



# Coordination Pattern of Implementation of the Tourism Sector Business Licensing Authority in Indonesia

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**Abstract.** The regulation of tourism in Indonesia, which was previously governed by Law No. 10 of 2009, has now been revised by Law No. 11 of 2020 on Job Creation. The Job Creation Law governs company licensing in the tourist administration depending on the amount of activity risk defined by the Central Government. According to the legislation, business permits can be given by the Governor, Regent/Mayor, or by the Minister who is authorized to organize the tourist industry. In this essay, the author will examine the allocation of authority for issuing business permits as well as the structure of collaboration amongst authorized officials in the tourist industry. The purpose of this paper is to offer a knowledge of the pattern of cooperation among officials with the capacity to issue business licenses for the tourist sector, so that tourism business players know to whom business permits should be filed. This is a normative legal study that will be evaluated using a descriptive-analytical technique.

**Keywords:** pattern of coordination · government authority · business licensing · tourism

## 1 Introduction

The Indonesian Government has made and determined various policies to develop Indonesia as a country with national solid stability based on Pancasila. To carry out this function, the system of Government in Indonesia is not carried out centrally but the establishment of regional autonomy. This regional autonomy takes into significance when the central government and regional governments split the duties of establishing and implementing policy based on their respective authority [1].

The country of Indonesia is split into provinces, districts, and cities. In Indonesia, provinces, regencies, and cities operate independently. Regional autonomy is defined in Article 1 point 6 of Law 23 of 2014 concerning Regional Government (UU 23/2014) as the rights, powers, and obligations of autonomous regions in the system of the Unitary State of the Republic of Indonesia to regulate and manage their Government Affairs and the interests of local communities. Three themes underpin regional government: 1) decentralization (delegation of government affairs from the Central Government to

governors acting as Central Government representatives, vertical agencies in specialized regions, and/or the governor and regent/mayor in charge of general government matters); 2) co-administration [2].

The tourist business is recognized as preferred concurrent Government Affairs under Law 23/2014. Autonomous Regions organize preferred government affairs depending on their capabilities but are not required to hold them. Concurrent Government Affairs are overseen by the Central and Regional Governments, provinces, and districts/cities. As a result, concurrent government activities must be split based on four criteria, according to Article 13 of Law 23/2014: accountability, efficiency, externalities, and national strategic interests.

The changing concept of rulemaking and regulation, as well as the dynamics of governance in Indonesia, have resulted in changes in state administration structure, including corporate licensing in the tourism industry. The provisions in Article 15 of Law No. 10 of 2009 on Tourism (Law 10/2009) were amended in Law No. 11 of 2020 on Job Creation (UU 11/2020), which was formed using the Omnibus Law method and regulates entrepreneurs' obligations to fulfill business licenses issued by the Central Government or Regional Governments by their respective authorities based on the Government's norms, standard procedures, and criteria (NSPK).

The provisions confirming the Central Government's authority to issue NSPK have been modified. This legislation also governs the issuance of risk-based business licenses, which are further governed by Government Regulation Numbers 5 and 6 of 2021 Concerning the Implementation of Risk-Based Business Licensing (PP 5/2021). These changes have an impact on the pattern of authority execution collaboration across federal and regional government organizations. The goal of this document is to inform participants in the tourism industry about the coordination pattern among authorities with the capacity to give business licenses for the tourist sector, so that they know where to file business permits.

## 2 Method

A normative legal approach is used by the researcher. The data is based on an examination of the literature, which included main legal documents such as laws and regulations, secondary legal materials such as books and scientific publications, and tertiary legal materials such as dictionaries and encyclopedias. Furthermore, the acquired data was analyzed qualitatively.

## 3 Result and Discussion

### 3.1 Division of Authority for Issuing Business Licensing for the Tourism Sector

#### 3.1.1 Division of Business Licensing Authority for the Tourism Sector Between the Central Government and Regional Governments According to Law Number 10 of 2009 Concerning Tourism

The Regional Government Law Number 32 of 2004 (Law 32/2004) and Government Regulation Number 38 of 2007 concerning the Division of Government Affairs between

the Government, Provincial Governments, and Regency/City Government (PP 38/2007) serve as the foundation for tourism regulation as a government affair in Law 10/2009. Tourism is identified as an optional provincial and district/city government subject in Articles 13 and 14 of Law 32/2004. Issues that exist and have the potential to improve people's lives are considered optional government subjects. This is owing to the region's distinct circumstances, characteristics, and great potential.

The power in the management of the tourist sector is divided between the Central Government and the Regional Governments, according to Law 32/2004. According to the table of Law 38/2007, each regional level is responsible for administering firm licenses in the tourist industry depending on their authority. According to PP 38/2007, the Central Government is in charge of national-scale tourist businesses, the Provincial Government is in charge of local-scale tourism business permits, and the Regency/Municipal Government is in charge of district/city-scale licenses.

### **3.1.2 Division of Authority for Tourism Sector Business Licensing Between the Central Government and Regional Governments According to Law Number 11 of 2020 Concerning Job Creation**

As a unitary state, the government functions as the “vein” for carrying out development objectives in Indonesia. Even if granted tremendous authority and capacity, a region cannot function effectively without government affairs. The tying knot in the Unitary Republic of Indonesia is the division of authority in government concerns between the national and local administrations.

In this context, tourism business licensing is part of the elective concurrent government affairs as stated in Article 12 paragraph (3): “Preferred Government Affairs as referred to in Article 11 paragraph (1) include a. marine and fisheries; b. tourist; c. agriculture; d. forestry; e. energy and Mineral Resources; f. trading; g. industry; and h. transmigration.”. As is known, the enactment of Law Number 11 of 2020 concerning Job Creation (UU 11/2020) in terms of the division of concurrent affairs is confirmed in Article 402A of amendments to Law 23/2014 in Law 11/2020, that the division of government affairs must, of course, be amended. Furthermore, changes to all requirements outlined in Law 11/2020. These reforms and revisions also include the regional company licensing system, which relates to Government Regulation 6 of 2021 Concerning the Implementation of Regional Business Licensing (PP 6/2021). The scope of the regulation of business operations in the regions is explained in PP 6/2021 as follows: a) the division of authority for the administration of business licensing in the regions; b) implementation of business licensing in the regions; c) regional regulations and regional head regulations regarding business licensing; d) reporting on the implementation of business licensing in the regions; e) coaching and supervision; f) funding; g) and administration [6]. With the amendment of Law 23/2014 in Law 11/2020t which covers government affairs in terms of regional authority in business licensing in the regions, including sectoral provisions.

Nonetheless, the separation of authority is still applied in concurrent government issues. According to Article 3 of PP 6/2021, “the Central Government, province Regional Governments, and Regency and City Regional Governments execute Business Licensing in the Regions in accordance with their authority based on the terms of the Act.” The

tourist industry is one of the sectors of business license owned by each region, as defined in Article 6 paragraph (5) of PP No. 6/2021. As a result, the provision in Article 26 of Law 11/2020 is read to mean that the mid-level authority's scope of activity is divided into 15 business licensing sectors, including tourism.

The Job Creation Act shifts the licensing system from a licensing to a risk-based approach (RBA). These requirements are designed to streamline company licensing, resulting in increased procedural convenience and cheaper costs. This is then further regulated by PP 5/2021. This sort of permission is classified as a risk-based business permit for the tourist industry.

More authority is assigned to the Regents, Mayors, and Governors in the area of tourist licensing authorities, which the Minister follows. The parameters considered include the amount of risk, land area, and business scale. For Regents and/or Mayors, for example, the criteria include low and medium-low risk, a land area of less than 6,000 hectares, and micro, small, and medium-sized firms. According to the Governor, license power is granted for medium to high business risk in the province over an area ranging from 6,000 to 10,000 hectares with medium and large-scale firms. While the central authority is in the hands of the Minister, a high-risk business license covering 10,000 hectares is meant for micro, small, and medium-sized enterprises.

### **3.2 Coordination Patterns Between Authorized Officials in Issuing Business Licensing in the Tourism Sector**

#### **3.2.1 Patterns of Issuing Business Licenses in the Tourism Sector According to Law 10 of 2009 Concerning Tourism**

The Ministry of Tourism gives assistance in accordance with Law 10/2009. The Ministry of Tourism's assistance is for deconcentration operations. Furthermore, the Ministry of Tourism's aid includes responsibilities to expedite the development of tourism attractions in the region.

Unfortunately, executing these deconcentration and co-administration efforts in the areas does not always go smoothly. Before carrying out the activity, the location and shape of the facility to be created must be determined further. As a result, the government's responsibility must be to support the development of tourist attractions so that activities linked to deconcentration and assistance duties may be carried out efficiently, in accordance with regional needs, and in accordance with the national tourism development strategy.

One of the issues in the tourist sector is the existence of overlapping rules surrounding investment in tourism enterprises at the central and regional levels. The ability to award investment firm licences, for example, is obtained through the One Stop Service under Law Number 25 of 2007 concerning Investment (Law 25/2007). However, according to Government Regulation No. 24 of 2018, the power to give Business Licensing must go through the OSS institution.

The division of investment zones is the only focus of Law 25/2007's boundaries of jurisdiction between the national, provincial, and district/city administrations. It does not explain the authority of other investing issues.

The boundaries of jurisdiction between the central government and local governments are not defined under Law 25/2007 in a clear and thorough manner. This is

because the Capital Market Law only highlights the division of responsibility for investment execution and does not clarify the authority for other elements of investment such as export-import, licensing marketing, and excellent cooperation connections with domestic and foreign nations.

### **3.3 Pattern of Issuing Business Licensing for the Tourism Sector According to Law 11 of 2020 Concerning Job Creation**

All business actors, including those in the tourist industry, must follow licensing requirements. Permits in this context serve as a type of government oversight and control over each business player in addition to acquiring legality. This is governed by Article 15 paragraph (1) of Law 10/2009, as modified by Law 11/2020.

Business players, particularly those in the tourist sector, must take care of licensing for their operations in this respect, since it is widely known that business permits for the tourism industry are now regulated in an integrated one-stop shop (PTSP). The PTSP is defined as an online single submission in Minister of Tourism Regulation Number 10 of 2018 about Electronically Integrated Business Licensing Services for the Tourism Sector (Permenpar 10/2018). (OSS). In this situation, the OSS institution, using an integrated computerized system, awards the business license to business actors on behalf of the Minister, head of the institution, Governor, or Regent/Mayor.

The Tourist Business Registration Certificate is the first item to remember while administering a business license in the tourism sector (TDUP). According to Article 7 paragraph (1) of the Minister of Tourism 10/2018, TDUP is something that every business actor must acquire. According to the article, a TDUP is a sector permission given by an OSS institution after registering to carry out an activity, both operational and commercial, as long as the business actor meets the requirements and/or obligations. The Tourist Business Registration Certificate is the first item to remember while administering a business license in the tourism sector (TDUP). According to Article 7 paragraph (1) of the Minister of Tourism 10/2018, TDUP is something that every business actor must acquire. According to the article, a TDUP is a sector permission given by an OSS institution after registering to carry out an activity, both operational and commercial, as long as the business actor meets the requirements and/or obligations. Furthermore, the Minister of Tourism 10/2018 specifies 13 tourism sector business fields that require TDUP, which include tourist attractions, tourism areas, tourist transportation services, travel services, food and beverage services, accommodation, organizers of entertainment and recreational activities, organizers of meetings, intensive trips, conferences, and exhibitions, and tourism information services.

Business actors who are required to use OSS in the implementation of their business activities consist of individual business actors and/or business entities; small, medium and large enterprises; businesses that were established before and/or after OSS operates, and businesses whose capital comes entirely from within the country or partially from foreigners. Further examination is required to find the operating time of company operations when integrating OSS in all tourist sector enterprises in Indonesia. Companies founded after OSS must satisfy pledges to get necessary permissions, business licenses, and operational or commercial permits. Meanwhile, firms that existed prior

to the implementation of the OSS program just required to fill out data to extend their business license.

Without a doubt, the increase of jurisdiction for local governments in the framework of company licensing in the tourist industry is a source of greater worry. This is connected to its overall influence on the tourist sector. As a result, the licensing arrangements for tourism firms in the regions will adhere to PP 6/2021. The Regency/city Investment and One-Stop Integrated Service (DP MPTSP) and the Provincial DPMPSTP for the province carry out the execution of business license in an integrated one-door manner in the district/city region.

## 4 Conclusion

Changes in license implementation, which were previously based only on the separation of responsibility between the Central Government and Regional Governments, became business risk-based with the passage of Law Number 11 of 2020. This conceptual shift had an impact on the tourist industry as well. The author believes that the Central Government's jurisdiction in licensing the tourist sector is greater than that of local governments. This is evident in the licensing procedure, which was established by the Central Government as part of the NSPK.

Researchers presented an analysis of the cooperation pattern between the Central Government and Regional Governments in acquiring licenses for the tourist sector in this article. According to the findings of the researchers' investigation, the pattern of coordination created in the administration of company license in the tourist sector leads to deconcentration and insufficient application of the decentralization principle.

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Hopefully, this paper can be helpful for readers, both the people of Indonesia and the community globally.

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