

CHAPTER I

INTRODUCTION

1.1 Background

Indonesia is a state of law¹, namely, a country that runs its government based on existing laws. Law is used for ensuring certainty, justice, and benefit.² Therefore, the law enforcement system that is built must also work effectively to uncover and resolve all legal problems that occur in the community. Everyone also needs legal protection from the government. In fact, it is a must that the government must do. Protection for every citizen is an obligation that must be fulfilled by a country. Likewise, the Indonesian state is obliged to protect every citizen wherever they are. This is in accordance with the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) in the 4th (fourth) paragraph.

These days, more and more new business actors are just starting their business. The MSME sector is important to the attention of many parties, many people are interested in entering the sector, especially when the COVID-19 pandemic began to spread in Indonesia. Many employees were laid off at that time. Interestingly, behind the many negative news stories

¹ Article 1 paragraph 3 of the 1945 Constitution

² Komisi Yudisial. (2021). "KY | Penegakan Hukum Wujudkan Keadilan, Kepastian, dan Kemanfaatan Hukum", https://www.komisiyudisial.go.id/frontend/news_detail/514/penegakan-hukum-wujudkan-keadilan-kepastian-dan-kemanfaatan-hukum, retrieved 13 September 2021.

about the struggles of old and new business actors who have survived the pandemic era, there are also success stories that keep people's hopes up. The struggle of the workers who were previously affected by Termination of Employment (PHK) to become the pioneers of MSMEs is good news.³ Lots of people have become successful because of their micro-enterprise.

In order for business actors to be protected by law and have a legal sign of their business, they must register their business on a website that has been provided by the government. Online Single Submission (OSS) comes in a new look. President Joko Widodo inaugurated the launch of the risk-based Online Single Submission (OSS) in business permit, on Monday, August 9, 2021, at the Investment Control and Operations Command Center, Ministry of Investment/Investment Coordinating Agency (BKPM), Jakarta. The President hopes that the ease of doing business in Indonesia will improve.⁴

In the current era of the industrial revolution 4.0,⁵ technological developments are advancing rapidly. The development of this technology affects various things in human life so that many changes occur significantly. We cannot avoid this because the more science advances, the more advanced the technologies created will be. Every technology must

³ Achmad Fanani Rosyidi, Manager Program YIIM, “Yayasan Inspirasi Perkenalkan Solusi Pada Pekerja Terkena PHK Melalui Kewirausahaan Sosial - Yayasan Inspirasi Indonesia Membangun”. <http://yiim.or.id/yayasan-inspirasi-perkenalkan-solusi-pada-pekerja-terkena-phk-melalui-kewirausahaan-sosial/>, retrieved 21 September 2021.

⁴ BPMI Setpres, “OSS - Sistem Perizinan Berusaha Terintegrasi Secara Elektronik”. <https://oss.go.id/baca/artikel?id=50&title=Presiden%20Jokowi%20Resmikan%20Peluncuran%20OSS%20Berbasis%20Risiko>, retrieved 24 October 2021.

⁵ Leski Rizkinaswara, “Revolusi Industri 4.0”. <https://aptika.kominfo.go.id/2020/01/revolusi-industri-4-0/>, retrieved 14 September 2021.

be developed to have a positive impact to facilitate and support humans in carrying out daily activities. One proof of the development of technology is the rapid development of the internet. Currently, almost all people in this world know and use the internet to give and get information, facilitate human interaction, etc. Evidence of everyone using the internet in this world is according to the Statista⁶ website:

“As of January 2021, there were 4.66 billion active internet users worldwide - 59.5 percent of the global population. Of this total, 92.6 percent (4.32 billion) accessed the internet via mobile devices.” Meanwhile in Indonesia, the penetration of Indonesian internet users at the end of March 2021 was 76.8 percent of the total population.⁷

According to Internetworldstats data⁸, internet users in the country reached 212,354,070 with an estimated total population of 276,361,783 people. With this achievement, Indonesia is ranked 15th among Asian countries. Indonesia's position is under Kazakhstan and above Vietnam. Indonesia's position is above the Asian penetration average of 63.9% of a population of 4.3 billion people and above the world average of 65.7% of the estimated total population of 7.86 billion people.⁹ The use of the internet is very complex because it can be used in every field of activity;

⁶ Joseph Johnson, “Internet users in the world 2021 | Statista”. <https://www.statista.com/statistics/617136/digital-population-worldwide/>, retrieved 15 September 2021.

⁷ Viva Budy Kusnandar, & Aria W. Yudhistira, “Penetrasi Internet Indonesia Urutan ke-15 di Asia pada 2021 | Databoks”. <https://databoks.katadata.co.id/datapublish/2021/07/12/penetrasi-internet-indonesia-urutan-ke-15-di-asia-pada-2021>, retrieved 15 September 2021.

⁸ Internet World Stats, “Asia Internet Stats by Country and 2021 Population Statistics”. <https://www.internetworldstats.com/asia.htm>, retrieved 15 September 2021.

⁹ Viva Budy Kusnandar, & Aria W. Yudhistira, “Penetrasi Internet Indonesia Urutan ke-15 di Asia pada 2021 | Databoks”. <https://databoks.katadata.co.id/datapublish/2021/07/12/penetrasi-internet-indonesia-urutan-ke-15-di-asia-pada-2021>, retrieved 15 September 2021.

economic, socio-cultural, political, educational, and various other fields. The use of this technology certainly has a very positive influence on economic activities in Indonesia. One of the influences on Indonesia's economic activities is the development of the Digital Economy. With the development of the Digital Economy, Indonesia has become one of the countries with great potential to implement the Digital Economy.¹⁰ This is due to the large number of internet users in Indonesia who support the realization of the Digital Economy.

In this digital economy era, all kinds of economic information are in digital form. Information that is shaped and communicated digitally can be disseminated in a high-speed matter. According to Zimmerman¹¹, (Zimmerman, 2000)¹², the concept of the digital economy is

“a concept that is often used to explain the global impact on the rapid development of Information and Communication Technology, which has an impact on socio-economic conditions. This concept becomes a view of the interaction between the development of innovation and technological progress that has an impact on macro and microeconomics. Sectors affected include goods and services when their development, production, sale, or supply depends on the extent to which digital technology can reach.”

The economic information conveyed is also more detailed and well represented compared to analog distribution. With this easy access to

¹⁰ Kemenkeu, “Ekonomi Digital Indonesia Diprediksi Tumbuh Delapan Kali Lipat di Tahun 2030”. <https://www.kemenkeu.go.id/publikasi/berita/ekonomi-digital-indonesia-diprediksi-tumbuh-delapan-kali-lipat-di-tahun-2030/>, retrieved 15 September 2021.

¹¹ Kementerian Komunikasi dan Informatika Badan Penelitian dan Pengembangan SDM Puslitbang Aptika dan IKP 2019, “Perkembangan Ekonomi Digital di Indonesia Strategi dan Sektor Potensial”. https://balitbangsdm.kominfo.go.id/publikasi_665_3_230, retrieved 15 September 2021.

¹² Zimmerman, Hans-Dieter, *Understanding the Digital Economy: Challengers for New Business Models*, (St. Gallen: Association for Information Systems AIS Electronic Library (AISeL) - AMCIS 2000 Proceedings, 2000.

economic information, it provides convenience for someone in carrying out economic activities, including the economy in Indonesia. In addition, the existence of this Digital Economy provides other positive impacts such as the emergence of new business models, changes, or combinations of business models.

In the Indonesian economy, the existence of Business Actors, Micro, Small, and Medium Enterprises (MSMEs) is support in Indonesia's economic strength the economy is strongly influenced by the presence of MSME actors. As stated, in Article 1 Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises, defines MSMEs as:

1. Micro-enterprises are businesses in the economic sector owned by individuals by meeting the MSME requirements and criteria regulated in the Law.¹³
2. Small enterprises are businesses in the economic sector that is self-established either individually or as a business entity where this small business is not part of a medium-sized business branch or a large business, both in terms of ownership, power, or becomes a part directly or indirectly as the criteria for small businesses are regulated in the Law.¹⁴
3. Medium enterprises are businesses in the economic sector that is self-established either individually or as a business entity where

¹³ Article 1 (1) of MSME Law

¹⁴ Article 1 (2) of MSME Law

this medium-sized business is not part of a small business branch or a large business in terms of ownership, power, or becomes a part directly or indirectly as the criteria for medium-sized enterprises are regulated in the Law.¹⁵

Micro Enterprises activities play an essential role in the daily life of the Indonesian people. Not a few Micro Enterprises have the desire to develop and legalize their businesses to grow large and legally in the eyes of the law. However, many Micro Enterprises owners are constrained by the legal documents' completeness needed to provide legal certainty and means of empowerment for business actors. Besides, they must face a process in such a way that they do not understand. They may also be confused about what business permit they can use for their businesses or shops, whether to use an individual permit or micro business permit or other business permit and how to get it. Even though, to apply for a business permit like Micro and Small Enterprises Permit (hereinafter referred as to "IUMK"), Micro and Small Enterprises Actors (hereinafter referred as to "PUMK") can easily and quickly process it;¹⁶ namely, it can be completed one day as long as all the required documents have been met. Now, through the Job Creation Law, the government changes the permit approach from license-based to risk-based (hereinafter referred as to

¹⁵ Article 1 (3) of MSME Law

¹⁶ Toha, Easybiz, "Aturan Terbaru Izin Usaha Mikro dan Kecil (IUMK)". <https://www.easybiz.id/aturan-terbaru-izin-usaha-mikro-dan-kecil-iumk/>, retrieved 16 February 202.

“Risk-Based Business Permit”). Then the IUMK is no longer published on the OSS website. Further, the author will explain in this thesis.

Given the breadth of this material, the Author will limit the discussion in this thesis, which will only focus on business permits in the form of Risk-Based Business Permit issued by the OSS RBA, and several Implementing Regulations of the Job Creation Law that are directly related to Business Permit for micro business actors: Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Permit; Government Regulation Number 6 of 2021 concerning the Implementation of Business Permit in the Regions; Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises. This aims to explain individual micro business actors especially in go-digital era, so that it is expected to help provide legal certainty in doing business and developing their business. Based on the description above, it is very reasonable if the Author chooses the title: **“JURIDICAL ANALYSIS OF RISK-BASED BUSINESS PERMIT FOR THE MICRO ENTERPRISE IN THE GO-DIGITAL POLICY ERA AND ITS PRACTICE IN INDONESIA.”**

1.2 Formulation of Issues

Based upon the backgrounds abovementioned, this research attempts to analyze comprehensively the following research problems:

1. How has been the implementation of business permit for the micro enterprise prior and after the Job Creation Law in Indonesia?
2. What would be the role of risk-based business permit for micro enterprise in Go-Digital policy era in Indonesia?

1.3 Research Purpose

The purpose of the Author in writing this thesis is to answer the formulation of the problems stated above, namely:

1. Provide an explanation about the implementation of business permit for the micro enterprise prior and after the Job Creation Law in Indonesia.
2. Provide an explanation about the role of risk-based business permit for micro enterprise in Go-Digital policy era in Indonesia.

1.4 Research Benefits

1.4.1 Theoretical Benefits

Theoretically, the Author hopes that this research can provide an overview and explanation for individual Micro

Enterprise as reading material in understanding things as described in this research's purpose.

1.4.2 Practical Benefits

Practically speaking, the Author hopes this research can provide input for:

- b. The general public should know the substance that needs to be understood about risk-based permit for MSME business actors, especially Micro Enterprise.
- c. Micro Enterprise on matters as described in the objectives of this study above.
- d. The government revamps policies on Micro Enterprise so that these business actors are more interested in registering their businesses and constantly supervises business actors who do not have a risk-based business permit. It aims to enforce legal protection.

1.5 Framework of Writing

CHAPTER I: INTRODUCTION

This chapter consists of an introduction divided into five parts: background, research questions, research objectives, research benefits, and framework of writing.

CHAPTER II: LITERATURE REVIEW

In the literature review chapter, the Author will divide this chapter into four sub-chapters. First, the Author will establish the history of MSMEs and the permits for Micro Enterprise in Indonesia. Second, the Author will describe classification of MSMEs. Third, the Author will describe the contribution of MSMEs to the Indonesian Economy with evidence that Indonesian MSMEs contribute to Gross Domestic Product (GDP).

CHAPTER III: RESEARCH METHOD

This chapter will discuss the types of research, types of data, data analysis techniques, and types of research approaches. They are followed by the type of research, data, data analysis techniques, and research approaches that the authors use to discuss this thesis' problems.

CHAPTER IV: DISCUSSION AND ANALYSIS

The fourth chapter will discuss research problems and their solutions. This chapter will be divided into three subsequent sub-chapters, and each sub-chapter will answer the respective research questions as mentioned in the formulation of issues section above.

CHAPTER V: CLOSING

In this last chapter, the author will give a conclusion as an answer to the problems that have been analyzed in chapter four. In addition to providing conclusions, the author will also provide suggestions and recommendations on these matters and possible regulations that can be formulated and implemented in the future to facilitate the community, especially micro enterprise in Indonesia, in understanding the latest policies on the issues related to the above research objectives, so that micro enterprise in running their business, they will get legal certainty and protection.

