

STRATEGY AND LEGAL APPROACH IN OPTIMIZING BUSINESS: NEW REGULATION TO ESTABLISH MICRO AND SMALL ENTERPRISES

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Abstract - This study analyzes how the enactment of the Indonesian Law Number 11 of 2020 concerning Job Creation on the ease of doing business for MSEs in Depok City, West Java. We investigate optimum strategies to create a resourceful circumstance for MSEs through the regulation called PT. Perorangan. We utilized a normative juridical approach to present diverse challenges regarding individual limited liability companies as legal entities in Indonesia by comparing the legal norms formed between one regulation and another. This research found that Law Number 11 of 2020 concerning Job Creation positively affects the MSEs, not exclusively in Depok City, West Java. Our study implies that entrepreneurs get some help and convenience in legal affairs. The strategy carried out by the Government of Depok, West Java, is to create ease of doing business for MSEs through PT. Perorangan is by far relevant to increase public awareness about the legal aspects.

Keywords: Economic law; Business accelerator; MSMEs; Digitalization; Strengthening

INTRODUCTION

A limited liability company or Perseroan Terbatas (PT) in Indonesian, is the preferred form of business for Indonesian citizens. Therefore, the number of business entities is greater than the number of other legal entities. Limited Liability Company was first regulated in the Commercial Code (KUHD) in 1847, but as time went on the KUHD could no longer keep up with the needs of economic development and the business world. Therefore, in 1995, Law Number 1 of 1995 concerning the Limited Liability Company Law was passed as a substitute for the company provisions regulated in the Criminal Code. Regulations regarding Limited Liability Companies do not end here, as the times of the economy in Indonesia must be based on the principles of economic democracy, so in 2007 the 1995 Company Law was changed to Law Number 40 of 2007 concerning Limited Liability Companies. In Article 1 of Law Number 40 of 2007 concerning Limited Liability Companies, it stated that: "Limited Liability Company, referred to as a company, is a legal entity which is a partnership of capital, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares and fulfills the requirements stipulated in this law and it is implementing regulations."

Initially, companies are categorized as open or public companies and closed companies as stated in Law Number 40 of 2007 concerning Limited Liability Companies. However, since October 5, 2020, Law Number 11 of 2020 concerning Job Creation has been enacted.¹ Article 109 of this Job Creation Law amends the provisions of Law Number 40 of 2007 concerning Limited Liability Companies. There are at least four changes. First, previously, PT (Limited Liability Company) shareholders were at least two people. However, with the enactment of the Job Creation Law, *PT Perorangan* shareholders can consist of 1 (one) shareholder. Second, previously, the deed of establishment of a Limited Liability Company must be in the form of a notarial deed. However, Article 109 of the Job Creation Law does not require the deed of establishment of a PT to be in a notarial deed. The requirements for the establishment of *PT Perorangan* are a statement of legal development in Indonesia's business sector.² Third, previously, the founder of a limited liability company could be a legal entity. However, the founder of *PT Perorangan* must be an individual. Finally, previously, the minimum authorized capital was IDR 50 million. However, Article 109 of the Job Creation Law stipulates that the authorized capital is by the decision of the founder of a limited liability company. The purpose of enacting the Job Creation Law is to increase the ease of doing business.³

Micro, small, and medium enterprises (MSMEs) have an important role in increasing economic growth and absorbing labor in Indonesia.⁴ Micro or small and medium enterprises (MSMEs) are business groups that have a large percentage and contribution in Indonesia.⁵ In addition, the advantage of this business group is that it has been proven to be resistant to various kinds of economic shocks, so it is imperative to strengthen the MSME group which involves many groups. The business criteria included in MSMEs have been regulated under a legal umbrella based on law. MSMEs have a sizable contribution, namely: the expansion of employment opportunities and employment.⁶ Law number 20 of 2008 concerning MSMEs states that MSMEs are small companies that are owned and managed by a person or owned by a small group of people with a certain amount of wealth and income. Even though they are small, SMEs have proven to be able to drive the country's economic progress. The existence of MSMEs cannot be eliminated or avoided in today's society. In addition, SMEs can create creativity that is in line with efforts to maintain and develop elements of tradition and culture local community. However, there are still many MSEs that experience difficulties in developing their business because they are constrained by complicated regulations and bureaucracy. To overcome this problem, the Indonesian government has issued various policies and programs, one of which is to apply the rules for individual limited liability companies (PT) based on MSMEs.

PT Perorangan (an individual liability company) is a form of business that allows MSMEs to set up its own company with affordable capital and without having to partner with other investors.⁷ In this *PT Perorangan*, one person can become the owner and manager of the company, making it easier for MSEs to control and develop their business according to their vision and mission. In this context, the ease of doing business strategy by applying the rules *PT. Perorangan* for MSMEs has the aim of providing access and convenience for SMEs in developing their business without having to be constrained by complicated bureaucracy and large capital. Thus, it is hoped that MSEs can grow and develop better, to be able to have a positive impact on economic growth and employment in Indonesia. The procedure for establishing an Individual Limited Liability Company (*PT Perorangan*) is regulated in Article 60 and Article 61 of Law Number 40 of 2007 Concerning Limited Liability Companies.⁸ The following are the steps that must be taken to form a *PT Perorangan*:

1. The founder of the *PT Perorangan* must draw up a deed of establishment containing the identity of the founder, the name and purpose of the company, and the amount of paid-up capital.
2. The deed of the establishment must be ratified by a notary and announced in the State Gazette of the Republic of Indonesia (BNRI).
3. *PT Perorangan* must register with the local company registration office by attaching the required documents, such as the deed of establishment, the founder's NPWP, and a business license.
4. *PT Perorangan* must open a bank account in the name of the company and deposit capital according to what is stated in the deed of establishment.
5. After the registration process is complete, the *PT Perorangan* will receive a registered statement stating that the company has been registered and is legally operating.
6. *PT Perorangan* must carry out regular and timely financial reports and comply with applicable laws and regulations.

The formation of a *PT Perorangan* can also be done online through the Legal Entity Administration System (SABH) managed by the Ministry of Law and Human Rights. The sole owner of a *PT Perorangan* can separate personal assets from business assets.⁹ This method can help people to protect their personal assets from lawsuits that may arise as a result of business failures. PT owners have full control over the business and the decisions made to manage the business. In an individual limited liability company, the owner can determine the management structure that best suits the needs of the business. Owners can run their businesses or hire employees. Several obstacles are generally faced by MSEs, including human resources, raw materials, business competition, lack of capital, and an unfavorable business climate.¹⁰ Another problem is, if in the course of development, a business no longer meets the criteria of a small micro-enterprise, the matter at issue is how the legal form of an *PT. Perorangan* becomes a tricky partnership. So, the purpose of this study is to analyze the provisions regarding *PT. Perorangan*, the impact of the enforcement of the intended regulation on

the ease of doing business for MSEs in Depok City, West Java, and for developing a strategy for ease of doing business for MSEs through the existence of *PT. Perorangan*.

LITERATURE REVIEW

Some researchers have conducted more in-depth research related to the ease of doing business with the implementation of individual limited liability company regulations, especially for MSME development. Previous research discusses the topic of "Limited Liability Company in Indonesia, after the enactment of Law Number 11 of 2020 concerning Job Creation".^{11,15,18} That research discusses the various forms of PT affected by Covid 19 and provides a comprehensive explanation of *PT Perorangan*. The type of research used in this study is normative juridical using data sources, namely literature books and applicable laws and regulations. This study concludes that as a result of the birth of the work copyright law, there is a new type of company, namely *PT. Perorangan*. Also, the Covid 19 pandemic has affected the development of Limited Liability Companies because many companies have been forced to go out of business due to bankruptcy.

Another research also explored the same thing about *PT. Perorangan* in its thesis with the title "Legal Analysis of Individual Limited Liability Companies Based on Article 109 of Law Number 11 of 2020 Concerning Job Creation Against Law Number 40 of 2007 concerning Limited Liability Companies". This research analyzes the law of individual limited liability companies before the entry into force of Article 109 of Law Number 11 of 2020 Concerning Job Creation and what is the legal status of individual limited liability companies according to Article 109 of law number 11 of 2020 concerning work copyrights. The research method used uses a normative juridical approach to present a real picture of the problems regarding individual limited liability companies as legal entities in Indonesia by comparing the legal norms formed between one regulation and another. The results of this study indicate that it is possible for an individual limited liability company before the enactment of Law Number 11 of 2020 concerning Job Creation if the company is a state-owned company or a capital market participant by the statutory provisions that apply to it. However, after the enactment of Law Number 11 of 2020 Concerning Job Creation, micro and small business actors can establish individual limited liability companies. Based on Article 109 of the law, it is explained that the form of a limited liability company is no longer only a capital partnership based on an agreement entered into by two or more people, but now it can be fully implemented by only 1 person. Regarding capital requirements, based on Article 109 of the law, the minimum amount of authorized capital is removed. MSEs only need to fill in the form of a statement of establishment in Indonesian, to be registered electronically with the Minister of Law and Human Rights to receive a certificate of registration.

Previous research investigated the topic of "Legal Protection of Individual Limited Liability Companies (PT) based on Law Number 11 of 2020 Concerning Job Creation".¹² That study aims to analyze how the process of establishing and protecting individual limited liability companies is based on Law Number 11 of 2020 concerning Job Creation. The research method used is normative juridical, namely a legal approach that is identical to written norms made and promulgated by authorized institutions or officials related to the legal protection of individual limited liability companies (PT) based on Law Number 11 of 2020 concerning Job Creation. The specification of this research uses descriptive analysis and uses library research to collect data. This study concludes that *PT Perorangan* has led to the existence of law in society to create public peace. With the change in PT arrangements in Law Number 11 of 2020 Concerning Job Creation, it is very easy for MSE business owners to establish their own PT. However, legal protection from Law Number 11 of 2020 concerning Job Creation for the founders of *PT Perorangan* also has weaknesses, namely in the establishment. *PT Perorangan* does not use a notarial deed. This provides a legal loophole for disputes because there is no notarial deed that has the force of law.

MATERIALS AND METHOD

The research method used in this research is normative law. The normative legal research method is legal research that aims to examine the synchronization of law between what is written in positive law or regulated by existing legislation and the reality on the ground. This research began by

examining the written positive legal provisions that apply regarding the status of a business entity incorporated as an Individual Limited Liability Company. To add to the author's insight. The author also conducted interviews with several business actors in the City of Depok, West Java. In addition, the authors asked several parties from notaries to become resource persons in the Focus Group Discussion conducted by our research team in order to obtain comprehensive knowledge related to the establishment of a Limited Liability Company.

We also utilized diverse secondary data. Secondary data is not obtained directly or = provided by other parties directly. Although, it is obtained from library materials derived from literature such as books, journals, other references, or library materials related to research problems. Secondary data obtained from library data consists of: 1. Primary Legal Materials, namely binding legal materials, consisting of the Commercial Law Code, Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 11 of 2020 concerning Job Creation, Government Regulation Number 43 of 2011 Concerning Procedures for Submission and Use of Limited Liability Company Names, Government Regulation Number 7 of 2021 Concerning Convenience, Protection and Empowerment of Cooperatives and Micro Enterprises,

RESULTS AND DISCUSSION

A. *Law enforcement number 11 of 2020 concerning job creation: its implication and influence*

One of the objectives of creating or enacting the Job Creation Law is to provide relaxation or convenience to MSMEs. Statistics Indonesia (BPS) shows that 99.9% of the national economy is contributed by MSMEs, including 99% micro, 98% small businesses, 1.22% medium businesses, and only 0.1% come from large-scale businesses. The role of micro and small businesses is significant in the national economy. In addition, data in 2019 showed that MSEs absorbed 120 million workers. The Job Creation Law focuses on facilitating access to business for MSEs through the presence of *PT Perorangan*. The regulation aims to create more proper investment and expand job opportunities in Indonesia. In this case, Micro Small business is one sector that is expected to have a positive impact from the law. However, its impact still depends on the actual practices at the regional level. Several points can be factors that influence the ease of doing business for MSEs in the city of Depok first, the Job Creation Law provides convenience in the process of business licensing, including micro business permits. This approach intends to provide easier for UMK to obtain a business license so that it can open up new opportunities for UMK in Depok City to develop.

Before the existence of this work copyright law, all business entities, both legal entities and non-legal entities, were required to arrange a deed of establishment which was very complicated and had to use a notary deed, but after the existence of the work copyright law, *PT Perorangan* made it easy for small entrepreneurs and micro in setting up their business entity without a partner at a very low cost. Since it was launched in 2021 by the Directorate General of General Legal Administration (AHU) of the Ministry of Law and Human Rights of the Republic of Indonesia, to register a *PT Perorangan*, it is enough to pay a PNPB (Non-Tax State Revenue) of IDR 50,000 (about 3 to 4 dollars) is small and micro business actors can already have their own PT or legal business entity. In addition, the establishment of an individual company does not require a notarial deed for its establishment, but a statement of individual establishment is sufficient.

PT Perorangan can only be established for micro and small business criteria by Government Regulation No. 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises. Some of the requirements that need to be prepared before registering include a valid KTP (ID card), NPWP (Tax ID), and e-mail address. Currently, the public can register independently online through the official website link <https://ptp.ahu.go.id/> and register early. If the public is still confused about public registration, they can download guidelines or guidelines for the registration of *PT Perorangan* on the Web. If the public still needs further information or assistance to register, they can directly visit the Regional Offices of the Ministry of Law and Human Rights in each province in their respective regions.

After obtaining an Individual Company certificate, business actors are required to register on the Online Single Submission (OSS) Page to arrange their business licenses.¹¹ OSS is an electronic licensing

system launched by the government in 2018.¹² To support the investment climate and business development in Indonesia, the government created this new system. The benefit of the *PT Perorangan* licensing management system through OSS is that apart from being easy and practical, it is also integrated with other related institutions. The OSS system can be accessed via www.oss.go.id. This OSS can be accessed by both domestic and foreign business actors. OSS is under the Ministry of Economy.¹³ The purpose of launching the OSS is to improve the chaotic licensing system.¹⁴ The existence of an online single submission also aims to create an integrated electronic-based licensing system. So that it can accelerate business actors, especially MSMEs, to carry out business activities. There are several advantages to using online single submissions both from the government side and from the business actor's side.¹⁵ The advantages for the government are:

- a. The government knows how many active business actors there are.
- b. In addition, the government also obtains data on the code of any business sector carried out by business actors.
- c. The government is connected to the tax system so that it can monitor businesses with tax revenues.
- d. Data and information will be stored neatly and systematically through OSS.
- e. Another convenience is when taking state policies related to business.

Meanwhile, from the business owner's point of view, the OSS system also presents several advantages:

- a. Entrepreneurs can carry out the licensing process quickly and easily
- b. In addition, access to the ease of doing business for MSEs is also made easier.

Every business actor, especially those wishing to apply for the establishment of a *PT Perorangan*, is not required to use a notarial deed.¹⁶ Arguably, it is very easy for businesses. This approach is significantly distinguishing *PT Perorangan* from a capital partnership corporation, which can be seen from the deed of establishment. It is enough for a *PT Perorangan* to be established with a statement of the owner, while a capital partnership PT must be established using a notarial deed.¹⁷ Using the services of a notary to draw up a deed of establishment is certainly not cheap. Currently, business actors must spend an amount of IDR 1,500,000 to IDR 1.600,000 (about 100-110 dollars) to make the deed of establishment of the company. The regulation exists to facilitate business actors if they want to establish a *PT Perorangan* since they do not need to make a deed of the establishment at a notary because it only needs to fill out the form in the system. After that, business actors can download the certificate of establishment of PT.

The second convenience provided by the Job Creation Law is that it also provides easy access to finance for MSE actors.¹⁸ This method can help MSEs in Depok City to get financing more easily and quickly, so that they can open up new opportunities for their business development. However, currently it is still relatively tricky since many banks, such as Bank BRI have not yet provided access to borrow capital at the Bank because the Bank itself is still worried about the legality of *PT Perorangan*. Several banks, especially private banks, are still not familiar with *PT Perorangan*, so they are still asked where the notary deed is. If they don't have a notarial deed, they are worried and can't help opening an account for *PT Perorangan*. Even state-owned banks like BNI still refuse to help open accounts for PT. Individual. Most likely the socialization has not yet reached field officers such as CSOs and bank tellers. This pattern causes officers in the field to always ask to be shown the notary deed of establishment first.

The third convenience is that the work copyright law also regulates the simplification of labor regulations, including matters relating to wages, working time, and labor protection.¹⁹ This approach can make it easier for MSEs in Depok City to hire employees without having to be burdened with complicated and time-consuming regulations. Implementation and implementation of the Job Creation Law at the regional level will be an important factor in determining the true impact on the ease of doing business for MSEs in Depok City. In addition, other factors such as the economic situation, market developments, and social and political factors will also affect the ease of doing business for MSEs in Depok City. There are still many business actors, especially in the Depok City area, who do not know the ins and outs of this *PT Perorangan*. The government also has not carried out optimal outreach to the community. If people who are not involved in the business field do not know about *PT Perorangan*, this might not be a problem, but there are still many business actors who

do not understand in depth. Of course, this must be a note for the regional government and the central government so that they can expand outreach to the whole community.

B. Optimizing MSMEs through the current regulation

PT. Perorangan or Individual Limited Liability Company is a new form of business entity in Indonesia and aims to facilitate business establishment for individuals.²⁰ Through *PT. Perorangan*, the current circumstances are expected to provide convenience for MSEs in setting up businesses and gain access to financing and better business opportunities. Diverse strategies can be implemented to increase business for MSEs through *PT. Perorangan*. The first strategy is that the government and related parties need to increase public awareness and understanding, especially MSMEs, about the existence and benefits of *PT. Perorangan* is a new form of business entity. This intention can be done by providing clear and easy-to-understand information regarding the requirements and process for establishing *PT. Perorangan*, benefits, and risks that can be obtained, and how to gain access to financing and business opportunities.

The second strategy is that the government and related parties also need to provide services and guidance to MSEs who wish to establish a PT. Individual. This can be done by opening an information and guidance center, such as a business clinic or incubator, which assists in terms of establishing, developing, and managing a business. The third strategy is that the government can provide facilities and support to MSEs in terms of establishing and developing businesses through *PT. Perorangan*. For example, by providing access to financing through people's business credit programs or capital assistance programs, providing training and coaching, as well as providing market access and business networks. The fourth strategy, the government, and related parties need to simplify regulations and procedures for the establishment and management of PT. Individuals to be more easily accessible and understood by MSEs. This will make it easier for UMK to set up and manage a business through PT. Individual. The fifth strategy that can be carried out by related parties is to develop collaboration and partnerships with MSMEs and *PT. Perorangan*. This can be done by opening cooperation opportunities in terms of product or service development, marketing, or business network development. By implementing some of the strategies above, it is hoped that it will create ease of doing business for MSEs through the existence of PT. Individuals, to open new opportunities for MSEs in developing business and improving economic welfare.

So far, the government has carried out several strategies to make it easier for the public to obtain PT *Perorangan* business permits. Depok city government itself through the work program of the Licensing, Area, Capital, and Marketing Agency (BPKP2) of Depok City facilitates small entrepreneurs so that they can immediately have a business license. Mr. Miftah as the Depok City Chamber of Commerce and Industry encouraged the community to participate in the success of government programs in increasing the national investment program. The Depok City Chamber of Commerce and Industry also stated that the Depok city government wanted to help the government program succeed by facilitating small entrepreneurs to set up PT *Perorangan* at low prices. By only paying IDR. 500,000 (about 30-35 dollars), small-scale entrepreneurs have received complete documents as a PT with a legal entity. Namely a statement of establishment, SK Kemenkumham (Legal license by the Ministry), company NPWP (tax ID consultation), NIB (MSME ID), standard certificate if needed, supporting documents, OSS account and Gmail. All of these documents will also be sent in PDF format, which you can print yourself when needed.

If the community carries out the registration process themselves both during the first registration process on the <https://ptp.ahu.go.id/> page to carry out the initial registration and to register for permits on the www.oss.go.id page, then they do not need to spend as much money as IDR. 500,000 (30 to 35 dollars, but only enough to spend IDR. 50,000 (3 to 5 dollars) only. This fee is designated as non-tax state revenue (PNBP). In addition, there is no charge for the establishment of a *PT. Perorangan*. This regulation can also turn into a capital partnership PT if there is a very rapid change in turnover within the company so that the company is no longer included in the MSME business or Micro, Small and Medium businesses. The change in turnover is very profitable for the company, this requires the company to change the legal status of the company, which was originally *PT. Perorangan* to "regular" PT. capital federation.

In addition, these changes can also occur because the business shareholder has changed to become more than one person and or the business no longer meets the MSME criteria. The method that can be taken by the owner of PT. Individuals to change their legal status to PT. Capital Partnership is changing the status of the company through a notarial deed. As previously explained that PT. Individuals do not need a notarial deed in their establishment, while PT Partnership capital requires a notary deed in its establishment. This is contained in Article 17 Paragraph 3 Permenkumham No 21 of 2021 concerning Terms and Procedures for Registration of Establishment, Amendment, and Dissolution of Limited Liability Company Legal Entities.

CONCLUSION

This research concludes that Law Number 11 of 2020 concerning Job Creation has a positive effect on the ease of doing business for MSEs in Depok City, West Java. Entrepreneurs are very helpful with this convenience. The strategy carried out by the City Government of Depok, West Java, is to create ease of doing business for MSEs through the existence of *PT. Perorangan* is by increasing public awareness and understanding, especially UMK, about the existence and benefits of *PT. Perorangan* as a new form of business entity. Law Number 11 of 2020 Concerning Job Creation contains a number of changes in various sectors, including efforts to make it easier to do business in Indonesia. Several provisions in the work copyright law that can help make doing business easier include trimming the bureaucracy, increasing investment, increasing market openness, and increasing access to capital for MSMEs. In addition, the government has also made various efforts to help MSMEs in Depok City, such as providing training and guidance and facilitating business licensing. In this case, it can be concluded that the enactment of Law Number 11 of 2020 Concerning Job Creation has the potential to facilitate the business of MSEs in the city of Depok, West Java. However, it is necessary to carry out continuous evaluation to ensure the implementation of the law is effective and has a positive impact on the ease of doing business in the region.

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