



IMPLEMENTATION OF RISK-BASED LICENSING IN THE MARINE AND FISHERIES SECTOR POST THE APPLICATION OF THE EMPLOYMENT CREATION LAW

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ABSTRACT

Indonesia has abundant marine and fishery economic potential that can be managed and utilized for the welfare of the people and increase national economic growth, and potentially almost three quarters of the territory of the Republic of Indonesia is the ocean with all the sources of wealth contained therein. Nawacita Program His government said that Indonesia has the potential to become the world's maritime axis and the sea is the future of the nation towards a golden Indonesia 2045, to guard President Jokowi Nawacita world maritime axis, it is translated into 3 (three) missions, namely, first, Sovereignty, namely being independent in managing and utilizing marine resources. and fisheries by strengthening national capacity to enforce law at sea in order to realize economic sovereignty, secondly, Sustainability. Adopting the blue economy concept in managing and protecting marine and fishery resources responsibly with environmentally friendly principles as an effort to increase productivity, which is carried out through marine space management; management of marine biodiversity, three. Welfare namely managing marine and fishery resources is for the greatest prosperity of the people, which is carried out through human resource capacity development and community empowerment; and development of marine and fisheries science and technology innovations. As mentioned above, the independence of fisheries resource management is how the government enforces the law at sea even though the government has previously issued Law Number 31 of 2004 As amended by Law Number 45 of 2009 concerning Amendments to Law Number 31 concerning Fisheries which is a law enforcement regulation in the marine and fisheries sector which over time in 2020, the House of Representatives and the Government have issued and ratified Law Number 11 of 2020 concerning Job Creation which with the issuance of the Job Creation Act, there are several articles in the Law. -Law Number 31 of 2004 As amended by Law Number 45 of 2009 concerning Amendments to Law Number 31 concerning Fisheries, several changes have been made as well as in the Law on Marine and Fisheries Job Creation, ah sector whose management and utilization requires having a Business Licensing Risk Base Approach.

Keywords: Maritime Affairs and Fisheries, Employment Creation Law, Business Licensing Risk Base Approach.

INTRODUCTION

Based on data published by the Ministry of Marine Affairs and Fisheries in September 2020, the total area of Indonesian waters is 6.4 million square kilometers or 2/3 of its total area.¹ As a maritime country, Indonesia is very dependent on the marine and fisheries sector.² The resources contained in the maritime and fishery sector are numerous and varied, which management and utilization are expected to be able to improve the national economy and provide welfare for all Indonesian people.³

Law Number 31 of 2004 concerning Fisheries as amended by Law Number 45 of 2009 concerning fisheries has actually been sufficient to provide the foundation and direction and progress of fisheries governance policies in Indonesia, although it is acknowledged that its implementation has not been optimal enough because almost two decades of implementation are still ongoing. there is practice *illegal, unreported and unregulated* (IUU) and activities *more fishing* (overfishing) and destructive fishing activities (*destructive fishing*) such as using fishing gear that is not environmentally friendly and prohibited even though the Ministry of Maritime Affairs and Fisheries has set limits on the number of permissible catches.⁴

In the first period of President Joko Widodo's administration (2014-2019) has shown significant progress in the maritime and fisheries sector in efforts to enforce law in the maritime and fisheries sector, this can be seen by the large number of arrests of foreign fishing boats *liar* by the Ministry of Maritime Affairs and Fisheries such as fishing vessels from Thailand, Vietnam, Malaysia and the Philippines that carry out operations *liar* in the Fisheries Management Area of the Republic of Indonesia (WPPNRI), although at the same time handling large-scale vessels and domestic industry (Indonesian Fish Ships/KII) that use prohibited fishing methods or gear that can damage marine environmental ecosystems and carry out *IUU* not working effectively.⁵

Over time between government periods, the existence and effectiveness and reliability of Law Number 31 of 2004 concerning Fisheries as amended by Law Number 45 of 2009 concerning fisheries are seen as increasingly irrelevant to existing developments, especially to carry out principles and demands towards the importance and urgency of a more ethical and equitable fisheries management (*Ethical, fair and just fishing*), transparent (*Fisheries transparency*) and sustainable (*Sustainable fisheries*), However, currently the existence of the Fisheries Law is considered to be unable to keep up with the times. In fact, at the same time

¹ Can be seen in <https://maritim.go.id/menko-maritim-luncurkan-data-rujukan-wilayah-kelautan-indonesia/>, Jakarta, September 2020

² Planning Bureau of the Coordinating Ministry for Maritime Affairs and Investment, "Guidelines for Measuring the Indonesian Marine Health Index, Jakarta, October, 2020

³ Can be seen <https://kkp.go.id/brsdm/sosek/artikel/34744-ri-set-sosial-ekonomi-kelautan-dan-perikanan-wujudkan-indonesia-gold-2045>, Jakarta, October, 2021

⁴ Ministry of Maritime Affairs and Fisheries Strategic Plan for 2020-2024, Jakarta, 2020

⁵ Can be seen in <https://www.mongabay.co.id/2014/11/22/pemerintah-mulai-tegas-tangkap-kapal-ilegal-fishing/>, Jakarta, 2014.

stakeholders continue to make various innovations to develop the marine and fisheries sector. In order for the Renewal and Amendments to the Marine and Fisheries Law to continue to adapt to the times, the best option is to Renew, Amend and Improve and Establish new rules in the Maritime and Fisheries Law. However, it will not be easy because there are many things that must be included and become a reference for the development of the marine and fisheries sector. By embracing all existing stakeholders and issues, it is hoped that the presence of the draft Law on Maritime Affairs and Fisheries that is included in the national legislation program (Prolegnas) of the DPR RI can encourage the realization of sustainable and responsible fisheries governance.⁶

However, until the end of President Jokowi's first term, the Draft Amendment to the Fisheries Law was not discussed by the House of Representatives (DPR). Continuing the second period of his administration, the process of updating, changing and improving the Marine and Fisheries Law should continue and color the dynamics of Indonesian marine and fisheries governance as a special regulation (Special law deviates from general law) governing the marine and fisheries sector.⁷ The renewal and revision of the Maritime Affairs and Fisheries Law has never been carried out and discussed, instead the Government is discussing and including and ratifying Law Number 11 of 2020 concerning Job Creation, one of the fields that is included in the regulation is the marine and fisheries sector.

RESEAAARCH METHOD

Based on the problems above, the approach used in this study is an empirical juridical approach,⁸ namely the approach used to look at the implementation and impacts that arise as a result of the application of normative rules related to maritime and fisheries issues after the enactment of Law No. 11 of 2020 concerning Job Creation. The nature of this research is analytical descriptive which describes the whole object to be examined systematically by analyzing the data obtained.

RESULT AND DISCUSSION

Legal Issues in the Implementation of the Job Creation Law in the Maritime and Fisheries Sector

Laws are made not only to meet the structural needs of the state. But more than that, the law must be able to meet the needs of society in a country. The presence of law cannot be separated from society, because law exists to meet social, economic and cultural needs. As Jeremy Bentham in his theory of utilitarianism states that the purpose of law is to provide the greatest benefit and happiness to as many people as possible, "The greatest happiness of the

⁶ Can be seen at <https://www.mongabay.co.id/2020/02/25/begini-urgensi-revisi-uu-perikanan-demi-tata-kelola-perikanan-berkeuntungan/>, Jakarta, 25 February 2020

⁷ Ibid.

⁸ Soerjono Soekanto and Sri Mamudji, "Research Methods and Legal Writing", Publishing Body of the Faculty of Law, University of Indonesia, Jakarta, 2015)

greatest number".⁹ To achieve individual and societal happiness, legislation must achieve four objectives:

1. to provide subsistence
2. to provide abundant
3. to provide security
4. to attain equity

The formation of the Job Creation Law by the government using the Omnibuslaw method is expected to increase Indonesia's economic growth because the government hopes to increase the ease of doing business (*easy to do business*)¹⁰. One of the reasons for the low ease of doing business index in Indonesia is the complexity of licensing.¹¹ Therefore the Job Creation Law was formed and ratified by the government so that there would be ease in doing business in various sectors regulated in the Job Creation Law, one of which is the Maritime and Fisheries Sector.

In the Maritime and Fisheries Sector Licensing Cluster is divided into 2 Strategic Sectors namely;

1. Cluster of Licensing in the maritime sector in the form of Approval for Compliance with Marine Spatial Utilization Activities (PKKPRL) and Confirmation of Compliance with Sea Space (KKRL), while the law in the marine sector regulated in the Job Creation Law is
 - a. UU no. 27 of 2007 concerning the Management of Coastal Areas and Small Islands, as amended by Law Number 1 of 2014 (UU PWP3K).
 - b. UU no. 32 of 2014 concerning Maritime Affairs (Marine Law).
2. The Fishery Sector Licensing Cluster which consists of the sub-sectors of fishing, fish farming, fish transportation and fish processing and fish marketing, while the Law on the marine sector regulated in the Job Creation Law is
 - a. UU no. 31 of 2004 concerning Fisheries, as amended by Law Number 45 of 2009 (Fisheries Law).
 - b. UU no. 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Farmers and Salt Farmers (UU PNPIPG).¹²

The cluster of permits for the marine and fisheries sector with the existing law as mentioned above which was previously enacted was deleted or changed in shape by the Job Creation Law in the context of facilitating business, facilitating investment and improving the national economy. However, what needs to be considered is that to realize this, sustainable marine and fisheries development must also be considered (*sustainable development*), trimming the licensing process must still pay attention to the carrying capacity of the ecosystem in order to ensure that the use of natural resources is carried out within the limits of sustainability (*sustainability limits*)¹³

⁹. Bernard L Tanya, Yoan Nursari Simanjuntak, and Markus Y Hage, "Legal Theory" (Genta publishing, 2013).

¹⁰. Academic Manuscript of the Job Creation Law Plan, p. 4

¹¹. Ibid, hlm. 10

¹². Presentation by the Director of Marine Spatial Planning, Director General of Marine Spatial Management, Suharyato, "Implementation of the Compliance of Marine Spatial Utilization Activities, Jakarta, November, 2021.

¹³. Declaration and Position Paper of the NGO Coalition for Sustainable Fisheries and Maritime Affairs (KORAL), Rationale, Declaration, and Directions of Goals of the Coalition Movement, Jakarta, 3 March 2020, p. 9

Sustainable marine development is an aspect that cannot be separated from the enactment of laws and regulations established and ratified by the government based on the *Sustainable Ocean Economy* (Marine Economic Sustainability) or *Sustainable Blue Economy* (Sustainability Blue Economy) itself is an ocean-based economy that provides social and economic benefits for present and future generations, with a focus on contributing to food security, poverty alleviation, livelihoods, incomes, jobs, health, safety, equality, and political stability.¹⁴ *Sustainable Ocean Economy* (Marine Economic Sustainability) aims to restore, protect and maintain the diversity, productivity, resilience, core functions and intrinsic value of marine ecosystems to secure economic and social stability over time as the embodiment of the sea is the future of the nation.¹⁵

In this case, the implementation of the Job Creation Law is not free from problems that arise in the marine and fisheries sector, especially when faced with the sustainability of its resources, the elaboration of which is as follows

1. The Meaning of Small Fishermen in the Job Creation Law Has Multiple Interpretations

The enactment of Republic of Indonesia Law Number 11 of 2020 concerning Job Creation, changed the meaning of Small Fishermen to "a person whose livelihood is fishing to fulfill their daily needs, both using fishing vessels and those who do not use fishing vessels"

The definition of small fishermen is very important because it relates to exceptions to several obligations, exceptions to imposition of sanctions, as well as the provision of incentives and facilities from the Government. Currently, there are differences in the definition of small-scale fishermen in the Fisheries Law (5 GT vessels) and the Law on the Protection and Empowerment of Fish Farmers and Salt Farmers (10 GT vessels). The Job Creation Law does not reinforce this definition, but creates a new formulation that removes the requirement for the maximum ship size limit so that it becomes multi-interpretable.

2. The obligation to stipulate spatial planning and/or zoning plans is waived if there is a strategic national policy

Article 18 point 14 of the Job Creation Law stipulates that for sea utilization related to strategic national policies, such as infrastructure development, regional development and economic development, business permits can be granted even though the spatial layout plan and or zoning plan has not been stipulated by the government and local government. In addition, according to Article 18 point 2, the management plan for coastal and small islands that has been determined can also be reviewed if there is a spatial and/or zoning plan that is not in line with the national strategic policy. These provisions will ignore the essence of the Spatial Plan and Zoning Plan which should pay attention to the carrying capacity of the ecosystem. This is because Law Number 26 of 2007 concerning Spatial Planning has emphasized that spatial planning must pay attention to the carrying capacity and capacity of the environment. Likewise Law Number 27 of 2007 concerning the Management of Coastal Zone and Small Islands as amended by Law Number 1 of 2014 (Coastal Area and Small Islands Law) which confirms that the zoning plan is also determined by considering the

¹⁴. World Wide Fund, "Principles for Sustainable Blue Economy", https://d2ouvy59p0dg6k.cloudfront.net/download/wwf_marine_briefng_principles_blue_economy.pdf

¹⁵. Ibid.

carrying capacity ecosystem. Article 14 of the PPLH Law also emphasizes that spatial planning is an instrument for preventing environmental pollution and/or damage. According to Article 19 of the PPLH Law, spatial planning must also be carried out based on the Strategic Environmental Assessment (KLHS). In addition, ignoring the essence of the Spatial Plan and/or Zoning Plan is also contrary to Article 23 of the Law on Coastal Zone and Small Islands which stipulates that the use of small islands and the waters around them must comply with environmental management requirements. The impact of negating the essence of the Spatial Plan and/or Zoning Plan for the sake of a national strategic policy has the potential to cause harm to the community and the ecosystem.¹⁶

3. Change of environmental permit to environmental approval

The Marine and Fisheries Sector is a sector that has complex interrelationships with other sectors that are closely related to their ecosystems. Talking about marine ecosystems is almost certainly never separated from the environmental sector. As exemplified in the utilization of sea space in the form of operating floating net cages for growing fish, this cannot be separated from the maintenance of the aquatic environment or the pond business on the coast must be able to maintain environmental conditions by paying attention to how the waste generated from its business activities is managed. Approval degrees are lower than permits. Changing permits to approvals will reduce function, effectiveness and control. Permits are able to effectively function as an instrument for controlling activities by the government, preventing violations, and monitoring the community.

One of the principles of sustainable development is the principle of prevention (*prevention principle*). The essence of environmental permits is for prevention. However, Article 22 point 1 of the Job Creation Law actually removes the environmental permit and replaces it with an environmental approval.¹⁷ The change was made solely to provide convenience for business actors in obtaining environmental management rights. In fact, when still using environmental permit instruments, permit holders are required to include in detail the requirements for preventing pollution and or damage for permit holders, as stipulated in Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH). Activities that include requirements for an analysis of environmental impacts (Amdal) and efforts to manage/monitor the environment (UKL/UPL) are required to have an environmental permit. In the absence of strict prevention instruments, coastal ecosystems and the lives of coastal communities may be affected due to the change in permits to these approvals.

Changing environmental permits to environmental approvals reduces the essence of the prevention and control principle. Based on the things above, the removal or environmental permits can reduce the quality of environmental protection (*environmental protection*) regulated in the Environmental Protection and Management Act. In addition, changing

¹⁶. Stephanie Juwana, et al., op. cit., p. 36

¹⁷. This article amends Article 1 point 35 of Law Number 32 of 2009 concerning Environmental Protection and Management stating "Environmental Approval is a Decision on Environmental Feasibility or a Statement of Ability to Manage the Environment.

permits to approvals will also have implications in terms of administrative law because permits and approvals have different legal effects.

4. Coordination mechanisms between ministries and the central government to ensure utilization remains within the limits of sustainability (*sustainability limits*) unregulated

The problem with maritime and fishery management that has existed so far is that permits are lengthy and involve many ministries. Therefore, trimming the licensing process is indeed necessary to overcome the licensing complexity that hinders economic growth. However, environmental safeguards must be maintained. With permits that are simpler without being balanced with the perspective of sustainability of marine and fisheries resources, it is feared that the Job Creation Law will encourage large-scale investment expansion in coastal areas and sea space. Without considering the carrying capacity of the ecosystem, there will be no controls or controls that can maintain the level of utilization of the coastal areas and marine space. The Job Creation Law also does not regulate a strong coordination mechanism between permit holders who are in institutions directly responsible to the President, such as the Investment Coordinating Board with management authority held by the Minister and Regional Governments to ensure that there is a control and control function, so that utilization does not exceed its sustainability limit.

5. The monitoring system and the imposition of sanctions are not optimal to ensure business actor compliance, prevent violations, and create a deterrent effect

Provisions regarding business supervision are not regulated in detail in the Job Creation Law. The arrangement is left to the Government Regulation concerning Norms, Standards, Procedures and Criteria (PP NSPK) as stipulated in Article 173 paragraph (1) of the Job Creation Law. Supervision in the Job Creation Law will be carried out using an approach *Risk based monitoring* or risk-based monitoring. The intensity of supervision will be adjusted according to the risk level of the business activity. Business activities with a high level of risk will receive stricter supervision, namely 2 (two) times per business location in a year compared to supervision of low-risk business activities, which is only 1 (one) time per business location in a year.¹⁸ Thus, if the regulations regarding supervision are not regulated in detail, it is feared that the government or law enforcement officials will lose their ability to detect violations by low or medium risk activities. As a result, the response and punishment for the violation will not occur. This can lead to many violations committed by small or medium risk activities which, if accumulated, can cause large losses. Moreover, permits that have been used as preventive instruments for business activities with a low or medium risk level have also been removed and are only granted for business activities with a high level of risk. This will eliminate the role of permits as an instrument of compliance monitoring for licensed activities medium and low impact. On the other hand, with the transfer of licensing authority from the Ministry of Maritime Affairs and Fisheries to the central government for high-impact activities, the implementation of the monitoring system is unknown because the

¹⁸. Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 10 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Maritime and Fisheries Sector, Jakarta, April, 2021

implementing regulations do not yet exist. It will also have implications for weak compliance supervision that can be carried out by ministries. Apart from oversight issues, the Job Creation Law has also changed the provisions for imposing sanctions by prioritizing administrative sanctions rather than criminal sanctions on the grounds that criminal sanctions are *The last resort*. However, the provisions in the Job Creation Law cannot be equated with the concept of *ultimum remedium* in general because the provisions of the Job Creation Law stipulate that criminal sanctions are imposed when administrative fines are not paid, not based on consideration of whether administrative sanctions have created a deterrent effect. This means that the imposition of criminal sanctions does not pay attention to the factor of whether administrative fines have effectively achieved the goal of imposing sentences or not. For example, the goal is to avoid the same action, regardless of whether the actor is the same or different. That way, the placement of criminal sanctions as a last resort can be ineffective. It must be admitted that administrative sanctions are necessary, but these sanctions are only more optimal than criminal sanctions if the impact of the damage is not too extensive. Meanwhile, criminal sanctions are still needed for actions that have a wider impact, such as large-scale environmental destruction and pollution. The reason is because there are conditions where only through criminal sanctions the perpetrator can be given a deterrent effect through the costs that must be paid by the perpetrator. The government's burden to bear the consequences can be greater than the losses incurred as a result of the perpetrator's actions. The impact of a deterrent effect will certainly not be achieved as long as it is given only if the perpetrator is unable to pay the administrative sanctions imposed, not from the level of damage caused.

6. Licensing for Coastal and Small Islands Risk-Based Business and Fishing for Foreign Capital

In the Job Creation Law relating to the management of Small Islands and Fishing with foreign capital is a step backwards in the management and utilization of marine and fishery resources because the previous Law on Maritime Affairs and Fisheries limited the management and utilization of marine and fisheries from capital foreigners, therefore it can be seen that the Job Creation Law does not refer to a pattern-based developments *sustainable development* (Sustainable development) because this Law tends to focus on approaches using pattern *economic growth* (Economic Growth) this is feared will lead to excessive management and utilization (*More exploited*) because the Job Creation Law does not stipulate how the monitoring system is and the sanctions imposed are administrative fines which, if carried out by large investors who have the ability to pay the fines, will commit repeated violations without causing a deterrent effect even though the losses to the state and society are enormous.

Implications of Enforcement of the Job Creation Law in the Maritime and Fisheries Sector

With the changes stipulated in the Job Creation Law, there are a number of things that need to be considered so that the implications of the Job Creation Law cannot hinder sustainable development in the marine and fisheries sector

1. Implications of Implementing Good Governance

As explained in part V of Law Number 11 of 2020 concerning Job Creation, licensing authority was withdrawn to the central government by the Job Creation Law. The Central Government is the President of the Republic of Indonesia who holds the powers of government of the Republic of Indonesia assisted by the Vice President and his Ministers. Seeing the direction of the One-Stop Integrated Service and Online Single Submission (OSS) policy, this licensing authority will be held by the relevant institution that is directly responsible to the President, namely the Investment Coordinating Board. This will cause the burden of responsibility to the central government to be very large. This centralization of authority has the potential to cause abuse of power. To ensure that this does not happen, the central government needs to implement good governance in carrying out its duties. The current problem is that good governance has not fully become a bureaucratic culture in Indonesia.

Some of the obstacles and challenges in implementing the Job Creation Law must be able to be overcome by the government as a form of implementing good governance, while these obstacles are in the form of:

- a. There are still many business actors who have not been well informed about the rules and application of the Job Creation Law and Risk-Based Business Licensing, especially for business actors with low and medium risks.
- b. There are still many business actors who are constrained by both understanding and implementing the business licensing process by using the online single submission (OSS)
- c. There is still a lack of data related to business actors who already have business licenses or those who do not yet which results in a lack of data to carry out risk-based business supervision activities.

2. Implications of Readiness of Risk-Based Licensing Organizing Agencies

In addition to good governance, the implementation of the Job Creation Bill must also be supported by strong institutions. For example, changes to the permit system become *Risk Based Approach* (Risk-based licensing) must be supported by credible, accountable and transparent institutions. control instruments and supervision intensity will depend on the risk level of business activities. The higher the level of risk, the tighter the control and supervision, and vice versa. As a consequence, mistakes in determining activity risk levels will threaten the sustainability of natural resources, especially the Marine and Fisheries sector in the future.

3. Implications of Regional Government Authority in Implementing the Job Creation Law

In implementing the Job Creation Law, the role of local government can be said to be very minimal (the spirit of the order of reform/regional autonomy is decreasing). One of the

challenges arising from the centralization of risk-based licensing authority is the accessibility of business actors who previously managed permits in their respective regions. As one of the principles of good governance, the government must ensure that there is justice and equal opportunity for society. The central government must be able to ensure that the licensing system is accessible to all segments of society throughout Indonesia. Another implication of the centralization of licensing authority is the increasing difficulty of government oversight and the outreach of the community in carrying out the public oversight function, as well as causing reduced regional income from the risk-based permit processing sector, especially the marine and fisheries sector.

In the Job Creation Law, the withdrawal of authority to the central government is not only carried out for licensing authority, but also in spatial planning. In fact, local governments in general have a better understanding of the real conditions in their regions. Thus, eliminating the role of the Regional Government has the potential to harm the community and safeguarding the marine ecosystem which is the basis of life for the local community, as can be exemplified by the government of Lampung Province which has made and issued Regional Regulation Number 1 of 2018 concerning Zoning of Coastal Areas and Small Islands which in the Regional Regulation It has regulated all coastal and marine areas to become capture fisheries zones, cultivation zones, zones for the utilization of water tourism and others.

A number of crucial matters deserve the attention of local governments. Several articles, such as article 17, reduce the regional government's authority in terms of spatial planning. Article 8 paragraph 2 states a number of central government authorities which include planning, controlling, utilizing and determining national territory space. Meanwhile, the authority of the local government according to the norms, standards, procedures and criteria (stipulated by the central government) is regulation, implementation and inter-provincial cooperation.¹⁹

Of course, the most important consequence is the provisions in the Job Creation Law, the fact that it violates the spirit of regional autonomy mandated in the constitution by centralizing authority to the central government and local governments as executors. This law also fundamentally changes the understanding of concurrent government affairs (affairs that are divided between the central and regional governments) as stipulated in Law Number 23 of 2014 concerning regional governments. The Job Creation Law requires that matters regulated in Regional Regulations (Perda) must be adjusted to the intentions of this Law.

4. Implications of the Preparedness of Government Apparatus Human Resources in the Implementation of the Job Creation Law in the Maritime and Fisheries Sector

In implementing the Job Creation Law, human resources in the field play an important role, in the orderly implementation of the job creation law in the maritime and fisheries sector, according to the mandate of the law, namely harbor masters at fishing ports and fishery supervisors. In addition, the mandate of the job creation law also regulates the delegation of authority to issue certificates for fishing boat crews and fishing boat airworthiness certificates

¹⁹. <https://tirto.id/bagaimana-omnibus-law-ciptaker-mengangkangi-otonomi-daerah-f53y>

which were originally at the Ministry of Transportation to the Ministry of Maritime Affairs and Fisheries, in this delegation there were also problems which can be said to be very serious because of the human resources in the Ministry of Maritime Affairs and Fisheries. In this regard, the Directorate General of Capture Fisheries still does not have a sufficient number of officers who have competence as issuers of crew certificates and fishing vessel eligibility, because the appointed officers must be educated and trained so that they have the skills and competencies that can be demonstrated through certificates of participating in and passing competition training. , in this case we can see that it takes quite a while to prepare for this transfer of authority and this should not have an impact on the smooth running of the activities of marine and fisheries business actors because the certificate of seaworthiness of fishing vessels is one of the requirements that must be fulfilled by business actors in order to be able to taking care of making or extending fishing licenses/fish transport permits (SIPI/SIKPI).

CONCLUSION

The process of controlling land that is indicated to be abandoned is the authority of the government, namely the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency as the duties and functions in the field of controlling and controlling land and space which is a mandate from Government Regulation Number 20 of 2021 concerning Controlling Abandoned Areas and Land and Regulations Minister of Agrarian Space and Land Number 20 of 2021 concerning Procedures for Controlling and Utilizing Abandoned Areas and Land. Whereas land rights or land obtained on the basis of the Basic Tenure over Land become the object of controlling Abandoned Land if it is deliberately not cultivated, not used, not utilized, not maintained as early as 2 (two) years from the issuance of land rights or the Basis of Tenure Over Land. Controlling abandoned land is carried out in stages starting from the Land Office as the executor of the inventory of abandoned land indications, then the Regional Office of the Provincial National Land Agency as the executor of the stages of controlling abandoned land starting from the evaluation stage of abandoned land which aims to ensure that land rights holders seek, use, exploit , and/or maintain the land. The evaluation of abandoned land is carried out by a committee formed and determined by the Head of the Regional Office of the Provincial National Land Agency. Evaluation of abandoned land is carried out within a period of 180 (one hundred and eighty) calendar days. The next stage is the notification period conveying the results of the evaluation of abandoned land to the holders of land rights to exploit, use, utilize and/or maintain the land within a maximum period of 180 (one hundred and eighty) calendar days. Next is the warning stage for abandoned lands, which amounts to 3 (three) times and each warning has a period of 90 (ninety) calendar days, 45 (forty five) calendar days and 30 (thirty) calendar days. The last stage is the proposal for the designation of abandoned land by the Head of the Regional Office of the Provincial National Land Agency to the Minister. Then based on the proposed determination of abandoned land, the Minister determines abandoned land.

The legal consequences for land that is indicated as abandoned is sold by the right holder to a third party in this study for land that is indicated as abandoned which has not yet reached the stage of proposing the determination of abandoned land is that there is no prohibition on the implementation of the sale and purchase of the land parcels. As the legal provisions of Article 1457 of the Civil Code that buying and selling is an agreement in which one party binds himself to surrender an object and the other party pays the promised price, but the seller can be held accountable by a good-intentioned buyer, Land Deed Making Officer (PPAT) here serves to provide evidence that a transitional legal act has been held which will be used as the basis for registering changes to land registration data to the District/City Land Office. Buying and selling must be in good faith so that later it will not harm each other as Article 1388 of the Civil Code paragraph (3) states that an agreement must be carried out in good faith "and a buyer in good faith is a buyer who does not know and cannot be deemed to have known any defects In the process of transferring rights to the land purchased, good faith is interpreted as an honest buyer, not knowing the defects of the goods purchased. Regarding objects of land rights, it is not known that there is information on recording land status that indicates neglect, so that when the certificate checking process is carried out for registration of the transfer of rights in the framework of maintaining land registration administration data it continues and can be carried out, because in regulations related to controlling abandoned land, the prohibition of acts the new law was enacted when the object was proposed by the Head of the Provincial National Land Agency Regional Office to the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency. The third party as the new land owner, has an obligation in law as a result of the legal relationship arising from the sale and purchase, namely if he does not exploit, use and utilize his land in accordance with the decree granting rights to his land, then based on the provisions of the transition article of Government Regulation of the Republic of Indonesia Number 20 2021 concerning Controlling Abandoned Areas and Lands jo. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 20 of 2021 concerning Procedures for Ordering and Utilization of Abandoned Areas and Land, can be followed up again starting from the initial stage based on the Government Regulation.

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