



# Strengthening Regulations for Micro and Small Business (MSB) as a Post-covid-19 Government Innovation

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**Abstract.** The Covid-19 pandemic that has occurred in the last few years has had a significant impact on the Indonesian economy, especially in the sector Micro and Small Business (MSB) which is experiencing difficulties in developing business activities. The government through Law Number 11 of 2020 concerning Job Creation (Job Creation Law,) seeks to maintain and strengthen the existence of MSB. This is specifically regulated through Government Regulation (PP) Number 8 of 2021. This regulation has a positive impact on MSB in order to obtain legal protection in the form of legal entity status, namely Individual Companies. An individual company is a relatively new form of legal entity in Indonesia, in contrast to companies in general, an individual company is established by one founder who also serves as director and shareholder. The presence of an individual company legal entity for MSB can provide various conveniences in accessing various economic sectors, in addition to having a positive impact, individual companies still have weaknesses that need to be improved in the future. To answer these questions, the type of research used is normative-legal, examining various laws and regulations and the literature relevant to the issues discussed. The present study therefore concludes that the presence of a legal entity in the form of a sole proprietorship has a positive effect in the form of a guarantee of legal certainty for his MSB who is not yet a legal entity.

**Keywords:** Regulation · Micro and Small Business (MSB) · Individual Companies

## 1 Introduction

The COVID-19 pandemic that has occurred in recent years has had a significant impact on Indonesia. The impact is not only felt from the health aspect, it also has an impact on social and economic aspects. In the economic aspect, the impact felt was an economic slowdown that resulted in global and national economic instability. One of the aspects that caused the economic slowdown was due to Government policies that led to Large-Scale Social Restrictions to prevent the spread of covid 19. The Large-Scale Social Restrictions had an impact on the limited social and economic mobility of the community, causing weakening economic growth.

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A. Endah Kusumaningrum et al. (Eds.): ICLEH 2022, ASSEHR 723, pp. 92–98, 2023.

[https://doi.org/10.2991/978-2-38476-024-4\\_12](https://doi.org/10.2991/978-2-38476-024-4_12)

One of the actors seriously affected by the COVID-19 pandemic is Micro, Small and Medium Enterprises. This was revealed in a survey conducted by Bank Indonesia (BI) in which 77.95 were affected by the COVID-19 pandemic [1].

The main problem faced by MSB is the decline in income and an increase in operational costs due to the Large-Scale Social Restrictions. In order to overcome these problems, the government as a policy maker continues to innovate to carry out economic recovery.

The form of economic recovery can be seen in the various regulations that support economic recovery. Based on Government Regulation Number 23 of 2020 concerning the Implementation of the National Economic Recovery Program in order to support the State Financial Policy for Handling the Corona Virus Disease 2019 (COVID-19) Pandemic and/or Facing Threats That Endanger the National Economy and/or Financial System Stability and Rescue the National Economy (PEN Program) as a response to the decline in community activities that have an impact on the economy, especially the informal sector or MSB. The main objective of the PEN Program is to guarantee, protect, save, strengthen and develop the economic performance of business actors or those who are starting a business during the Covid-19 pandemic. It is hoped that the PEN program can maintain the existence of MSB as well as raise the ability of MSB in their role in the sustainability of MSB [2].

The breakthrough came in the form of a new legal form of limited liability sole proprietorship (Limited Liability Sole Proprietorship) by the government. The establishment of the individual company does not require a notarial deed because the public only needs to fill out an electronic statement of establishment form. This individual company is one-tier in nature, where the sole shareholder is also a director without requiring a commissioner [3]. The sole proprietorship model in various countries has been known in the United States, Canada and Singapore as Sole Proprietorship, while in England it is called Sole Trader, Vietnam as Private Enterprise and the Netherlands as Eemanszaak.

To tackle the impact of the COVID-19 pandemic, the government enacted Job Creation Act No.11 of 2020 (Job Creation Act), as part of the government's efforts to encourage the development and economic growth of cooperatives and small and medium enterprises with the aim of improving the national economy this will have an impact on the well-being of society.

One of the interesting things about the Jobs Creation Act is that there is a new breakthrough in certain parts of the Limited Liability Companies Act No. 40 of 2007 that allows a single legal entity to meet the criteria for large and small businesses.

The breakthrough made by the government with the existence of individual companies on the one hand can be used as a stimulus in the recovery of the national economy from the COVID-19 pandemic, but it cannot be denied that there are still legal weaknesses or loopholes in individual company regulations which are feared to be exploited by other parties. Irresponsible party. Therefore, it is very important to examine more deeply regarding how the future arrangements for individual companies are to ensure legal certainty for MSB in Indonesia.

## 2 Research Method

Legal research is the process carried out to resolve legal issues. Ability to identify legal issues, reason legally, analyze issues as they arise, and provide solutions to those issues is required [4]. Normative legal studies are also called doctrinal legal studies. This is because this research is directed or conducted only to written regulations or other legal material [5]. The type of research in this paper is normative juridical (legal research). Normative legal research needs to find out the truth of consistency, whether there are legal norms and legal norms based on legal principles in the form of precepts and prohibitions, and whether actions conform to legal norms or are legal principles [6].

The approaches used in this paper are the statutory approach and a concept approach. In order to support solving these problems, the authors use primary, secondary and non-legal legal materials. The entire legal material is obtained from the literature study. These legal materials are then assembled and used as support in answering the legal issues being studied.

## 3 Findings and Discussion

The COVID-19 pandemic that has been going on since the middle of 2019 has had a significant impact on health, social and economic aspects. One of the significant impacts felt was the weakening of the economy both on a global and national scale. During the covid-19 pandemic, business activities experienced significant Limited Liability Company ions both in the production process, distribution, and other operational activities that disruLimited Liability Company ed economic performance. This is inseparable from the government's policy of implementing the Large-Scale Social Restriction program which has an impact on limited social mobility, causing weak economic growth.

In order to overcome this impact, the government as a policy maker issued various regulations, Government Regulation Number 23 of 2020 concerning the Implementation of the National Economic Recovery Program in order to support the State Financial Policy for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or Facing Threats That Endanger the National Economy and/or Financial System Stability and National Economic Rescue (PEN Program) as a response to the decline in community activities that have an impact on the economy, especially the informal sector or MSB. The PEN program is a form of response taken by the government to protect business activities from the worsening economic downturn. Furthermore, the focus of the PEN program aims to protect, maintain, and improve and enhance the economic capacity of business actors, including micro, small and medium enterprises, in running their businesses.

In order to minimize the impact of the increasingly severe COVID-19 pandemic, the government subsequently issued Law Number 11 of 2020 concerning Job Creation (Job Creation Law). The Job Creation Law regulates regulatory changes for various sectors with the aim of improving the investment climate and realizing legal certainty. The breakthrough in the job creation law allows 80 laws with more than 1,200 articles to be revised with the job creation law which regulates multi-sector. This breakthrough is needed to improve the business climate, improve horizontal and vertical policies that conflict with each other, as well as laws that are sectoral and often out of sync. Based on

this explanation, it is known that the purpose of the existence of the Job Creation Law is to cut down the ineffective articles contained in various laws [7].

The main purpose of the Job Creation Law is to encourage investment, accelerate economic transformation to encourage investment, accelerate economic transformation, harmonize central-regional policies, provide ease of doing business, overcome overlapping regulatory problems, and eliminate sectoral egos [8]. In particular, the existence of the Job Creation Act could be used as a government effort to encourage the development and economic growth of cooperatives and micro, small and medium enterprises. Aimed at improving the national economy, which will have an impact on the welfare of the community. Furthermore, to maximize the Job Creation Law, it is regulated by Government of the Republic of Indonesia Regulation No. 8, 2021 on the allowed capital of companies and registration of the establishment, amendment and dissolution of companies that meet the criteria of micro and small enterprises.

One of the interesting things regarding the Job Creation Law is that there are new breakthroughs in several articles of Law Number 40 of 2007 concerning Limited Liability Companies (The Law Limited Liability Company) which recognizes an individual legal entity that meets the criteria for micro and small businesses. The limited liability company of changing regulations or expanding the meaning related to a limited liability company legal entity in Indonesia with the presence of an individual company is a form of government participation in supporting the national economy.

Individual legal entities that meet the criteria for micro and small businesses are recognized as limited liability companies under the Jobs Creation Act. This can be explained by the definition of a limited liability company in the Employment Creation Act as amended by Article 1(1) of the Limited Liability Companies Act. It is a contract corporation that conducts business with capital. The foundation is fully split into shares or individual legal entities that meet the criteria for micro and small businesses set out in the Micro and Small Business Act and Regulations. Based on this understanding, it can be seen that there are two types of corporations: corporations established by two or more persons, and corporations established by only one person. The Employment Creation Act and its implementing regulations have not provided a separate definition regarding this type of newly formed company. Of course, with the recognition of an individual company, the definition should also be explained clearly so as not to give rise to wider multiple interpretations. If considered on the basis of characteristics and factors, a sole proprietorship can be determined as a legal entity established on the basis of a declaration of establishment by an Indonesian citizen, whose basic capital is come from assets separated from the founder and meet the criteria of micro and small business regulations.

It is also given for MSB actors to establish a limited liability company, namely that in the establishment of a limited liability company it is not required to establish a minimum of 2 (two) people, meaning that only 1 (one) person can establish a limited liability company. This has been regulated in Article 109 number 2 of the Job Creation Law which changes the provisions of Article 7 paragraph 7 of the Limited Liability Company Law to: "The provisions that require the company to be established by two (2) or more people as referred to in paragraph (1), paragraph (5), and paragraph (6) does not apply to a limited liability company whose shares are wholly owned by the state;

Regional-Owned Enterprises, Village-Owned Enterprises, Companies that manage stock exchanges, clearing and guarantee institutions, depository and settlement institutions, and other institutions in accordance with the Law on the Capital Market, or Companies that meet the criteria for Micro and Small Business”.

Regulations related to the statement of establishment of an individual company as known may be amended. When examined more deeply there are two categories of changes contained in PP No. 8 of 2021, namely the amendment to the statement of the establishment of an individual company and the amendment to the statement of change to an individual company. The difference between the two changes, namely, changes to the statement of establishment of an individual company are changes made after a statement of company establishment or the first amendment to the statement of company establishment is made. Furthermore, after the change for the first time and or so on, the term change in the statement of establishment of an individual company shall be used.

Legitimate products produced after registration of exclusive property in the form of registration certificates. Furthermore, if there is a change in the statement of establishment of the company, after the statement of change in the individual company is submitted to the Minister electronically, a certificate of change statement will be obtained. What is interesting here is the provision of Article 7(4) of the Limited Liability Company Law. Accordingly, the company acquires corporate status on the date of issuance of the Ministerial Decree on Confirmation of Legal Entity. Company. In addition, the provisions of Article 109, Item 2 of the Employment Creation Act will be amended. Section 109(2) of the Job Creation Act stipulates that a new company shall be granted corporate status after being registered with the Minister and obtaining a registration certificate. As is clear from the difference between the two, the Limited Liability Company Law defines the status of corporations through the issuance of ministerial ordinances, while the Employment Creation Law defines the status of corporations. It is enough to register with the Minister and receive a registration certificate.

Changes in procedures for obtaining company legal status may lead to lawsuits against legitimate products. The Minister's decision on the confirmation of the legal entity of a company under Article 7(4) of the Limited Liability Company Act is a national administrative regulation and can be used as a subject of national administrative action. This is in line with the provisions contained in Article 1 number 9 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court which stipulates that a State Administrative Decree is a written determination issued by a state administrative body, or state administrative officials containing legal actions for state administration which are based on applicable laws and regulations, are concrete, individual, and final and cause legal consequences for a person or civil legal entity. This is different from the legalization of a company legal entity as regulated in Article 109 number 2 of the Job Creation Law, where the legal product produced is a certificate of registration proof. Since the registration certificate does not belong to the responsibility of the state administration when examined under the above constitutional statutes, the government should now conduct a more detailed investigation on the limited liability companies related to the registration certificate. This

is so that the community as justice seekers can obtain legal certainty and is not wrong in submitting a lawsuit and can obtain a dispute resolution time in a short time.

## 4 Conclusion

Based on the discussion described above, it can be seen that the presence of the Copyright Law in the form of individual companies has a positive impact in the form of guarantees of legal certainty for MSB which so far have not had legal entity status. There are differences in legal products produced, between registrations carried out before and after the birth of the Job Creation Law. Companies registered in accordance with Article 7 paragraph (4) of the Limited Liability Company Law will obtain legal entity status in the form of a Ministerial decision regarding the ratification of the company's legal entity. Meanwhile, company registration in accordance with the provisions of Article 109 number 2 of the Job Creation Law will obtain legal entity status in the form of a certificate of proof of registration. The legal product of a registration certificate which, when examined based on Law Number 5 of 1986 concerning the State Administrative Court, is not one of the objects of the State Administration lawsuit, so that the Government in the future needs to conduct a more in-deLimited Liability Company h study of the certificate of registration evidence, so that the public can get a sense of justice and it is not wrong to enter a lawsuit so that dispute resolution can be resolved in a short time.

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