

Individual Companies as New Legal Entities in Law Number 11 of 2020 on Job Creation

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ABSTRACT

The government, through Law Number 11 of 2020 on Job Creation encourages the ease of doing business for Micro and Small Business actors with the formation of individual corporate legal entities. This policy of forming a private company is a new breakthrough from the government and can be used as a stimulus to restore economic conditions. The establishment of this individual company is further regulated in Government Regulation Number 8 of 2021 on Company Authorized Capital and Registration of Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses. The type of research used is normative juridical. The data analysis was conducted in a descriptive qualitative manner. The results show that this individual company is a new legal entity created by the rolling of the Job Creation Law. Business actors who will register an individual company must meet the criteria for micro and small businesses as stipulated in the provisions of laws and regulations regarding micro and small businesses regulated in the Law Number 20 of 2008 on Micro, Small and Medium Enterprises. Various facilities are provided to business actors, such as registering individual companies by filling out electronic forms and not requiring a notary deed. Business actors are facilitated by the existing regulations in the management of the company because as the sole owner, the existence of financial reporting obligations makes it easier to monitor the company's financial governance which is useful, especially for access to capital loans to banks.

Keywords: *Individual Companies, Micro and Small Business, Law Number 11 of 2020 on Job Creation.*

ABSTRAK

Pemerintah melalui UU Nomor 11 Tahun 2020 tentang Cipta Kerja mendorong kemudahan berusaha bagi pelaku Usaha Mikro Kecil dengan adanya pembentukan badan hukum perseroan perorangan. Kebijakan pembentukan perseroan perorangan ini merupakan suatu terobosan baru dari pemerintah dan dapat dijadikan stimulus untuk dapat memulihkan kondisi perekonomian. Pendirian perseroan perorangan ini diatur lebih lanjut dalam Peraturan Pemerintah (PP) Nomor 8 Tahun 2021 tentang Modal Dasar Perseroan serta Pendaftaran Pendirian, Perubahan, dan Pembubaran Perseroan yang Memenuhi Kriteria Untuk Usaha Mikro dan Kecil. Jenis penelitian yang dipergunakan adalah yuridis normatif. Analisis data dilakukan secara deskriptif kualitatif. Hasil penelitian menunjukkan bahwa perseroan perorangan ini merupakan badan hukum baru yang tercipta dengan bergulirnya UU Cipta Kerja. Pelaku usaha yang akan mendaftarkan perseroan perorangan harus memenuhi kriteria usaha mikro dan kecil sebagaimana diatur dalam ketentuan peraturan perundang-undangan mengenai usaha mikro dan kecil yang diatur dalam UU Nomor 20 Tahun 2008 tentang Usaha Mikro, Kecil dan Menengah. Berbagai kemudahan diberikan kepada pelaku usaha seperti pendaftaran perseroan perorangan dengan mengisi formulir elektronik dan tidak memerlukan akta notaris. Pelaku usaha dimudahkan dengan pengaturan yang ada dalam peraturan perundang-undangan tersebut dalam pengelolaan perseroan karena sebagai pemilik tunggal, adanya kewajiban pelaporan keuangan memudahkan pemantauan tata kelola keuangan perseroan yang bermanfaat terutama untuk akses pinjaman modal ke bank.

Kata Kunci: *Perseroan Perorangan, Usaha Mikro dan Kecil, UU Cipta Kerja.*

Background

Entrepreneurs in running their businesses can choose forms of business that are in accordance with the business they are running. One form of business entity that can be chosen by entrepreneurs, especially Micro and Small Enterprises, is an individual company that was rolled out by the government through Law Number 11 of 2020 on Job Creation. The Job Creation Law is a breakthrough in order to simplify the regulation of ease of doing business by attracting investors to invest in Indonesia.

The Job Creation Law was formed to simplify licensing in doing business so that it makes it easier for people who will start a business without thinking about the complexity of the bureaucracy in its regulation. The focus of this convenience includes the establishment of individual companies aimed at Micro and Small Enterprises¹.

The government through the Job Creation Law encourages ease of doing business for Micro and Small Enterprises and also aims to facilitate investment even though there are pros and cons in the drafting process. One form of the ease of doing business that is regulated is regarding individual companies aimed at Micro and Small Business actors².

This individual company is a new form of legal entity with limited liability (sole proprietorship with limited liability). The establishment of an individual company will provide legal protection for business actors through the separation of private property from company assets in the form of capital

participation, previously the company did not have legal entity status³.

This type of individual company legal entity is regulated through Law Number 11 of 2020 on Job Creation, namely in Article 153A which regulates that "Companies that meet the criteria of Micro and Small Business can be established by 1 person". The concept of this individual company has various advantages as stipulated in Government Regulation Number 8 of 2021 on Company Authorized Capital and Registration of Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses.

This policy of forming an individual company is a new breakthrough from the government and can be used as a stimulus to be able to restore economic conditions, especially Micro and Small Business players from the impact of the Covid-19 pandemic which is still hitting today. It is hoped that this policy will make it easier for Micro and Small Business entrepreneurs to do business.

Research Methods

This research approach uses a statutory approach. The statutory approach is implemented by reviewing laws and regulations that govern legal issues. Result of the study conducted is used to analyze legal issues which are the research topic⁴.

In this research, the type of research used is normative juridical. Normative juridical research is a study that studies the application of the rules,

¹ A Prabu et al., "Kemudahan Berusaha Dalam Cluster Omnibus Law," *Jurnal Lex ...*, 2020, 171-77, <http://openjournal.unpam.ac.id/index.php/jlsp/article/view/8581>.

² Muhammad Faiz Aziz, "Mikro Kecil (Umk) Melalui Rancangan Undang-Undang Tentang Cipta Kerja," *Rechts Vinding* 9, no. April (2020): 91-108.

³ CNN Indonesia, "Yasonna Ungkap PT. Perorangan Tak Perlu Akta Notaris," 2021, <https://www.cnnindonesia.com/ekonomi/20210223110952-92-609720/yasonna-ungkap-pt-perorangan-tak-perlu-akta-notaris>.

⁴ Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009).

legal norms that apply in positive law in Indonesia⁵.

The legal materials used consist of primary legal materials, namely:

1. Law Number 11 of 2020 on Job Creation;
2. Government Regulation Number 7 of 2021 on Ease, Protection and Empowerment of Cooperatives and Micro, Small and Medium Enterprises
3. Government Regulation Number 8 of 2021 on Authorized Capital of Companies and Registration of Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses.

Secondary legal materials include journals, books related to the subject of research. Data analysis was carried out qualitative descriptive which provides an overview or explanation of the subject and object of the research being carried out⁶.

Individual Company in Business Law Perspective

Individual companies or individual companies are simple forms of business to create. Individual companies are business entities that are widely used in Indonesia, especially by small and medium entrepreneurs. An individual company is an individual company established by one entrepreneur⁷.

Individual companies or individual companies that carry out a one-person business, the business capital used belongs to one person. A person

who works in a private company only as an employee based on a work agreement.

Individual companies or individual companies that carry out a one-person business, the business capital used belongs to one person. A person who works in an individual company is only a worker who is affected based on a work agreement.

There are no existing regulations relating to individual companies, in contrast to the legal forms that are regulated in Indonesia such as Limited Liability Companies, CV, Koperasi. The fairly well-known form of a limited liability company legal entity is used by business actors⁸.

H.M.N Purwosutjipto conveyed that individual companies basically do not exist, in the business law environment, the community knows the form of individual companies in the form of Limited Liability Companies or Trade Units, although not always the Trade Companies and Trade Units are carried out by individual business entities⁹.

Natcha Rattaphan quoted by Efendi stated that an individual company is not a new concept. Many individual business entrepreneurs wish to limit their responsibilities in order to reduce the risks of doing business. An individual company consists of only one single person on which the stability of the company is entirely dependent on it¹⁰.

Zainal Askin and Wira Pria Suhartana provide a definition of an individual company, namely a company

⁵ Johny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif*, Keempat (Malang: Bayumedia Publishing, 2011).

⁶ Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris*, Cetakan ke (Yogyakarta: Pustaka Pelajar, 2019).

⁷ Zainal Asikin and Wira Pria Suhartana, *Pengantar Hukum Perusahaan*, Edisi Pert (Jakarta, 2016).

⁸ Adrian Sutedi, *Buku Pintar Perseroan Terbatas* (Jakarta: Raih Asas Sukses, 2005).

⁹ Ridwan Khairandy, *Pengantar Hukum Dagang* (Yogyakarta: FH UII, 2006).

¹⁰ A'an Efendi, "Prospek Perseroan Pemegang Saham Tunggal Tanpa Perkecualian Untuk Kemudahan Bisnis," *Veritas et Justitia* 6, no. 2 (2020): 343-69, <https://doi.org/10.25123/vej.3694>.

that can be run by one entrepreneur. This individual company is different from a Limited Liability Company which has to be run with many people and has more complex requirements for its establishment ¹¹.

Sources of capital from individual companies are direct business owners or can use loan capital such as bank loans. The owner of this individual company can use capital from self-ownership or bank loans, but the company management system is still fully controlled by the sole owner. If there is a second party who has the desire to join with the increase in capital instead of a loan, the form of the company is no longer an individual, but changes into a partnership ¹².

In this individual company, there is no separation of assets between personal assets and assets owned by the company. Therefore, if the individual company has corporate debt, it becomes a debt of the owner of the company. Assets owned by individual company owners can be used as collateral for the company's debts. This shows that the owner of an individual company has unlimited responsibilities.

This individual company has several advantages including business activities that are carried out simply so that it is easy to manage, to establish and dissolve an individual company is easy because no formalities are needed, the company's profits become the full benefit of the owner. In addition to its advantages, individual companies also have weaknesses, including the unlimited responsibilities carried by the owner ¹³. This can occur if an individual

company has corporate debt and the company's assets are unable to cover it, then the personal wealth owned by the owner can be used to cover the company's debt. The scope of investment or capital used is limited, management is fully by the owner in accordance with the managerial ability of the owner in managing the company.

Establishment of Individual Companies for Micro and Small Enterprises

The concept of an individual company that was initiated by the government through Law Number 11 of 2020 concerning Job Creation, is well known in other countries such as in the EU and UK where the individual company model is known as the Single Member Private Limited Liability Company, in Singapore it is known as a Private Limited Company (Pte Ltd) ¹⁴.

Based on the provisions of Government Regulation Number 8 of 2021 concerning Authorized Capital of Companies and Registration of Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses, to be registered as an individual company, business actors must meet the criteria for micro and small businesses that meet the criteria micro and small businesses as regulated in Government Regulation Number 7 of 2021 concerning the Ease, Protection and Empowerment of Cooperatives and Micro, Small and Medium Enterprises. Article 35 states:

1. Micro, Small and Medium Enterprises are grouped based on the criteria for working capital or annual sales proceeds
2. The criteria for working capital as referred to in paragraph (1) are used for the establishment or registration of business activities.

¹¹ Muhamad Iqbal, "Implementasi Efektifitas Asas Oportunitas Di Indonesia Dengan Landasan Kepentingan Umum," *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum Dan Keadilan* 9, no. 1 (2018): 87, <https://doi.org/10.32493/jdmhkdmhk.v9i1.1178>.

¹² Khairandy, *Pengantar Hukum Dagang*.

¹³ Khairandy.

¹⁴ Aziz, "Mikro Kecil (Umk) Melalui Rancangan Undang-Undang Tentang Cipta Kerja."

3. Criteria for business capital as referred to. referred to in paragraph (2) consists of:
- a. Micro enterprises have working capital up to a maximum of Rp1,000,000,000.00 (one billion rupiah) excluding land and buildings for business premises;
 - b. Small-scale enterprises have business capital of more than IDR 1,000,000,000 (one billion rupiah) up to a maximum of IDR 5,000,000,000.00 (five billion rupiah) excluding land and buildings for business premises; and
 - c. Medium Enterprises have business capital of more than Rp. 5,000,000,000.00 (five billion rupiah) up to Rp. 10,000,000,000.00 (ten billion rupiah) excluding land and buildings for business premises.
 - 1) To provide convenience, protection and empowerment of Micro, Small and Medium Enterprises, apart from the criteria for working capital as referred to in paragraph (2), the criteria for annual sales results are used.
 - 2) The criteria for the results of annual sales as referred to in paragraph (4) consist of:
 - a) Micro enterprises have annual sales revenue of up to a maximum of Rp. 2,000,000,000.00 (two billion rupiah);
 - b) Small-scale enterprises have annual sales revenue of more than Rp. 2,000,000,000.00 (two billion rupiah) up to a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah); and
 - c) Medium Enterprises have annual sales revenue of more than Rp. 15,000,000,000.00 (fifteen billion rupiah) up to a maximum of Rp. 50,000,000,000.00 (fifty billion rupiah).
- Based on these provisions, the business actor before registering a legal entity as an individual company must first look at whether his business falls under the criteria of a micro, small business according to the provisions of the law or not. Companies that meet the criteria for micro and small businesses, one of which is the form of an individual company as stipulated in Article 2 of Government Regulation) Number 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Amendment and Disbanding of Companies that meet the Criteria for Micro and Small Businesses, which states:
- 1. Companies that meet the criteria for micro and small businesses consist of:
 - a. Companies established by 2 (two) or more persons; and
 - b. Individual company established by 1 (one) person
- Related to the establishment of this individual company, it is regulated in Article 6 which states that an individual company can be established by an Indonesian citizen by filling in a statement of establishment in Indonesian. These Indonesian citizens must meet the requirements, including being at least 17 (seventeen) years of age and capable of taking legal actions. The individual company obtains the status as a legal entity after being registered with the Minister and obtaining an electronic registration certificate.

An individual company that is registered will obtain the status as a legal entity, namely a legal subject created by humans based on the law, will be given the status as a supporter of rights and obligations like humans¹⁵. The company is a legal entity which is a legal subject according to the juridical concept, as a symptom of community life, as a human created body based on law, has rights and obligations¹⁶. The government acknowledges that an individual company is a legal entity formed by citizens whose purpose is for the personal interests of its founders¹⁷.

The establishment of an individual company can be established by filling in an electronic statement of incorporation form and no notarial deed is required. This provision is regulated in Article 7 which states:

1. The statement of establishment as referred to in Article 6 paragraph (1) is registered electronically with the Minister by filling in the form
2. The format as referred to in paragraph (1) contains:
 - a. Name and place of domicile of the individual company
 - b. The period of the establishment of an individual company
 - c. purposes and objectives as well as business activities Individual company;
 - d. the amount of authorized capital, issued capital, and paid-up capital;
 - e. nominal value and number of shares;
 - f. individual company address; and
 - g. full name, place and date of birth, occupation, residence,

¹⁵ Abdulkadir Muhammad, *Hukum Perdata Indonesia* (Bandung: PT. Citra Aditya Bakti, 2014).

¹⁶ Rachmadi Usman, *Dimensi Hukum Perusahaan Perseroan Terbatas* (Bandung: PT. Alumni, 2004).

¹⁷ Muhammad, *Hukum Perdata Indonesia*.

registration number residence, and taxpayer identification number of founders as well as directors and holders individual Company shares.

3. Format of Statement of Establishment as follows referred to in paragraph (21) is listed in Attachment I which is an integral part of This Government Regulation.

Judging from the rules regarding the establishment of an individual company from Article 7, it can be seen that there are facilities provided in establishing a private company which is done simply by filling out a form. The form can be filled in the ahu.go.id¹⁸.

The establishment of this individual company also does not require a notary deed. This provision differs from the formation of a limited liability company stipulated in the Limited Liability Company Law Number 40 of 2007 that the company can be established by two or more persons with a notary deed in Indonesian.

An individual company must change its legal entity status if it meets the criteria stipulated in Article 9, namely:

1. Shareholders become more than 1 (one) person and / or
2. Failure to meet the criteria for micro and small businesses as stipulated in the statutory provisions concerning micro and small enterprises as stipulated in Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises

Individual companies before becoming a company change their status through a notary deed and are registered electronically with the Minister. The change in status is carried out in

¹⁸ Hukum dan Kerjasama Biro Humas, "Mengenai Konsep Perseroan Perseorangan Di Indonesia," 2021, <https://www.kemenkumham.go.id/berita/mengenal-konsep-perseroan-perseorangan-di-indonesia>.

accordance with the statutory provisions concerning the company.

Individual companies to be able to realize good corporate governance are required to make electronic financial reports and carry out periodic financial reporting. The financial report is reported to the Minister by filling in the electronic financial report submission form no later than 6 (six) months after the current accounting period. The format for submission includes statements of financial position, income statement and notes to current year financial statements. The current accounting period is the accounting period calculated from the date the certificate was issued.¹⁹ The financial statements provided will be used as a data base for individual company profiles and a basis for consideration in determining the criteria for an individual company.

In response to this provision of electronic financial reporting, the Ministry of Law and Human Rights will provide facilities in the form of providing such financial report formats in a simple format. This aims to make it easier for individual company owners who may still have limited abilities in terms of making financial reports. The hope is that with financial reports in accordance with a predetermined format, there will be supervision from the government regarding the sustainability of the company²⁰. This provides an advantage for the company to gain the trust of the bank when applying for venture capital.

Individual companies that do not submit their financial reports in accordance with applicable regulations

will receive administrative sanctions. These provisions refer to Article 12 of Government Regulation Number 8 of 2021 concerning the Authorized Capital of Companies and Registration of Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses, where the sanctions given can be in the form of a written warning, termination of access rights to services or revocation. individual company status as a legal entity.

Individual companies can also be dissolved, where the dissolution of this individual company is stipulated by a decision of the individual company shareholders which has the same legal force as the General Meeting of Shareholders as outlined in the Statement of dissolution and notified electronically to the Minister.

The dissolution of this individual company may occur due to several things stipulated in Article 13 paragraph (2) of Government Regulation Number 8 of 2021 concerning the Authorized Capital of Companies and the Registration of Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses, which can occur. because:

1. base on decision Individual company power of law equal shareholders;
2. the period of establishment specified in Statement of Establishment or its changes have been ends;
3. based on court order;
4. with the bankruptcy lifted based on the decision of the commercial court that already has permanent legal force, the bankruptcy of the Company individuals are not sufficient to pay the fees bankruptcy;
5. bankrupt assets of an individual Company that have been declared bankrupt is in a state insolvency as regulated in the law regarding

²⁰ Fikri Faqih, "Menkumham Mudahkan Pelaku UMK Melalui Perseroan Perseorangan," 2020, <https://www.merdeka.com/peristiwa/menkumham-mudahan-pelaku-umk-melalui-perseroan-perseorangan.html>.

- bankruptcy and postponement debt payment obligations;
6. or revocation of the Company's business license individuals thus obliging the Company individuals carry out liquidation by filling Statement of Disbandment.

In the event that dissolution occurs based on the provisions in paragraph (2) letter a, letter b, and letter d, the shareholders shall appoint a liquidator. In the event that the shareholder does not appoint a liquidator, the Board of Directors acts as a liquidator. This individual company concept also has the advantage that there is a separation between personal wealth and company assets. This is different from the concept of an individual company that is not a legal entity where there is no separation of the assets between the owner and the company ²¹. This separation of assets makes the responsibility of business actors limited to the company's assets in the form of a capital statement.

Individual companies as new legal entities with various facilities provided by law do not necessarily make business actors negligent. Business actors as owners of individual companies who carry out and supervise the performance of their individual companies make them wise, able to manage company finances and act prudently.

The imposition of tax for this individual company, the government will provide relief by paying taxes that are cheaper than the tax imposed on Limited Liability Companies or Income Tax and granting a certain period of time for payment ²².

Based on the provisions of Government Regulation Number 8 of 2021 concerning the Authorized Capital of Companies and Registration of

Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses, the government tries to accommodate the needs of business actors to improve their business with the establishment of an individual company establishment procedure. Micro and small business actors can register as individual companies to strengthen the status of the business they are engaged in to become a legal entity with an easy process and provide capital benefits because they gain more trust from banks with the status of an individual company legal entity.

This individual company is a new form of legal entity that has never existed before. It can be used as study material that this new form of legal entity has limited responsibilities and business actors can establish a company without requiring a notary deed. This is a difference that an individual company has in terms of establishment compared to other business entities such as a Limited Liability Company in relation to its establishment. The formation of this individual company is a form of concern from the government to provide convenience in doing business through the presence of new types of legal entities with limited responsibilities. In this individual company can also avoid the risk of disputes that may occur between shareholders. The advantage is that shareholders can quickly make decisions about the business they are running without having to ask or wait for other shareholders' decisions.

This individual company has a one-tier nature, which means that the owner of the individual company will carry out and at the same time supervise so that it trains business actors to be careful. The interesting thing here is that business actors only need to fill out the statement of establishment electronically so a notary deed is not required. According to the author, the

²¹ Khairandy, *Pengantar Hukum Dagang*.

²² Biro Humas, "Mengenal Konsep Perseroan Perseorangan Di Indonesia."

establishment of an individual company for Micro, Small and Small Enterprises only with this statement letter needs to be examined further, as a legal entity that has consequences as a legal subject that has rights and obligations, it is important to have business legality. The establishment of a business entity only with a statement letter, of course, does not guarantee the legality of documents and the identity of the founders which can be easily falsified so that legality will be doubted and at risk, or in filling out the establishment form data filling is done not with actual data or not in accordance with the needs of the company. Therefore it is important that the role of a notary is to be able to provide advice and input related to the legality of a business entity, the validity of the documents held and the identity of the establishment, even though it is for a Micro-Small Scale Business.

This Job Creation Law changes from a legalization regime to a registration regime, including for individual company registration. The establishment of this individual legal entity does not need to wait long for ratification so that the legal entity status is obtained after registering the statement of incorporation electronically and obtaining proof of registration. Business actors are also exempted from the obligation to make announcements in the Supplement to the State Gazette as a form of simplification of the administrative bureaucracy.

Conclusion

Based on the description above, it can be concluded that the enactment of Law Number 11 of 2020 concerning Job Creation has provided new opportunities for business people, especially Micro and Small Enterprises to register their business as an individual corporate legal entity. The rules governing the establishment of an individual company are regulated in

Government Regulation Number 8 of 2021 concerning Company Authorized Capital and Registration of Establishment, Amendment and Disbanding of Companies that Meet the Criteria for Micro and Small Businesses.

Individual companies are new legal entities created by the rolling of the Job Creation Law. Various facilities are provided to business actors, such as registering individual companies by filling out electronic forms and not requiring a notary deed. Business actors are facilitated by the existing regulations in the management of the company because as the sole owner, the existence of financial reporting obligations makes it easier to monitor the company's financial governance which is useful, especially for access to capital loans to banks.

The good thing about the enactment of regulations concerning the establishment of individual companies is that more and more business actors are confirming their business entities to become individual companies without a notary deed that is legally recognized and will provide legal protection for business actors. Business actors can develop their business with the ease of financing from banks with the existence of a legal entity as an individual company, but this policy also has an adverse effect, namely the possibility of a risk of illegal acts committed by an individual company which can become a weakness. This is because in individual companies that are established and managed by one person, there is the possibility of fraudulent actions against third parties by taking advantage of the limited responsibilities they have.

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