

# Urgency of Harmonization and Synchronization of Regional Regulations and/or Regulation of Regional Heads After the Enactment of Law No. 11 of 2020 on Work Copyright

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## ABSTRACT

The urgency of harmonization and synchronization is carried out due to the dynamics of the law on the establishment or enactment of new legislation that causes some of the legislation to be in harmony or out of sync with the newly enacted legislation. With the enactment of Law No. 11 of 2020 on Copyright Work, the provisions of Article 181 paragraph (2) that the harmonization and synchronization related to local regulations and/or regulation of the Head of Regions. It is implemented by the ministry or institutions that conduct government affairs in the field of the formation of legislation together with the ministry that organizes domestic government affairs. Based on the Regional Regulation of provisions and /or Regulation of the Regional Head that has been in force and contrary to Law No. 11 of 2020 concerning Copyright Work or contrary to higher legislation, or contrary to the court's decision, must be harmonized and synchronized by the Ministry of Law and Human Rights and the Ministry of Home Affairs. This research uses normative legal research methods. The results of this study are expected that the Regional Regulation and/or Regulation of the Head of Region that is contrary to the provisions of Law No. 11 of 2020 on Copyright Work or contrary to higher legislation, or contrary to the court's decision is immediately changed or replaced.

**Keywords:** *Harmonization, Regional Regulations, Synchronization, Work Copyright.*

## 1. INTRODUCTION

The problem that still exists in our country is that many Indonesian citizens still do not have a job, implicating Indonesian citizens do not have a decent livelihood. The data of Indonesian citizens at the beginning of 2020 is still 5.3% unemployment of entire workforce or as many as 7,045,761 people.

Economic growth has a causal relationship in which the population that produces goods and services will result in economic growth. In contrast, unemployment does not contribute in producing goods and services, so it will not add to economic growth. Economic growth and unemployment also have a negative relationship, which means that the unemployment rate is getting higher, then the economic growth rate becomes lower. Investment becomes a crucial factor in the long-term economic growth process. With the investment, both the investment is made by the government and the investment made by the private sector, and it will provide a catalyst for

production activities. The impact is by providing jobs that then income for the community will be created. The role of investment that can increase aggregate demand

Moreover, the aggregate of marketing is increased through its influence on production capacity. So that as a result, will be able to increase Gross Domestic Product and hopefully will have an impact on increasing employment opportunities become an essential factor in economic development regardless of the investment is made by the government and by the private sector.

In line with the efforts to create jobs, the government has initiated the unification of omnibus law regulations. This term became familiar after the President of the Republic of Indonesia, Mr. Joko Widodo, mentioned in his speech at the inauguration of the President and Vice President of the Republic of Indonesia for the term of office in 2019-2024. It was later explained that omnibus law is an Act drafted with the aim is a big issue. The act allows for repealing or amending some laws so that a

more straightforward Law can be produced. This Draft Law on Copyright work is a Government Initiative Bill included in the Priority National Legislation Program year 2020. [1]

The omnibus law, namely Law No. 11 of 2020 on Copyright Work, regulates covering those related to: a. improvement of investment ecosystem and business activities; b. improved protection and welfare of workers; c. ease, empowerment, and protection of Cooperatives and Micro, Small, and Medium Enterprises; and d. increased government investment and acceleration of national strategic projects. The arrangement is a mandate from the Preamble to the Constitution of the Republic of Indonesia year 1945, mandating that the purpose of establishing the State of the Republic of Indonesia is to realize a prosperous, fair, prosperous society, which is evenly distributed, both material and spiritual. In line with this purpose, Article 27 paragraph (2) of the Constitution of the Republic of Indonesia 1945 specifies that "Every citizen is entitled to a job and a decent livelihood for humanity, therefore the state needs to make various efforts or actions to fulfill the rights of citizens to obtain a decent job and livelihood. In principle, the fulfillment of the right to work and a decent livelihood is one of the essential aspects in national development implemented in the framework of the development of a complete Indonesian human being.

Legal reform of the laws and regulations in the framework of legal development is urgently needed. Without legal reform and legal development that suits the community's needs, imbalances and even obstacles to national development will arise. [2] If the primary purpose of the omnibus law was to strengthen and improve the investment ecosystem, all that was needed was the improvement of investment law, trade law, and the renewal of economic law. Thus, the right step may be improving and strengthening the real economy, healthily regulating market competition regulation without monopolies, and simplifying the tax system. Recession and economic uncertainty occur because the financial system is difficult to predict because of the global economic slowdown. This is coupled with the industrial revolution 4.0 with technology development that provides convenience in various transactions. [3]

The Central Government has made various efforts to create and expand employment to reduce the number of unemployed and accommodate new workers and encourage the development of Cooperatives and Micro, Small, and Medium Enterprises to improve the national economy that will be able to improve the welfare of the community.

Job creation is done through arrangements related to improving the investment ecosystem. Business activities at least contain arrangements on simplification of Business Licensing, investment requirements, ease of

business, research and innovation, land acquisition, and economic areas.

Simplification of Business Licensing through the application of risk-based Business Licensing is a standard method based on the level of risk of business activity in determining the type of Business Licensing and the quality/frequency of supervision. Business licensing and supervision is an instrument of the Central Government and Local Government in controlling business activity. The application of the risk-based approach requires a change of mindset (*change management*) and adjustment of the working system of the implementation of the Business Licensing Service (*business process re-engineering*) and requires the regulation (*re-design*) of business processes Licensing Business in the system of Electronic Licensing. By applying this concept, the implementation of the issuance of Business Licensing can be more effective and uncomplicated because not all business activities must have a license. In addition, by applying this concept of surveillance, activities become more structured both from the period and substance that must be supervised.

Job creation conducted through arrangements related to improving the protection and welfare of workers contains at least arrangements concerning: protection of workers with certain employment agreements, protection of employment relationships based on outsourcing, protection of the needs of the decent work through the minimum wage, protection of workers who experience termination of employment, and ease of licensing for foreign workers who have a skill that is still required for the production of goods or services. Job creation conducted through arrangements related to the ease, empowerment, and protection of Micro, Small, and Medium Enterprises contains at least arrangements on ease of establishment, member meetings, and cooperative business activities, and criteria of Micro, Small, and Medium Enterprises, a single database of Micro, Small, and Medium Enterprises, integrated management of Micro, Small, and Medium Enterprises, ease of Licensing of Micro Enterprises, Small, and Medium Enterprises, partnerships, incentives, and financing of Micro, Small, and Medium Enterprises.

Job creation conducted through arrangements related to the increase of investment of the Central government and local government and the acceleration of national strategic projects at least contains arrangements concerning: the implementation of central government investment through the establishment of investment management agencies and the provision of land and licensing for the acceleration of national strategic projects. Inline to support the policy in Law No. 11 of 2020 on Copyright Work regulates the provisions of Article 181 paragraph (2) that harmonization and synchronization related to local regulations and/or regulation of the Head of Regions, implemented.

The ministry or institutions that organize government affairs in the field of the formation of legislation and the ministry that organizes domestic government affairs. Based on the provisions of the Regional Regulation and/or Regulation of the Regional Head that has been in force and contrary to Law No. 11 of 2020 concerning Copyright Work or contrary to higher legislation, or contrary to the court's decision, must be harmonized and synchronized by the Ministry of Law and Human Rights and the Ministry of Home Affairs. Against the provisions of the regulation so that it is necessary to conduct research urgency harmonization and synchronization of regional regulations and/or regulation of regional heads after the enactment of Law No. 11 of 2020 on Copyright Work.

## 2. RESEARCH METHODS

The method used in the form of normative juridical research using *the statute approach* is used in researching, reviewing, studying, understanding the laws and regulations governing the Urgency of Harmonization and Synchronization of Regional Regulations and/or Regional Head Regulations After the Enactment of Law No. 11 of 2020 on Work Copyright.

## 3. RESULT AND DISCUSSION

The urgency of Harmonization and Synchronization of Regional Regulations and/or Regulation of Regional Heads After the Enactment of Law No. 11 of 2020 on Work Copyright.

National law is a system. The system consists of elements or components or functions/variables that are always influence-influencing, related by one or more principles, and interacting. All elements/components/functions/variables are linked and organized according to a specific structure or pattern, constantly influencing each other and interacting. The main principle that relates all elements or components of national law is Pancasila and the Constitution of the Republic of Indonesia 1945 and some other legal principles such as the principle of aerospace, nationality, and diversity.[4]

Such a situation has required a unified, consistent, integrated system of legislation, imbued Pancasila and sourced in the Constitution of the Republic of Indonesia 1945, to realize order, guarantee certainty and protection of the law. This means harmonization and synchronization among the legislation is indispensable and urgent to do.

In terms of harmonization and synchronization of the law to the system of legislation in an integrated manner, it appears as a necessity and is an inevitability. The harmonization and synchronization of the legislation as a legal subsystem within the framework of the national

legal system so that the legal norms in the legislation do not conflict with each other and there is no duplication or overlap. The urgency of this harmonization and synchronization, on the one hand, provides a robust legal basis by the hierarchy of laws and regulations. On the other hand, in terms of the system and legal principles materialize the conformity of the legal system and legal principles. So that, the application of no conflict of norms.

In terms of realizing the national legal system, of course, it must pay attention to harmonization and synchronization of applicable laws and regulations, both in vertical and horizontal lines. In the national legal system, local legislation is part of the national law. In order to create harmonization and synchronization between the central level legislation and local legislation, it is necessary to harmonize and synchronize the Regional Regulations and/or Regional Head Regulations to realize integrated legislation.[5]

In other words, the Regional Regulation and/or Regulation of the Regional Head shall not be contrary to the higher legislation based on the type and hierarchy of laws and regulations based on Article 7 paragraph (1) The type and hierarchy of laws and regulations consist of:

- a. Constitution of the Republic of Indonesia year 1945;
- b. Provisions of the People's Consultative Assembly
- c. Law/Regulation of the Government Substitutes Law;
- d. Government Regulation;
- e. Presidential regulation;
- f. Provincial regulation; and,
- g. District/Municipal Regulation.

The legal force of the Laws and Regulations by the hierarchy as stipulated in Article 7 paragraph (2) of Law No. 12 of 2011. The hierarchical structure of legislation has consequences that lower legislation should not be contrary to higher legislation. This aligns with the *lex superior derogat inferiori legal principle* that lower legislation should not be contrary to higher legislation. This is intended to create legal certainty in the legal system. [6]

Harmonization and synchronization of laws and regulations are carried out either before the legislation is enacted or after it is enacted. The urgency of harmonization and synchronization of legislation after enactment is carried out due to the dynamics of the law on the establishment or enactment of new legislation that causes some of the legislation to be disharmonious or out of sync with the newly enacted legislation.

With the enactment of Law No. 11 of 2020 on Copyright Work, the provisions of Article 181 paragraph (2) that harmonization and synchronization related to local regulations and/or regulation of the Head of Regions, implemented by the ministry or institutions that conduct government affairs in the field of the formation of legislation together with the ministry that organizes domestic government affairs. Based on the provisions of the Regional Regulation and /or Regulation of the Regional Head that has been in force and contrary to Law No. 11 of 2020 on Copyright Work or contrary to higher legislation, or contrary to the court's decision, must be harmonized and synchronized by the Ministry of Law and Human Rights and the Ministry of Home Affairs. The results of harmonization and synchronization are submitted to the Local Government to be followed up on the proposed changes, or replacement of the content material of the Regional Regulation and/or Regulation of the Regional Head that has been in force after Law No. 11 of 2020 on Copyright Work is enacted and its implementation regulations.

Harmonization and Synchronization of Regional Regulations and/or Regulation of regional heads after enacting Law No. 11 of 2020 on Copyright Work.

Harmonization and Synchronization of Regional Regulations and/or Regional Head Regulations shall be implemented by the Ministry of Law and Human Rights and the Ministry of Home Affairs by:

- a. Harmonization and Synchronization of content materials of Local Regulations and/or Head Regulations with some changes in sectoral laws in Law No. 11 of 2020 concerning Copyright work as follows:
  - 1) Law No. 11 of 2020 on Copyright work improvement of investment ecosystem includes: - Application of Risk-based Business Licensing - Simplification of Basic Requirements of Business Licensing in regions - Simplification of licensing Attempted sectors - Simplification of Investment requirements.
    - a) Adapted to regional legal products (Regional Regulations and/or Regent Regulations) to classify business licenses based on the classification of low-risk, medium-risk, and high-risk businesses.
    - b) Adjusted to the legal products of licensing implementation by the changes made to other regional legal products in each related Regional Device.
  - 2) Law No. 26 of 2007 on Spatial Planning Adjustment of arrangements in the

Regional Regulation and/or Regent Regulation, which includes:

- a) Spatial Detail Plan is stipulated by Regulation of the Regional Head, and previously conducted public consultations including with the Regional People's Representative Council.
- b) Determination of The Regent Regulation on Spatial Detail Plan no later than one month after obtaining substance approval from the Central Government. If it is not determined within any longer than one month, the RTDR is determined by the Central Government.
- c) Eliminating the District Strategic Spatial Plan as an indicator of the preparation of the District Spatial Plan.
- d) Eliminate location permits and use the Spatial Plan as the basis for the suitability of space utilization and land administration
- e) Remove the content material of rural spatial planning.
- f) Remove the material content of the utilization of rural areas.
- g) Removing the content of control materials Utilization of rural areas.
- h) Removing content materials of Regional Planning Cooperation village
- i) Adjusting the nomenclature of space utilization permits approval of the custom utilization of space.
- j) Removing the permit of the construction site, replaced with approval of the appropriate utilization of space.
- k) Adding material on the implementation of spatial arrangements by local governments.
- l) Addition of materials on the scope of the community in the implementation of spatial arrangements including individuals and businesses, adjustment of arrangements in the Regional Regulations and/or Regent Regulations, which include:
  - Spatial Detail Plan stipulated by the Regulation of the Head of Regions, and previously



conducted public consultations including with the House of Regional Representatives.

- Determination of The Regent Regulation on Spatial Detail Plan no later than one month after obtaining substance approval from the Central Government. If not determined within no longer than one month, the Central Government sets the Spatial Detail Plan.
- Eliminating the District Strategic Spatial Plan as an indicator of the preparation of the District Spatial Plan.
- Eliminate location permits and use the Spatial Plan as the basis for the suitability of space utilization and land administration
- Remove the content material of rural spatial planning.
- Removing content materials for the utilization of rural areas.
- Removing content material control Utilization of rural areas.
- Removing content materials Of Rural Area Planning Cooperation
- Adjusting the nomenclature of space utilization permits the approval of the appropriateness of space utilization.
- Removing the permits of construction sites, replaced with approval of the appropriate utilization of space.
- Adding material on the implementation of spatial arrangements by local governments
- Addition of material on the scope of the community in the implementation of spatial planning includes individuals and businesses.

### 3) Law No. 28 of 2002 on Buildings

Definition definitions: • Technical Reviewers are individuals or business entities, both incorporated and not incorporated, who have a certificate of

work competency qualification of experts or certificate of business entity to carry out a technical assessment of the appropriate function of building buildings. • The Central of Government is the President of the Republic of Indonesia who holds the power of the government of the Republic of Indonesia assisted by the Vice President and ministers as referred to in the Constitution of the Republic of Indonesia of 1945. • Local Government is the regional head as an element of local government organizers who lead the implementation of government affairs that become autonomous regional authorities. Added definition • Construction Service Provider is a Construction Service Provider. • An Expert Profession is a person who has met competency standards and is determined by an institution accredited by the central government. • Building Inspector, referred to as Penilik, is an individual who has competence, which is given the task by the Central Government or local government by its authority to conduct inspections on the implementation of buildings. • The material of the function and classification of buildings by the Government Regulation to be established. • The function of the building is used by allocating the location stipulated in the Spatial Detail Plan. • The function of the building is listed in the Building Approval. • Changes in the function of buildings must obtain approval from the Central Government. • Each building must meet the technical standards of the building by the function and classification of the building. • The use of above space and/or underground space and/or water for buildings must be carried out by the provisions of the laws and regulations. • Content material on technical standards by the Government Regulation to be established. • The application of environmental impact control only applies to buildings that can significantly impact the environment and is carried out by the provisions of the laws and regulations. • Remove building reliability requirements and remove building requirements for building special functions. • The organizer is obliged to meet the technical standards of building buildings in the implementation of buildings. • Addition of expert professions, inspectors, technical reviewers as building organizers. • Building construction planning must be done by a qualified construction planner service provider and

competency standards by the provisions of the legislation. • Construction planner service providers must plan buildings concerning the technical standards of building buildings. If the planned building is not in accordance with technical standards, then the building must be equipped with testing has to obtain the technical plan from the Central Government.

- 4) Law No. 32 of 2009 on Environmental Protection and Management Adjustment of arrangements in the Regional Regulation and/ or Regent Regulation, which includes:
  - Elimination of permit requirements for waste disposal to environmental media, and replaced with approval from the Central Government or Local Government • Restrictions on suggestions and inputs that can be provided only by directly affected communities relevant to the business plan and / or activities • Preparation of Environmental Impact Analysis only involves communities directly affected by the business plan • Changing the regulatory materials related to the phrase " requesting assistance " with the phrase " pointing " to other parties in the preparation of the document On Environmental Impact Analysis • Adjusting the arrangements regarding certification and competency criteria for the preparation of Environmental Impact Analysis in accordance with the Government Regulation to be established. • Material on the Assessment Commission on Environmental Impact Analysis is removed, • Replacing the nomenclature of " business and/or activities of weak economic groups " with the phrase " business and/or micro and small business activities " (express support to micro-enterprises, small, medium) • Affirming the regulation that activities that do not have a significant impact on the environment must meet the standards of Environmental Management Efforts and Environmental Monitoring Efforts. • Fulfillment of standards of Environmental Management Efforts and Environmental Monitoring Efforts are sufficiently stated in the statement of the ability of environmental management • Addition of material on the Statement letter of Environmental Management Efforts, and Environmental Monitoring Efforts integrated into the Parent Number of Efforts • Removing

environmental permits. • The Authority of the Regent is removed in rejecting the application for environmental permits if it is not equipped with An Analysis of Environmental Impacts and Environmental Management Efforts, and Environmental Monitoring Efforts. • Changes in the cancellation requirements of business licenses that were not initially met " Recommendations for Environmental Management Efforts and Environmental Monitoring Efforts " changed to " statement of ability to manage the environment. " • Removal of material regarding the cancellation of environmental permits through the State Administrative Court because there is no longer an environmental permit. • Changes in environmental permits into environmental approvals • The Authority of the Regent is removed in appointing a Government Bank to store guarantee funds, and this flexibility is taken overall by the Central Government. • The Authority of the Regent is removed in establishing a third party to restore environmental functions in the restoration of environmental functions. Furthermore, the authority is taken by the central government. • Waste Management of Hazardous and Toxic Materials must obtain a business license or approval of the central government or local government, which previously managed hazardous and toxic waste materials requirements get permission from the minister, Governor, or Regent / Mayor. • The Regent's authority in granting dumping permits. Furthermore, the dumping can only be done with the approval of the central government, adjustment of arrangements in local regulations and/or regent regulations, which include: • Addition of materials on waste management that must be stated in the Analysis on Environmental Impacts or Environmental Management Efforts and Environmental Monitoring Efforts. • Affirmation of exceptions for communities conducting land clearing activities by burning, by paying attention to the local wisdom (the violation of excluded subjects, i.e., the community) • Changing the nomenclature of ministers, Governors or Regents / Mayors into the Central Government or Local Government • Elimination of the authority of the Regent to force the person in charge of business and/or activities to conduct environmental recovery due to pollution and / know

environmental destruction carried out (authority only owned by the Central Government). • Elimination of the authority of the Regent to dap at appointing a third party to conduct environmental recovery due to pollution and / know environmental destruction carried out (authority only owned by the Central Government) • Adjustment of administrative sanctions. • Removal of the phrase " without the need to prove the element of error" • Delete the material concerning the filing of a lawsuit against the state administrative decision (environmental permit removed) because the environmental permit no longer exists/removed. • Adjusting the material content of criminal provisions due to eliminating environmental permits and adjustments to subjects that are no longer subject to criminal sanctions. Especially regarding the preparation of Environmental Impact Analysis without having a certificate of competence of the author of Environmental Impact Analysis that has been subject to administrative sanctions.

5) Law No. 41 of 1999 on Forestry.

The Copyright Act raises two significant issues that change the fundamental character of the Forestry Law, namely, abandoning the spirit of conflict resolution and forest resource conservation efforts. First, the emergence of "strategic area" provisions will be prioritized in accelerating the inaugural forest area to open investment space as much as possible. Second, a change removes the 30% forest area limit from the Watershed, island, or provincial administrative area. This is followed by the elimination of the role of the House of Representatives in approving changes in the allocation and function of forest areas and the use of forest areas for development outside forestry activities (highway infrastructure, reservoirs/dams, mining, and others). Both of the above have been instruments that protect forest resources from exploitation. Regional Devices are responsible for the Environment and Forestry Agency.

- 6) Law No. 10 of 2009 on Tourism, the addition of authority by the Regent in issuing Business Licensing in the field of tourism.
- 7) Law No. 2008 on Shipping, the addition of the authority granted by the Regent of Business Licensing for sea transportation,

and Licensing of Trying for sea freight cruise- people, Business Licensing for river and lake transportation, Licensing Trying to route, Licensing Trying to transport crossings, Licensing Trying to permit the operation of ships.

- 8) Law No. 39 of 2014 on Plantations, the addition of the authority of Business Licensing of plantations by the Governor for cross-district / city areas and by regents/mayors for the territory in a district/city.
- 9) Law No. 21 of 2014 on Geothermal, the addition of the authority of the District Government/city in the implementation of Geothermal, namely the granting of Business License related to direct utilization in the territory that is the authority.
- 10) Law No. 26 of 2007 concerning Spatial Planning of Local Government Authority of districts/cities is implemented by norms, standards, procedures, and criteria set by the Central Government to implement spatial arrangements, namely: Regulation, coaching, and supervision of the implementation of spatial arrangements district/city; b. Implementation of the spatial arrangement of districts/cities; and c. spatial planning cooperation between districts/cities.
- 11) Law No. 2 of 2017 concerning the Construction Services Authority of the Municipal Government is implemented in accordance with the norms, standards, procedures, and criteria set by the Central Government in the sub-affairs of Construction Services, including a. the implementation of training of skilled construction personnel; b. implementation of construction services information system coverage of district I city; c. issuance of Small, Medium, and Large Qualifications Business Licensing; and d. supervision of business order, orderly implementation, and orderly utilization of Construction Services.
- b. Harmonization and Synchronization of content materials of Local Regulations and/or Head Regulations with some changes in sectoral laws in Law No. 11 of 2020 concerning Copyright work as follows: Harmonization and synchronization of content materials of Local Regulations and/or Regional Head Regulations contrary to court rulings In harmonization and

synchronization of Regional Regulations and/or Regulation of the Head of Regions must also pay attention to the test decision of the Law / Government Regulation Replacement Law against the Constitution of the Republic of Indonesia 1945 decided by the Constitutional Court and the decision of testing government regulations, Presidential Regulation, Regulation of the Minister / Institution to the legislation under the Constitution of the Republic of Indonesia 1945 which is decided by the Supreme Court because the decision of the Constitutional Court and the Supreme Court is final. *Binding* is an interpretation that is legally formal guaranteed by the constitution as an official interpretation. Law / Regulation of the Government Substitute Law, Government Regulation, Presidential Regulation, Ministerial Regulation, Regional Regulation with the articles and spirit of the Constitution of the Republic of Indonesia year 1945 as stated in the opening, can be tested its validity by the Constitutional Court and the Supreme Court.

#### 4. CONCLUSION

The Urgency of Harmonization and Synchronization of Regional Regulations and/or Regulation of the Regional Head After the Enactment of Law No. 11 of 2020 on Copyright Work is carried out in order to:

1. Provide a strong legal basis by the hierarchy of laws and regulations. On the other hand, in terms of the system and legal principles, materialize the conformity of the legal system and legal principles so that conflict norms do not apply.
2. The existence of legal dynamics on the establishment or enactment of new legislation causes some of these laws and regulations to be in harmony or out of sync with the newly enacted legislation.

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