

## Notary Authority In Establishment Of Limited Liability Company (PT) In The Online Single Submission In Pekalongan City

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**Abstract.** The purpose of this study was to: (1) identify and analyze the authority of the Notary in the establishment of a Limited Liability Company (PT) in the system Online Single Submission (OSS), (2) To overcome the barriers and solutions within the competence of notaries in the establishment of a Limited Liability Company (PT) in the system online Single Submission (OSS). The method used in this study is a sociological juridical research, specification used in this research is descriptive analysis, which analyzes the problem using the theory of legal certainty and the theory of expediency.

Based on the research results can be concluded that in the establishment of Limited Liability Notary actual authority to do before the establishment however, Notary actual authority to do before, during and after the Company was established. Mechanisms to establish a business in the Online Single Submission system (OSS) for a limited liability company (PT). The first step to be able to apply for a business license through the OSS is a deed of establishment of PT and obtain ratification decree. Deed numbers and numbers ratification decree issued by the Directorate General of General Legal Administration (AHU) *Kemenkumham* will be entered into the OSS system. The process of filling the deed numbers and SK only when the data PT of AHU yet connected. This may happen given the current process of migrating data from the Directorate General of AHU to OSS is still ongoing. If the migration process is 100% complete, then manually enter no longer need to be done.

**Keywords:** Notary Authority; Limited Liability Company; Online Single Submission (OSS)

### 1. Introduction

Notary is an honorable profession and always concerned morals and ethics when performing his respective duties. When performing his respective duties, notary cling and uphold the dignity of their profession as positions of trust and honor. Because adherence of ethics on Notarial profession is referred to as a noble profession (*Afficum Nobile*).

Company is a artificial person, something that is not real or not real. So Limited Company can not act alone. To be able to act within the law, Limited Liability Company is run by the organs that will act on behalf of the Limited Liability Company consisting of individuals (capable to act within the law)<sup>3</sup>. Licensing attempted integrated electronically or Online Single Submission hereinafter abbreviated as OSS is licensing seeks issued by the agency OSS for and on behalf of the Minister, Leader of the institution, governor or regent / mayor to businesses through an integrated electronic system. OSS is a reform, using registration models more modern, faster with an integrated data system, which is integrated, so no need to go through a lot of chain

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<sup>3</sup> Gunawan Wijaya, 150 *Tanya Jawab Tentang Perseroan Terbatas*, cet. 2 (Jakarta: Forum Sahabat, 2008), Pg 3.

birocracy. The service integrated electronic licensing (PBTSE), commonly referred to by the generic name of the OSS this comes in the context of trying to applicable licensing services in all Ministries, Agencies, and Regional Governments throughout Indonesia, which has been carried out through one door integrated permit (PTSP).

OSS system was built since October 2017 as the implementation of the Presidential Decree Number 91 of 2017 on the Acceleration of the implementation effort, and has conducted testing the concept in three locations, namely: Purwakarta, Batam and Palu. Design of information technology-based systems is essentially to interconnect and system integration services in BKPM licensing / OSS center (SPIPISE), PTSP area using the system pretty *Kemenkominfo*. It also includes systems from various Ministries and Agencies Publishers Licensing, including the Indonesian National Single Window system (INSW), general legal administration system the Ministry of Justice and Human Rights, as well as demographic information systems administration interior ministry.

OSS implementation is stipulated in Government Regulation No. 24 of 2018, the government's efforts in simplifying the licensing effort and created a model of an integrated licensing services, fast and cheap, and provide certainty. OSS systems, attempted clearance will be obtained by businesses in less than an hour. Online Single Submission (OSS) is a licensing system was launched on July 9, 2018 last. OSS implementation is stipulated in Government Regulation No. 24 of 2018 on the Ministry PBTSE the Government's efforts to simplify the licensing effort and create an integrated service model permits a quick and inexpensive, and provide certainty. OSS is still quite a lot of challenges and difficulties. One by one, such as software and connectivity problems are being repaired, service improvements Online Single Submission (OSS) in this phase are in control, and facilitate large projects that invest in areas that require advisors between ministries and institutions. Online Single Submission (OSS) is targeted to become an online coordination platform between the Institute and the Ministry to convey the obstacles to investment. While tidying up and clearing about licensing, because of the ease of licensing tried to be one important factor to attract investment, in addition to ecosystems such as the availability of land, incentives, resources, market size, operational convenience tried and others. Online Single Submission (OSS) is targeted to become an online coordination platform between the Institute and the Ministry to convey the obstacles to investment. While tidying up and clearing about licensing, because of the ease of licensing tried to be one important factor to attract investment, in addition to ecosystems such as the availability of land, incentives, resources, market size, operational convenience tried and others. Online Single Submission (OSS) is targeted to become an online coordination platform between the Institute and the Ministry to convey the obstacles to investment. While tidying up and clearing about licensing, because of the ease of licensing tried to be one important factor to attract investment, in addition to ecosystems such as the availability of land, incentives, resources, market size, operational convenience tried and others.

Based on the background mentioned above, the authors formulate some problems as follows: "How Notary Authority in the establishment of a Limited Liability Company (PT) carried out by the Online Single Submission system (OSS)? and How problems that occur in using Online Single Submission system (OSS) in Pekalongan and what is the solution? "

## 2. Results And Discussion

### **3.1. Terms of Notary Authority in Establishment of Limited Liability Company (PT), must meet the conditions stipulated by Act No. 40 of 2007**

The terms are as follows:<sup>4</sup>

- Agreement of two or more. According to Article 7 paragraph (1) of the Company Law, the Company must be established by two or more. The provisions least two people have affirmed the principle adopted by the Limited Liability Company Law, ie the company as a legal entity formed under agreement. By therefore, have a Limited Liability Company more than one shareholder.
- Made with Authentic upfront Notary Deed. The agreement to create a company or set up an authentic deed of Notary should and must speak Indonesia (Article 7 paragraph (1). The agreement is a deed of incorporation which also contains the basic budget was agreed.
- Authorized Capital Equity capital is at least 50 (fifty) million, but for certain businesses separately regulated in a Limited Liability Company Law Article 32 paragraph (1) which may or may not exceed this provision.
- Shares retrieval when the Company was founded. Each of the founders of the company shall mengabil shares when the company was founded Article 7 (2). The provisions of this article is a manifestation of the will of the founder statement when making the agreement founding the company.

Limited Company Establishment Procedures there are five procedures to be followed by a company. Fifth procedures include:<sup>5</sup>

- manufacture of a written agreement. The written agreement made by two or more people and in the agreement contains obligations, rights and capital stock or agreed upon by the founder of Limited Liability Company.
- deed of establishment. Deed made to be in notariskan and made in Indonesian, in accordance with Article 7 (1) of the Company Law.
- Ratification by the Minister of Justice; Establishment of a Limited Liability Company must obtain approval from the Minister of Justice.
- Company registration. Establishment of a Limited Liability Company must be registered in advance in the Ministry of Justice in order to obtain a decision on the ratification decision of the Minister of Legal Entity of the Company as referred to in article and paragraph (4) of the Company Law.
- additional announcement in the State Gazette. Limited Liability endorsement announcement added in additional state. The Limited Liability Company has characteristics that are divided into two, namely:<sup>6</sup>
  - Shareholders are not liable personally for the engagement made on behalf of the company, and
  - Shareholders are not liable for any losses exceeding the company's stock value has taken and does not cover personal possessions.

### 2.2. problems that occur in using Online Single Submission system (OSS) in Pekalongan

<sup>4</sup>Zaeni Asyhadie, "Hukum Bisnis Prinsip dan Pelaksanaannya di Indonesia", PT. Raja Grafindo Persada, Jakarta, 2005, p. 43-44.

<sup>5</sup> Ibid, p. 45.

<sup>6</sup>Soedjono Dirjosisworo, "Hukum Perusahaan Mengenai Bentuk-bentuk Perusahaan (Badan Usaha) di Indonesia", Mandar Maju, Bandung, 1997, p. 49

According to the results of interviews in Pekalongan City Licensing Agency, several barriers / constraints of the implementation of the Online Single Submission system (OSS) in the field during the registration process, namely:<sup>7</sup>

- Applicant (not control the system and not wear Online Single Submission system (OSS))
- Network (due to Indonesian territory consisting of thousands of islands and broad enough in opening access the official website of OSS experience long loading)
- Socialization OSS (Online Single Submission) that have not been evenly distributed.
- Online independently (often for making a mistake, it is necessary to make the helpdesk to assist an applicant).
- Implementation of the rules of government that can not be implemented in the provincial or district / city (out of sync)
- OSS preparation time is too fast.
- Lack of training for personnel executing on the basics of a new OSS and will be implemented in 2019.
- There is no lag time transition period for the implementation of the OSS.

The existence of several ministries that have not passed a law as the basis for the licensing process through OSS and used as NSPK (standard norm procedures and criteria).

Since the issuance of Government Regulation No. 24 of 2018, then all company required to have a number of Parent Trying (NIB). Currently, the government has simplified the licensing process for businesses that is a system of integrated services that can be accessed online at any time. The services are trying to integrated electronic licensing or Online Single Submission hereinafter abbreviated as OSS.

All businesses use this service to manage licensing tried according to the type of business carried on by every business. The characteristics of businesses that can use OSS system is as follows:

- Business entity or individual
- Micro, small, and large to medium
- Individual businesses entities both new and already established before the operationalization of the OSS.
- Enterprises with capital entirely from domestic sources, and there is the composition of foreign capital.

Procedures using OSS:

- For a new venture: the process to obtain the basic license, business license and / or permit a commercial or operational, along with his commitment.
- For businesses that have been established; continue the process of trying to obtain permission (license and / or commercial) that is not owned, sought permission to extend existing ones, develop business, change and / update corporate data.

### **3. Closing**

#### **3.1. Conclusion**

Based on the analysis and discussion in the previous chapters, the following conclusions presented an answer to the problems in this study, namely:

- Notary authority in the establishment of a Limited Liability Company (PT) with Online Single Submission system (OSS) in the town of Pekalongan is as stated in Act

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<sup>7</sup> According to interviews with Mr. Nurcholis as clerk Front Office (FO)

No. 2 of 2014 on the Amendment of Act No. 30 of 2004 concerning Notary. Notaries can not own wishes in a deed, deeds made by or in the presence of the notary must be according to the form that is standard or has been determined in accordance with the laws and legislation in force. In connection with the contents deed made by Notary should not be raw, but will adjust request and agreement of the parties are facing. More people who have the knowledge and awareness of better law, tend pleased to legalize agreementya in a deed made by Notary with some the ability. Authentic deed of Notary, making the nature of the deed is unenforceable for the parties. Notary authority in a deed, is an authority prescribed by the Act which serves to provide a "legal certainty" in society, especially the private law. Mechanisms to establish a business in the Online Single Submission system (OSS) For a limited liability company (PT) The first step to be able to apply for a business license through the OSS is a deed of establishment of PT and obtain ratification decree. Deed numbers and numbers ratification decree issued by the Directorate General of General Legal Administration (AHU) *Kemenkumham* will be entered into the OSS system. The process of filling the deed numbers and SK only when the data PT of AHU yet connected. This may happen given the current process of migrating data from the Directorate General of AHU to OSS is still ongoing. If the migration process is 100% complete, then manually enter no longer need to be done.

- Barriers Benefits notary deed governing the establishment and management of a Limited Liability Company (PT) is that the notary deed as evidence in order to have the strength of evidence which is perfect if all the provisions of the procedure or procedures for a deed fulfilled. If no procedure is not fulfilled, and procedures that are not met can be proved, the deed with the court process can be expressed as a deed that has the strength of evidence as the deed under the hand. If it is based as it is, the value of the proof submitted to the judge. Enactment UUJN and Law on UUJN expected changes that are made by authentic act or Notary able to guarantee certainty, order, and legal protection. Authentic deed of Notary substantially in accordance with what was notified of the parties to the Notary. Notary is obliged to enter into a deed of what is dikehendak the parties and then pour statements or statements of the parties to the notary deed.

### **3.2. Suggestion**

A Notary is required to carefully and thoroughly in running position by always maintain professionalism, code of ethics, dignity of office and increasing their knowledge and skills so as to avoid violations that menjerumus to act against the law.

It is expected that a Notary is always stints with sebaiknya accompanied by a deep understanding of the responsibilities imposed upon him. Although it is difficult to avoid in showing a different view, but this should not be the cause of the benefit of or at the request of his client, to disregard the rules and participate or provide assistance to clients in committing an offense. And is expected also to the Government and Parliament as the legislative lawmakers must make the mengkhusus Law on Limited Liability Company (PT).

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