which is related to simplifying licensing procedures. Following up on the Presidential Instruction, the government also issued Regulation of the Minister of Home Affairs Number 24 of 2006 which regulates the procedures for organizing the One-Stop Integrated Service (PTSP) ^[8]. This regulation is based on the idea of combining all aspects of the public service process, both licensing and non-licensing, into one integrated implementation system in an effort to reduce service bureaucracy. The government issued Presidential Regulation of the Republic of Indonesia Number 98 concerning MSME Licensing.

Considering that in Regional Regulation Number 98 of 2014 concerning the Authority of Small and Medium Enterprises, it is stated that 1 (one) main permit for MSMEs and can be given in just one day by the region, with one grant, MSMEs can obtain several benefits including: 1) obtaining business

legitimacy; 2) ease of obtaining business assistance from public policy; and 3) getting the opportunity to obtain strengthening assistance from public policy. However, the implementation of obtaining a license is not as it should be. The simplicity of obtaining grants for MSMEs has not been carried out optimally, because there are still many regional heads who have not provided guidelines for appointing positions to grant MSME permits to sub-regions. Quoted from Detik Finance, of the 539 cities and regencies throughout Indonesia, only less than 150 have implemented a one-page permit related to MSMEs. Of the 539 cities and regencies in Indonesia, only 150 officials have provided regulations granting power to sub-district heads in granting operating permits (one-page permits) for small and medium enterprises ^[9].

Thus, the ease of MSME permits that have been regulated in such a way by the government should also be accompanied by maximum implementation. Regional heads should also intervene to maximize the delegation regarding the granting of MSME permits that can be issued by the sub-district so that the ease and simplification of bureaucracy in terms of granting MSME development permits can be maximized considering that MSMEs are one of the drivers of economic growth in Indonesia.

4.2. Licensing Regarding the Development of Micro, Small and Medium Enterprises (MSMEs) as an Effort to Accelerate the Realization of the Goals of the Welfare State

The welfare state or what is commonly referred to as the welfare state emphasizes that everyone has the right to access social services in addition to managing welfare or other social services ^[10]. This is in accordance with the democratic principles of the Indonesian nation which fights for emancipation and involvement not only in politics but also in the economic field ^[11]. The fifth principle of Pancasila contains meaning related to welfare and justice, where Pancasila is a series that cannot be separated, and the fourth principle of Pancasila contains meaning related to democracy.

The provisions in the Indonesian constitution that adhere to the concept of economic democracy and market economy must underlie the formulation of various provisions regarding the economy and social welfare in the Republic of Indonesia. The implementation of constitutional provisions in the economic sector will certainly be related to the development tendencies of society. Article 33 paragraph (1) of the 1945 Constitution of the Republic of Indonesia is the basis of economic democracy that distinguishes the national economic system from the liberal capitalist economy and the etatist system ^[12]. In liberal capitalism, the basis of the economy is not joint efforts and family, but the freedom of individuals to do business. While the etatism system, the state holds the dominance of the economy, not citizens either individually or together with other citizens. The view on the

⁶Wahab 2010, 'Policy Analysis from Formulation to Implementation' 2nd edition. Jakarta: Bumi Aksara, page 3.

⁷Philipus M. Hadjon, 1993, Introduction to Licensing Law, Surabaya: Yuridika, p. 2

⁸KL Kotler, P. & Keller, 'Marketing Management', Marketing Management Volume I 12th Edition. Jakarta: Erlangga., 1 (2012), 1–38 <www.penerbit.medsan.co.id>.

⁹<https://finance.detik.com/berita-economic-bisnis/d-3085080/ini-besar-pelaku-ukm-punya-izin-usaha>

¹⁰Marsudi Dedi Putra, 'Welfare State in the Perspective of Pancasila', LIKHITAPRAJNA Scientific Journal, 23.2 (2021), 139–51.

¹¹Kadek Cahya Susila Wibawa, 'The Urgency of Information Transparency in Public Services as an Effort to Realize Good Governance', Administrative Law and Governance Journal, 2.2 (2019), 218–34 <<https://doi.org/10.14710/alj.v2i2.218-234>>.

¹²Edi Pranoto, 'Development of the Indonesian Economic Legal System Based on Pancasila Values in the Era of Globalization', Jurnal Spektrum Hukum, 14.1 (2017), 44–70.

legal basis of the Pancasila economy is article 33 of the 1945 NRI Constitution which is based on the spirit of the Preamble to the 1945 NRI Constitution ^[13]. The Pancasila economic system as an economic system that focuses or is oriented towards the Pancasila principles, namely: Belief in the One and Only God which means the existence or application of moral and ethical values, not materialism; second, Humanity which means that economic life is humanistic and civilized, third, namely Unity which means relying on socio-nationalism, togetherness and based on family, the fourth is, Democracy which means based on economic democracy, economic sovereignty, prioritizing the livelihoods of many people and the people's economy which is used as the basis for the national economy, and the fifth, namely Social Justice which in terms of comprehensive social justice, the prosperity of the people is the main thing, not the prosperity of individuals. One of the goals that can be achieved is the government's commitment to easy and efficient MSME licensing policies.

The granting of permits for the development of MSMEs, starting from determining the requirements, the process to the issuance, must be made efficiently in order to help business actors to obtain a legitimate status for their business. The existence of a one-stop service program (P2SP) is an effort by the government to realize a welfare state in the context of economic emancipation, where the program is intended to make it easier for business actors to obtain legality for the business they run. The one-stop service program is also a commitment of the relevant regional government as an effort to empower MSMEs through reform in the field of licensing. However, in reality, the program that has been echoed by the government is still not optimal in terms of its implementation, such as there are still several city and district areas that have not issued regulations regarding the delegation of authority to sub-district heads in the issuance of small and medium businesses ^[14].

Thus, the provision and ease of licensing with the initiation of a one-stop service program is one of the government's efforts in realizing a welfare state in the economic sector. Empowerment of MSMEs has proven to have produced many benefits such as absorbing labor and growing the national economy. The provision of MSME development permits is one of the efforts and/or things that must be done by the government in order to accelerate the goals of a welfare state.

5. Conclusion

MSMEs (Micro, Small and Medium Enterprises) play an important role in the Indonesian economy, which is a strong economic pillar that contributes to economic growth, job creation and poverty alleviation. The characteristics of MSMEs that are flexible and can adapt to market changes are a powerful tool to reduce economic disparities and increase inclusiveness. The policy on MSME development permits was designed by the government as an effort to increase empowerment of MSMEs so that business actors benefit from their legality or recognition of their business through permits. The existence of a one-stop service program is one way for business actors to easily register their business permits, but there are still several areas in several cities and districts whose local governments have not issued regulations related to the delegation of authority to sub-district heads in their

respective areas so that services related to permits that should be able to be completed with a permit in one sheet and one day are still constrained in several areas.

The one-stop service program is also key to supporting the growth and sustainability of MSMEs. The concept of one-stop service is the integration of various services and bureaucratic procedures required by MSMEs into one integrated space or platform. This aims to reduce the administrative burden, time, and costs that are often obstacles for MSME actors. The development of MSMEs and the implementation of one-stop service programs have interrelated benefits. In the context of a welfare state, MSMEs can be an engine of inclusive economic growth that has a positive impact on social welfare. However, to achieve optimal results, the implementation of the one-stop service program must be carried out properly and efficiently. Collaboration between various government agencies, financial institutions, and the private sector is key to providing holistic solutions for MSMEs. Overall, MSMEs and the welfare state together with the one-stop service program complement each other and form a strong foundation for sustainable economic development.

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¹³ Government of Indonesia, '1945 Constitution of the Republic of Indonesia', Law Number 23 (2017).

¹⁴ Kotler, P. & Keller. Page 139