



## Renewal of Business Licensing Policy through OSS Implementation: Perspective of Job Creation Law<sup>1</sup>

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### ABSTRACT

This research examines the dynamics of business licensing policy and the adoption of the Online Single Submission (OSS) system as a risk-based solution in public services. This research assesses the legal aspects of the business licensing policy, particularly focusing on OSS in order to be able to evaluate its impact on the efficiency and effectiveness of public services. Using a juridical approach, this research conducts a thorough legal analysis of relevant laws, regulations and judicial precedents that emphasise the importance of the OSS system in simplifying licensing procedures and reducing administrative burden. Through a risk-based approach, the OSS promotes transparency, accountability and fairness as well as enhances legal certainty which also minimises the risk of corruption of authorised state officials. The study also identifies many challenges such as data privacy issues, security from cybercrime and potential conflicts in the decision-making process that will be addressed to improve the effectiveness and sustainability of the OSS system. This research will contribute to the study of law and public administration providing valuable insights for policy makers and the OSS system. The OSS policy also promotes good governance, facilitates economic growth and improves the quality of public services.

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### 1. Introduction

In essence, the government is obliged to serve the people<sup>5</sup> based on statutory provisions and general principles of good governance in organising the government.<sup>6</sup> Public services with the 1945 Constitution of the Republic of Indonesia found in articles namely in Articles 18A Paragraph 2, Articles 27, Articles 28A, Articles 28B, Articles 28C, Articles 28D, Articles 28H, Articles 28I Paragraph 2 and Paragraph 3.

A series of public service activities in fulfilling services that meet the needs based on laws and regulations, which apply to all citizens for goods, services, and/or administrative

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<sup>5</sup> Achmadi, A. (2015). Kewajiban Pelayanan Publik oleh Pemerintah Daerah di Era Otonomi. *Anterior Jurnal*, 14(2), 221-227.

<sup>6</sup> Solechan, S. (2019). Asas-Asas Umum Pemerintahan yang Baik Dalam Pelayanan Publik. *Administrative Law and Governance Journal*, 2(3), 541-557.

services provided by public service providers.<sup>7</sup> The definition of public service is better known as public service as a form of conscious effort carried out by state administrators to the public for goods and/or services aimed at meeting community needs. It is well realised that this is a right of every citizen that has been guaranteed by the constitution and laws and regulations which give rise to an obligation for the sake of doing it towards a better direction.<sup>8</sup>

Since the issuance of the Government Regulation in Lieu of Law as a revision of the Job Creation Law Number 11 of 2020 followed by the issuance of Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing and Government Regulation Number 6 of 2021 concerning the Implementation of Business Licensing in the Regions, it has an impact on drastic changes in licensing services that transfer and organise business licensing into risk-based business licensing,<sup>9</sup> with a system called Online Single Submission (OSS) whose general purpose is to realise the concept of effective and efficient public services.

The scope of business licensing services with the OSS system is not only limited to business licences, commercial (operational) licences in one sector,<sup>10</sup> but covers all sectors that want to do commercial business. Previously, Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services (which has been revoked) only limited certain sectors. The implementation of business licensing services with the OSS system changes the authority that was originally in each region, sharing with the management authority at the centre which can be seen in the preamble of the government regulation and in Article 10 paragraph 2. This division refers to the norms, standards, procedures and criteria set by the central government.

This provision shows how the management of licensing with the OSS system needs to be regulated as well as possible, because in this division, local governments who know the conditions and characteristics of their regions best, are obliged to wisely and prudently apply all aspects of the assessment, so that the risk-based business licence issued is truly in accordance with the business conditions.<sup>11</sup> Providing public services in Indonesia often has to deal with various situations that are unconditional to the needs of the community, both due to rapid changes in all fields, both when living in society, nation, state and when standing alone (individual) to the shift in values. Therefore, it is not uncommon to find a variety of complete and complicated problems that were never expected, such as problems of limited knowledge, information, communication, transportation, mobilisation, to investment and trade.

Seeing these things, it is necessary to take steps, continuous activities from various aspects of development in implementing this system in order to realise the ideals of the nation as mandated by the constitution. Thus, it is important to have an effective public service system concept that contains values as a reference for behaviour and views in order to express human rights, ideals, hopes and national goals.<sup>12</sup>

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<sup>7</sup> Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services.

<sup>8</sup> Riani, N. K. (2021). Strategi Peningkatan Pelayanan Publik. *Jurnal Inovasi Penelitian*, 1(11), 2443-2452.

<sup>9</sup> Tarring, A. D. (2022). Carut-Marut Izin Pemasangan Reklame di Kota Makassar. *Jurnal Litigasi Amsir*, 9(2), 172-181.

<sup>10</sup> Note the sectors referred to in Government Regulations Number 5 and Number 6 of 2021, namely: marine and fisheries, agriculture, environment and forestry, energy and mineral resources, nuclear power, industry, trade, public works and public housing, transportation, health, medicine and food, education and culture, tourism, religion, post (telecommunications, broadcasting, and electronic systems and transactions), defence and security, and employment.

<sup>11</sup> Kasim, A., & Heridah, A. (2020). The Region Governance Review of Barru Regency to Actualize Good and Clean Governments. *Amsir Law Journal*, 1(2), 61-69.

<sup>12</sup> Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services.

The condition of public services is changing rapidly, which was originally the granting of licensing authority which was still carried out by the local government, since the enactment of Government Regulation in Lieu of Law Number 11 of 2021 concerning Job Creation, risk-based business licensing with the OSS System, the authority to determine it then lies with the central government.

## **2. Method**

This research is one of the many processes in obtaining legal rules, principles and doctrines in order to answer the legal problems that are being faced.<sup>13</sup> Different from social research, which is full of truthful facts, legal research seeks and finds the truth that should be applied.<sup>14</sup> Such research by Sudikno Mertokusumo is called normative research, the mention of the term normative legal research actually finds not only rules, principles, and doctrines but also provides answers to legal issues.<sup>15</sup> This research uses normative research by analysing laws and regulations, especially those related to regulations on public services in relation to the risk-based business licensing system.

## **3. Renewal of Business Licensing Policy Through the Implementation of OSS from the Perspective of Job Creation Law**

### **3.1. The Concept and Types of Public Service in Indonesia**

Before discussing more about OSS, it is important to know about the concept of public service in Indonesia. Pasalong defines service in general as a person, group or organisation whose activities either directly or indirectly meet the needs of individuals and or groups.<sup>16</sup> Community service in Indonesia acts as a form of service activity to the community by the central and local governments, at the BUMN, BUMD level for goods and or services in an effort to meet the needs of the community among state officials. The Ministry of Home Affairs defines community service as a process of helping individuals using certain regulated mechanisms, which in its implementation requires sensitivity and interpersonal relationships to create satisfaction and success.<sup>17</sup>

There are various understandings of community service, which Rahyunir Rauf calls community service organised by state apparatus by first knowing, studying and trying to understand the characteristics of people who are different from one another, who come asking for these services.<sup>18</sup> This is of course not far apart from the forms, methods, strategies so that at the end of the service, the community will feel satisfied. Regarding quality in public service delivery, Albrecht and Zemke argue that quality public service delivery is a combination of various aspects such as the service system, human resources, strategies and service applicants (customers)<sup>19</sup> which, when implemented properly, will result in the satisfaction of the people served.

Managing Core Public Services, a book by Davit Mc Kevitt, clearly outlines the core of public services that are part of the job description of central and local governments. When translated and taken as the essence, Davit means that the essence of community service is that the government provides protection to the community in order to improve the welfare

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<sup>13</sup> Murti, M. R. (2018). *Analisis Hukum terhadap Keputusan Desa*. Makassar: Universitas Hasanuddin, p. 68.

<sup>14</sup> Mertokusumo, S. (2014). *Penemuan Hukum: Sebuah Pengantar*. Yogyakarta: Cahya Atma Pustaka, p. 36.

<sup>15</sup> Murti, M. R. (2018). *Op.Cit.*

<sup>16</sup> Riani, N. K. (2021). *Op.Cit.*

<sup>17</sup> Purwanto, E. A., Tyastianti, D., Taufiq, A., & Novianto, W. (2016). *Pelayanan Publik; Modul Pendidikan dan Pelatihan Dasar Kader PNS*. Jakarta: Lembaga Administrasi Negara Republik Indonesia, p. 8.

<sup>18</sup> Rauf, R., & Maulidiah, S. (2016). *Badan Pemusyawaratan Desa*. Pekanbaru: Zanafala Publishing.

<sup>19</sup> Bazarah, J., Jubaidi, A., & Hubaib, F. (2021). Konsep Pelayanan Publik di Indonesia (Analisis Literasi Penyelenggaraan Pelayanan Publik di Indonesia). *DEDIKASI: Jurnal Ilmiah Sosial, Hukum, Budaya*, 22(2), 105-122.

of its citizens, which when interpreted further, is a form of state responsibility to its people carried out in accordance with applicable laws and regulations effectively.<sup>20</sup> So that the concept of community service that state administrators in Indonesia strive to realise is quality and satisfying service.<sup>21</sup>

Referring to Decree of the Minister of Administrative Reform Number 63 of 2003 concerning General Guidelines for the Implementation of Public Services, then there are 3 (three) types of public services based on characteristics, nature, activities and products service results, including: administrative services that produce official documents including citizenship status, competency certificates, ownership or control of goods.<sup>22</sup>

For example Id Card or KTP, Marriage Certificate, Birth Certificate, Vehicle Owner's Book or BPKB, Birth Certificate, Death Certificate, Driving Licence, Building Permit or IMB, Passport, Certificate of Property Rights or SHM, and so on. Goods services that produce forms of goods such as electricity, competence certificates, ownership or control of goods. Goods services that produce forms of goods such as electricity, clean water to internet and telephone networks and so on, and the service sector, which includes product services in the form of education, health, transportation and so on.

### **3.2. Risk-Based Business Licence through OSS System**

The legality of a business, called a "permit", is the validity obtained by business actors before starting to run their business. As for now, a new form of process in obtaining a business permit by minimising the risk level of the business by using the OSS system, which this system has been integrated and run by a designated institution.<sup>23</sup> Risk-based business licensing whose method of application is regulated according to the risk standard of a business activity which is also determined by the type, quality, frequency, and supervision of the permit issuance.<sup>24</sup> Permits are instruments of central and local government control over a business. The approach used is the adjustment of the arrangement of business licensing services (business process re-engineering), changes in standard management governance (change management) electronically.

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<sup>20</sup> Mustawa, M., Hamid, A. H., & Purwanda, S. (2022). Refund of State Financial Losses in Realizing the Welfare State of Law. *Amsir Law Journal*, 4(1), 51-61.

<sup>21</sup> Purwanto, E. A., Tyastianti, D., Taufiq, A., & Novianto, W. (2016). *Op.Cit.*, p. 10.

<sup>22</sup> Putra, E. P., & Tukiman, T. (2019). Implementasi Kebijakan Layanan Tanggap Darurat Bencana pada Badan Penanggulangan Bencana dan Perlindungan Masyarakat di Surabaya. *Dinamika Governance: Jurnal Ilmu Administrasi Negara*, 9(1), 22-32.

<sup>23</sup> Government Regulation Number 5 of 2021 on the Implementation of Risk-Based Business Licensing.

<sup>24</sup> Wulandari, A. S. R., Habiba, H., & Rahmah, A. (2023). Pembaharuan dan Dinamika Hukum dalam Proses Perizinan Usaha di Indonesia. *Gema Keadilan*, 10(1), 12-21.

<sup>25</sup> NIB is a letter as proof of registration and identity of business actors in carrying out their business. See Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing.

Standarisasi<sup>26</sup> yang telah diverifikasi. Adapun untuk usaha dengan risiko tinggi, pelaku usaha wajib mempunyai NIB dan izin<sup>27</sup> usaha yang terverifikasi.

OSS, which uses digital technology in the registration process, makes more benefits from the advancement of digital technology. This online service facilitates public services in the licensing sector by also referring to electronic government (e-government) services in disseminating information to the public, which in this case has been stated in Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing using digital information technology.<sup>28</sup> Of course, the goal of easy, effective, efficient services run by the government in each region is expected to be successful as a complement to the wheels of government. Job Creation Law Number 11 of 2020 substantially contains one of them about no more difficulties in starting a business with the implementation of OSS risk-based business licensing.

The renewal of business licensing policies through the implementation of online single submission from the perspective of the work copyright law is from what was before the birth of the Job Creation Law Number 11 of 2020, where business permit registration was still manual and needed to be served directly at the Investment Office, changing with the implementation of the OSS system. When connected to the conditions of the Indonesian state administration, the OSS, which is very helpful in advancing licensing policies in Indonesia, which in its implementation certainly requires a gradual transformation and transition process in order to achieve its overall target, cannot simply change. That is, it still needs to be served directly at the Investment Office, which in this case is the Agency or Government Institution Managing and Organising OSS in the field of investment coordination.

The positive legal implication of the implementation of the OSS licensing system is that the system is more integrated so that the information obtained can be more transparent and prevent opportunities for Corruption, Collusion and Nepotism (KKN). While negatively, the implications are that sometimes the internet network is still disrupted due to inadequate infrastructure, so that the application sometimes does not work as it should and causes sometimes there are still registrations that have not been properly registered in the OSS system. Then there are human resources who do not all understand the use of OSS. To get a full understanding of the OSS, further education and technical guidance is needed for the officers organising the OSS system, especially in the regions.

#### **4. Closing**

The renewal of business licensing policies through the implementation of online single submission from the perspective of the work copyright law is from before the birth of the Job Creation Law Number 11 of 2020, where business permit registration was still manual and needed to be served directly at the Investment Office, changing with the implementation of Online Single Submission (OSS), namely in the form of online registration.

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<sup>26</sup> Standard certificate is a certificate intended for the standardisation of the implementation of business activities that states and proves the fulfilment of standards for the implementation of business activities. See Trisna, W., Syahputra, M. Y. A., & Tampubolon, O. P. (2014). Tindak Pidana Pemalsuan Sertifikasi Produk Ditinjau dari Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen (Studi Kasus di Pengadilan Negeri Medan). *Jurnal Ilmiah Penegakan Hukum*, 1(2), 150-175.

<sup>27</sup> Permits in this case are in the form of a letter of approval from the central or regional government for the implementation of business activities that must be fulfilled by business actors before carrying out their business activities. See Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing.

<sup>28</sup> Purnami, I. A. (2022). *Pelayanan Perizinan Berusaha Berbasis Risiko secara Online pada Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Provinsi Nusa Tenggara Barat*. Sumedang: Institut Pemerintahan Dalam Negeri.

When connected to Indonesia's constitutional conditions, OSS is very helpful in advancing licensing policies in Indonesia, which in its implementation certainly requires a gradual transformation and transition process in order to achieve its overall target.

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**Conflict of Interest Statement:**

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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