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### LEGAL PROTECTION FOR MICRO, SMALL AND MEDIUM ENTERPRISES IN THE PERSPECTIVE OF JOB CREATION ACT

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#### **Abstract**

*The Job Creation Law, or often referred to as the Omnibus Law, has become a hot topic of debate in the community. On one hand, there are those who support this law on the grounds that it can accelerate economic growth and create new jobs. History shows that MSMEs have tremendous resilience in the face of economic crises. When the economic crisis hit in 1998 and 2008, MSMEs were relatively able to survive compared to large companies. Despite their great potential, MSMEs in Indonesia face various challenges. One of the main challenges is limited access to financing. Many MSMEs struggle to obtain sufficient working capital to expand their businesses. In addition, the low level of education and skills of the workforce is also an obstacle in improving the productivity and competitiveness of MSMEs. The research process using literature studies began with a descriptive qualitative research type. Legal protection for MSMEs is currently better regulated through the Job Creation Law and Government Regulation Number 7 of 2021. Both regulations pay special attention to financing and legal assistance for MSMEs, including legal counseling, legal consultation, mediation, and out-of-court assistance.*

**Keywords:** Job Creation Law; Legal Protection; MSME Criteria.

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## A. INTRODUCTION

The Job Creation Law, or often referred to as the Omnibus Law, has become a hot topic of debate in the community. On one hand, there are those who support this law on the grounds that it can accelerate economic growth and create new jobs. On the other hand, there are those who criticize it for reducing protection for workers and the environment. Regardless of the debate, one of the important aspects regulated in the Job Creation Law is the ease of doing business for Micro, Small and Medium Enterprises (MSMEs), as well as the empowerment and protection of MSMEs.<sup>1</sup>

MSMEs are the backbone of the country's economy, playing a vital role in supporting Indonesia's economic growth.<sup>2</sup> These small-scale enterprises not only provide employment for millions of people, but also contribute significantly to the national Gross Domestic Product (GDP).<sup>3</sup> By providing ease of doing business, the Job Creation Law aims to encourage the development of MSMEs to be more competitive and competitive in domestic and global markets.<sup>4</sup>

History shows that MSMEs have extraordinary resilience in the face of economic crises. When the economic crisis hit in 1998 and 2008, MSMEs were relatively able to survive compared to large companies.<sup>5</sup> These facts emphasize how important the role of MSMEs is in the Indonesian economy. With this strong foundation, the Job Creation Law is expected to strengthen the position of MSMEs, so that they can continue to grow and contribute positively to the country's economic development.

Facts show that the employment opportunities created by the Micro, Small, and Medium Enterprises (MSMEs) group are far more than the labor that can be absorbed by large businesses.<sup>6</sup> This makes MSMEs an important pillar in the

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<sup>1</sup> R Juli Moertiono, "Perjanjian Kredit Pemilikan Rumah Dalam Perspektif Teori Perlindungan Hukum," *All Fields of Science Journal Liaison Academia and Society* 1, no. 3 (2021): 252-62.

<sup>2</sup> Isnaini Harahap, Zuhri M Nawawi, and Angga Syahputra, "SIGNIFIKANSI PERANANAN UMKM DALAM PEMBANGUNAN EKONOMI DI KOTA MEDAN DALAM PERSPEKTIF SYARIAH," *Jurnal Tabarru': Islamic Banking and Finance* 6, no. 2 (2023): 718-28.

<sup>3</sup> Mariana Kristiyanti, "Peran Strategis Usaha Kecil Menengah (UKM) Dalam Pembangunan Nasional," *Majalah Ilmiah Informatika* 3, no. 1 (2012): 63-89.

<sup>4</sup> Maryanto Maryanto, Munsharif Abdul Chalim, and Lathifah Hanim, "Upaya Pemerintah Dalam Membantu Pelaku Usaha Umkm Yang Terdampak Pandemi Covid-19," *Audi Et AP: Jurnal Penelitian Hukum* 1, no. 01 (2022): 1-11.

<sup>5</sup> Beni Dwi Komara, Heri Cahyo Bagus Setiawan, and Aries Kurniawan, "Jalan Terjal UMKM Dan Pedagang Kecil Bertahan Di Tengah Pandemi Covid-19 Dan Ancaman Krisis Ekonomi Global," *Jurnal Manajemen Bisnis* 17, no. 3 (2020): 342-59.

<sup>6</sup> Halida Zia, "Pengaturan Pengembangan UMKM Di Indonesia," *Rio Law Jurnal* 1, no. 1 (2020).

Indonesian economy. Given the significant contribution of MSMEs in creating jobs, their role is crucial in efforts to tackle unemployment, the number of which tends to increase every year.

MSMEs play a vital role in the national economy. According to existing data, MSMEs contribute more than 60% of Indonesia's GDP and absorb more than 97% of the workforce.<sup>7</sup> Unlike large businesses that tend to have large capital and sophisticated technology, MSMEs are more flexible and can quickly adjust to market changes. These advantages make MSMEs able to create jobs faster and on a wider scale.

Despite their great potential, MSMEs in Indonesia face various challenges. One of the main challenges is limited access to financing. Many MSMEs struggle to obtain sufficient working capital to expand their businesses. In addition, the low level of education and skills of the workforce is also an obstacle in improving the productivity and competitiveness of MSMEs. Inadequate infrastructure and complicated bureaucracy also make it difficult for MSMEs to run their businesses.<sup>8</sup>

Based on the existing background, the problem formulation in this study is as follows.

1. How is the legal protection of MSMEs from the perspective of the Job Creation Act
2. What are the criteria for MSMEs according to PP No. 7 of 2021

## **B. RESEARCH METHODS**

The research process using literature studies begins with a descriptive qualitative research type.<sup>9</sup> After that, researchers conducted a search for related literature through various information sources such as libraries, online databases, and electronic journals. The next stage is to evaluate and select the most relevant and high-quality literature to analyze. Literature analysis involves carefully reading each source of information collected, identifying key findings or ideas, and systematically organizing and re-presenting the information. This process often involves the use of techniques such as synthesizing, comparing and interpreting the data.

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<sup>7</sup> Anindita Trinura Novitasari, *Strategi UMKM Bertahan Di Masa Pandemi* (Deepublish, 2022).

<sup>8</sup> Zia, "Pengaturan Pengembangan UMKM Di Indonesia."

<sup>9</sup> Dewi Surani, "Studi Literatur: Peran Teknolog Pendidikan Dalam Pendidikan 4.0," in *Prosiding Seminar Nasional Pendidikan FKIP*, vol. 2, 2019, 456-69.

### **C. RESULTS AND DISCUSSIONS**

Legal protection is a fundamental concept in a country's legal system. It has a crucial role in ensuring the protection of human rights that may be harmed by other parties. This principle carries the responsibility to protect the public so that they can enjoy all the rights that have been granted by law. However, the definition of legal protection may vary depending on the perspective and context. According to C.S.T. Kansil, a legal expert, legal protection involves various efforts made by law enforcement officials to provide a sense of security, both psychologically and physically, from disturbances and threats that may come from various parties. This approach highlights the active role of the government and law enforcement agencies in maintaining public order and security, as well as providing protection to individual rights.<sup>10</sup>

In this framework, legal protection does not only mean strict law enforcement, but also includes preventive efforts to prevent rights violations. The government and law enforcement agencies are required to be active in identifying potential threats and taking steps to address them before violations occur. This includes legal counseling, consultation, mediation, and other legal interventions aimed at providing a sense of security and comfort for the community.

On the other hand, Philipus M. Hadjon expressed his view that legal protection is an action that aims to protect or provide assistance to legal subjects.<sup>11</sup> In this context, legal protection is defined as an effort to secure the rights of individuals or legal entities from violation or abuse by other parties. This approach emphasizes the importance of a system of legal rules that can be used to uphold justice and provide assistance to those who need it.

Thus, it can be concluded that legal protection involves a series of efforts and mechanisms that aim to maintain justice, secure individual rights, and provide a sense

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<sup>10</sup> Gde Oka Dharmawan Carma, "Pelaksanaan Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme Di Bali" (UAJY, 2018).

<sup>11</sup> MERLINDA ANASTASYA LAIA, "Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Kekerasan Seksual Yang Dilakukan Oleh Anak Dibawah Umur (Studi Putusan Nomor: 10. Pid. Sus-Anak. 2020. PN. Kdi)," 2021.

of security to society. This concept is an important cornerstone in building a well-functioning legal system that not only enforces the rules, but also protects the interests and dignity of every citizen.

### **1. Legal Protection of MSMEs from the Perspective of Job Creation**

A business permit is a form of official document issued by an authorized agency that has the task of regulating and supervising business activities. This document states that a person or a business entity is legally authorized to carry out a certain business activity or business. In the context of Micro, Small and Medium Enterprises (MSMEs), a business license has a very important role.

The importance of a business license for MSMEs cannot be underestimated. A business license serves as a form of legal protection for business owners. With this license, the business being run gets official recognition from the government so that its operations are protected by law. This provides legal certainty for business owners, customers, and business partners.

A business license also opens up greater opportunities for MSMEs to get support from various parties. For example, many government programs, whether in the form of training, capital assistance, or partnerships, require a business license as one of the conditions for participation. Having a business license allows MSMEs to access resources that can help them grow and compete in the market.

In addition, having a business license increases the credibility of MSMEs in the eyes of consumers. Consumers tend to trust and feel safe transacting with businesses that have official licenses. This can increase customer trust and encourage loyalty, ultimately contributing to business growth. However, the process of obtaining a business license is often perceived as complicated and time-consuming. For many MSME owners, this process can be challenging. Therefore, governments in various countries, including Indonesia, are continuously working to simplify the procedures and requirements for obtaining a business license, making it more accessible to MSME players.

With a business license, MSMEs not only gain legality and legal protection, but also open doors for various business development opportunities. This makes business licenses a vital element in a dynamic and competitive MSME ecosystem. Therefore, for every MSME owner, having a business license is not just a formality, but a strategic step that can determine the future of their business.

Article 90B of the Job Creation Law regulates the minimum wage provisions that apply specifically to Micro and Small Enterprises. In this article, there are two main paragraphs that provide special provisions for micro and small businesses regarding workers' or laborers' wages. Article 90B Paragraph (1) of the Job Creation Law states that the minimum wage provisions stipulated in Article 88C paragraph (1) and paragraph (2) are exempted for Micro and Small Enterprises. This means that businesses in this category are not required to comply with the minimum wage provisions that usually apply generally. This exemption aims to provide more flexibility for Micro and Small Enterprises in determining the wages of their workers, given their financial capabilities which may be limited compared to large enterprises.

Article 90B Paragraph (2) of the Cipta Law stipulates that wages in Micro and Small Enterprises are determined based on an agreement between the employer and the workers or laborers in the company. This creates room for both parties to negotiate and reach a mutually beneficial agreement according to their respective conditions and capabilities.

This provision has several important implications:

1. Flexibility for Employers: With the minimum wage provision exempted, Micro and Small Enterprise employers have greater flexibility in managing their labor costs. This can help small businesses to survive and thrive, especially in times of economic hardship.
2. Balance in Negotiations: Agreement-based wage setting provides an opportunity for workers and employers to communicate directly and find a middle ground that suits the company's capabilities and the needs of workers. This is expected to create a more harmonious and mutually beneficial working relationship.
3. Potential Risks: On the other hand, there is a potential risk that workers may receive lower wages than the generally accepted minimum wage standard. Therefore, it is important for the government and various relevant institutions to ensure that negotiations are conducted fairly and do not disadvantage workers.

Article 91 of the Job Creation Law regulates the supervision of the safety, quality, and nutrition of processed food that is traded, both domestically produced and imported. This article has two paragraphs that explain the obligations of food business actors in fulfilling business licenses and exceptions that apply to micro

and small businesses. “Article 91 (1) In terms of safety, quality, and nutrition supervision, every Processed Food that is domestically produced or imported to be traded in retail packaging, Food Business Actors are obliged to comply with Business Licenses from the Central Government or Regional Governments in accordance with their authority based on norms, standards, procedures, and criteria stipulated by the Central Government.” “(2) The obligation to fulfill the Business License as referred to in paragraph (1) is exempted for certain Processed Food products produced by Micro and Small Enterprises.”

Paragraph (2) provides an exception to the obligation stipulated in paragraph (1) for certain processed food products produced by Micro and Small Enterprises. In other words, processed food products produced by micro and small enterprises do not have to fulfill the same business licensing obligations as those required for other food business actors.

The implications of Article 91 Paragraph (2) are as follows

- a. Ease for Micro and Small Enterprises: This exemption is designed to ease the administrative burden and costs that may be burdensome for micro and small enterprises. With this exemption, MSMEs in the processed food sector can more easily run their businesses without having to fulfill complex and time-consuming licensing requirements.
- b. Support for MSMEs: This policy is a form of government support for the development of MSMEs. By reducing the regulatory burden, it is expected that MSMEs can develop faster and increase their contribution to the national economy.
- c. Proportional Supervision: Despite exemptions, it is important to ensure that processed food products produced by micro and small enterprises remain safe and of high quality. Proportionate and targeted supervision is necessary to ensure that these products do not harm consumers.

## **2. Criteria for MSMEs According to Government Regulation No. 7 of 2021**

Government Regulation No. 7 of 2021 on the Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises (PP UMKM) details the criteria used to categorize MSMEs based on business capital. Article 35 to Article 36 of PP UMKM states the capital criteria that must be met by Micro, Small, and Medium Enterprises.

First, for Micro Enterprises, “the maximum business capital limit is Rp1,000,000,000 (one billion rupiah), excluding the value of the land and building of the business premises. Small Enterprises have a business capital of more than Rp1,000,000,000 (one billion rupiah) with a maximum value of up to Rp5,000,000,000 (five billion rupiah), also excluding the value of land and buildings of the business premises. Meanwhile, Medium Enterprises have a business capital of more than Rp5,000,000,000 (five billion rupiah) with a maximum value of up to Rp10,000,000,000.00 (ten billion rupiah), also excluding the value of land and buildings of the business premises.”

In addition to the criteria of business capital and annual sales revenue, GR No. 7/2021 also provides for the possibility of using other criteria for certain purposes (GR No. 7/2021). According to Article 36 paragraph (1) of GR 7/2021, relevant ministries or institutions may use criteria such as turnover, net worth, investment value, number of workers, incentives and disincentives, local content, and/or the use of environmentally friendly technology, which are in accordance with the criteria applied to each business sector.

In recent decades, sales reports have become an integral part of sales management. However, with a regulation that regulates MSME criteria more comprehensively, business actors, especially MSMEs, are expected to understand more clearly where they stand in the realm of the national economy. Thus, GR No. 7/2021 provides a more structured and transparent framework in categorizing MSMEs based on predetermined criteria, so that it can assist the government in designing more targeted policies to support the growth and development of the MSME sector as a whole.

The times have presented new challenges for Micro, Small, and Medium Enterprises (MSMEs) actors to be more creative in running their businesses.<sup>12</sup> In addition to focusing on improving the sales system, MSMEs also need to consider developing new products in accordance with the dynamics of consumer wants and needs. This is indeed a necessity given the diversity of MSMEs in Indonesia.

The government has a very important role in supporting the development of MSMEs through various aspects. First of all, funding is a key factor that supports the sustainability and growth of MSMEs. Facilities and infrastructure are also important to facilitate the production and distribution of MSME products. In addition, the government also plays a role in providing useful business

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<sup>12</sup> B Lena Nuryanti Sastradinata, *Strategi UMKM Dan Bisnis Kreatif* (Bumi Aksara, 2024).



information for MSME players to increase their productivity and competitiveness. Partnership programs between MSMEs and large companies or financial institutions can also help expand markets and improve access to financing for MSMEs.

The aspect of business licensing is also something that cannot be ignored, as clear and supportive regulations will make it easier for MSMEs to run their businesses. Fair and equitable business opportunities also need to be guaranteed by the government, so that every MSME has the same opportunity to develop. In addition, trade promotion and institutional support are also part of the government's efforts to encourage the growth of MSMEs.<sup>13</sup> By strengthening promotional infrastructure and providing support to institutions that help MSMEs, the government can create a conducive environment for the growth of the MSME sector. Thus, the government's role in empowering MSMEs is vital, and the various efforts made in these various aspects are expected to make a significant contribution in improving local economic growth and community welfare.

#### **D. CONCLUSION**

MSMEs in Indonesia face various complex challenges, such as legal issues, debt and credit, intense business competition, difficulties in obtaining raw materials, lack of financial management knowledge, and a less conducive business climate. Given the important role of MSMEs in the economy, the development of this sector is a government priority to increase investment and create jobs. The government's concrete steps to support MSMEs are reflected in Law Number 11 of 2020 on Job Creation and Government Regulation Number 7 of 2021 on the Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises. These regulations provide better legal protection to MSMEs, something that has not been comprehensively regulated in Law No. 20/2008 on MSMEs. Both regulations pay special attention to financing and legal assistance for MSMEs, including legal counseling, legal consultation, mediation, and out-of-court assistance. In doing so, the central and local governments are demonstrating their commitment to

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<sup>13</sup> Alin Marlinda and Lilis Karnita Soleha, "Implementasi Strategi Inovasi Dalam Pengembangan Usaha Mikro Kecil Dan Menengah (UMKM) Di Desa Pinangsari, Kabupaten Subang," *AL-MIKRAJ Jurnal Studi Islam Dan Humaniora* (E-ISSN 2745-4584) 4, no. 02 (2024): 579-91.

supporting and protecting MSMEs, ensuring the sector can continue to grow and contribute positively to the Indonesian economy.

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