
*LEGALITY OF LEGAL ENTITIES OF VILLAGE OWNED ENTERPRISES
(BUMDES) POST LAW NUMBER 11 OF 2020 CONCERNING JOB
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Abstract

This research aims to discuss the background to the policy on the obligation to change Village-Owned Enterprises (BUMDes) from business entities to legal entities and the development of BUMDes legal entity status in Banyudono District, Boyolali Regency. Law Number 11 of 2020 concerning Job Creation in Article 117 amends Article 1 (6) of Law Number 6 of 2014 concerning Villages. Before the changes to the Village Law, BUMDes were described as business entities, whereas in the Job Creation Law BUMDes were described as legal entities. The research method used is empirical juridical, located in Banyudono District, Boyolali Regency, Central Java. The results of the discussion showed that 1) The aim of the promulgation of Article 117 of the Job Creation Law is to be able to absorb the widest possible Indonesian workforce amidst increasingly competitive competition and the demands of economic globalization, including at the village level by optimizing BUMDes. 2) In Banyudono District, Boyolali Regency, there are 15 (fifteen) villages and only 5 (five) BUMDes, but there are 2 (two) BUMDes that have not yet been incorporated, namely BUMDes Banyudono and BUMDes Hamlet.

Keywords: *BUMDes, Legality, Legal Entity, Job Creation Law*

Abstrak

Penelitian ini bertujuan untuk membahas latar belakang kebijakan kewajiban perubahan Badan Usaha Milik Desa (BUMDes) dari badan usaha menjadi badan hukum dan perkembangan status badan hukum BUMDes di Kecamatan Banyudono, Kabupaten Boyolali. Undang-Undang Nomor 11 tahun 2020 Tentang Cipta Kerja pada Pasal 117 mengubah Pasal 1 (6) Undang-Undang Nomor 6 Tahun 2014 Tentang Desa. Sebelum adanya perubahan UU Desa, BUMDes dijelaskan sebagai badan usaha, sedangkan dalam Undang-Undang Cipta Kerja BUMDes dijelaskan sebagai badan hukum. Metode Penelitian yang digunakan yaitu yuridis empiris yang berlokasi di Kecamatan Banyudono, Kabupaten Boyolali, Jawa Tengah. Hasil dari pembahasan yang didapatkan bahwa 1) Tujuan diundangkannya Pasal 117 Undang-Undang Cipta kerja mampu menyerap tenaga kerja Indonesia yang seluas-luasnya di tengah persaingan yang semakin kompetitif dan tuntutan globalisasi ekonomi termasuk sampai di tingkat desa dengan mengoptimalkan BUMDes. 2) Di Kecamatan Banyudono Kabupaten Boyolali terdapat 15 (lima belas) desa dan hanya ada 5 (lima) BUMDes, tetapi terdapat 2 (dua) BUMDes yang belum berbadan hukum yaitu BUMDes Banyudono dan BUMDes Dukuh.

Kata Kunci: BUMDes, Legalitas, Badan Hukum, Undang-Undang Cipta Kerja.

PRELIMINARY

The government is applying the latest approach in the hope of advancing rural economic development, namely by establishing an economic institution that is completely governed by village residents, namely Village-Owned Enterprises (BUMDes), as one of the main projects to develop village economic independence.¹ BUMDes is an institution formed or jointly structured by local residents and village officials, and jointly managed by the village government and local residents to achieve overall profits for Village Original Income.

Through the formation of BUMDes, village governments are now empowered to innovate in village development, especially in terms of improving the village economy and the welfare of rural residents. BUMDes is a village business institution that is developed based on village needs and potential and managed by the community and village government in an effort to strengthen the village economy.² BUMDes, which aims to be a social and commercial institution, is the foundation of economic activity in society. BUMDes also plays a role as a social institution that supports the needs of the surrounding environment through assistance in providing social services. While commercial institutions seek to make money by providing access to local resources to the market.³

Definition of BUMDes in Law Number 6 of the Year 2014⁴ concerning Villages, "Village-Owned Enterprises, hereinafter referred to as BUM Desa, are business entities whose capital is wholly or largely owned by the Village through direct participation originating from separated Village assets to manage assets, services and other businesses to the extent of - the great welfare of the Village community." This means that the village only has the position of carrying out business with capital owned by it.

Then there was a change in understanding in Law Number 11 of 2020 concerning Job Creation, "Village-Owned Enterprises are legal entities established by villages and/or together with villages to manage businesses, utilize assets, develop investment and productivity, provide services, and/or provide other types of business for the greatest welfare of the Village community." So that the Government of the Republic of Indonesia Regulation Number 11 of 2021 concerning Village-Owned Enterprises was formed, explaining in detail regarding BUMDes. This shows that BUMDes have special regulations (*lex specialis*) discussing BUMDes matters, which are believed to be a way out and correct the shortcomings of previous BUMDes.

BUM Desa is a company owned and operated by the village for village commercial purposes. Each village BUMDes has a different name and various businesses. BUMDes status reveals whether BUMDes is valid or not. The number of BUMDes in independent villages is still small compared to the total number of BUMDes in Boyolali Regency. If you look at there are no BUMDes left behind, this indicates that some BUMDes are definitely develop.

- 1) What is the background to the policy on the obligation to change Village-Owned Enterprises (BUMDes) from business entities to legal entities?
- 2) How is the development of the legal entity status of Village-Owned Enterprises (BUMDes) in Banyudono District, Boyolali Regency?

RESEARCH METHODE

This research uses an empirical juridical approach method. "The empirical juridical method is a legal method related to the application of normative legal provisions in action to

¹ K Darwita and D. N Rekdana, 'Peranan Badan Usaha Milik Desa (BUMDes) Dalam Pemberdayaan Masyarakat Dan Penanggulangan Pengangguran Di Desa Tejakula Kecamatan Tejakula Kabupaten Buleleng', *LOCUS*, 2018.

² Y. E. Gunanto and Dkk, 'Pengembangan Desa Mandiri Melalui Pengelolaan Badan Usaha Milik Desa (BUMDes)', *Jurnal Dinamika Ekonomi Dan Inggris*, 2016.

³ PKDSP (Pusat Kajian Dinamika Sistem Pembangunan), *Panduan Pendirian Dan Pengelolaan Badan Usaha Milik Desa (BUMDes)* (Malang: Universitas Brawijaya, 2007).

⁴ Pemerintah Republik Indonesia, *Undang-Undang Nomor 6 Tahun 2014 Tentang Desa* (Indonesia: Lembaran Negara Republik Indonesia, 2014).

⁵ R. Ayu, 'Perubahan Pengertian BUM Desa Dari UU Ke UU Cipta Kerja', *Blog.Bumdes.Id*, 2022.

each specific legal event that has occurred.⁶ The juridical approach in this research is to understand literary sources such as literature and applicable formal law. Meanwhile, the empirical approach in this research was obtained through face-to-face interviews with the Chairmen of Village-Owned Enterprises (BUMDes) in several villages in Banyudono District, Boyolali Regency, Central Java.

DISCUSSION

1. Background To Policy Obligations Changing Bumdes From Business Entities To Entities Law

There are several aspects behind the change in BUMDes from being business entities to legal entities, including :

a. Legal Aspects in Changing BUMDes from Business Entities to Legal Entities

BUMDes now has equal status among other legal entities and has its own legal standing thanks to the enactment of the newly enacted Job Creation Law. Apart from carrying out village government, BUMDes is a legal entity that carries out business operations uniquely and with unique characteristics to meet the needs of rural communities through economic sector businesses. However, BUMDes operates primarily in the economic activities of nearby village communities and contributes to village income by enlisting the help of local organizations to provide services to village communities.⁷

When BUM Desa was still a legal entity, each administrator had individual responsibilities (natuurlijk personon) related to each individual. In other words, BUMDes managers are bound by their legal subjects and not by the business entity itself. So BUMDes cannot be categorized as a legal subject. But now, BUM Desa has become a separate legal subjects.

b. Economic Aspects in Changing Bumdes from Business Entities to Legal Entities

The legality of BUMDes as outlined in the provisions of Article 1 Point 6 of the Village Law is expected to be able to drive the village economy, and it is also hoped that economic assets in the village must be managed entirely by the community in the village, so that village budget income is now not only focused on the Village Fund, but the village gets Original Income Villages (PADes) undertake the development of BUMDes.⁹ In this economic development, BUMDes is an important component as well as a potential deficiency in efforts to manage rural economic growth. So coordinated and planned action is needed to support BUMDes in managing village economic resources and creating economic networks to advance the quality of the economy village

In this case, BUMDes is a method of strengthening or consolidating village economic organizations. There are a number of agendas that can be implemented to increase the capacity of human resources to bring value to managing the village's economic potential, including¹⁰:

- 1) Bringing together village economic results to provide a strong place in the market network and so that it has good value in negotiate
- 2) Recognizing competitive economic developments in businesses managed

⁶ Abdulkadir Muhammad, *Penulisan Hukum Dan Penelitian Hukum* (Bandung: cvxz*-Aditya Bakti, 2004).

⁷ I Rahayu, 'Legalitas Status Badan Hukum Sebuah Badan Usaha Milik Desa Yang Didirikan Tanpa Akta Notaris', *Jurnal Multidisiplin Indonesia*, 2022.

⁸ Shara Mitha Mahfirah and Adista Paramita, 'Kajian Normatif Kedudukan Badan Usaha Milik Desa Sebagai Subyek Hukum', *Notarie*, 4.1 (2021), 127 <<https://doi.org/10.20473/ntr.v4i1.23553>>.

⁹ Edi Siswadi, Nana Hermansyah, and Agus Nurulsyam, 'Pengelolaan Pendapatan Asli Desa Oleh Pemerintah Desa Dalam Meningkatkan Pembangunan Desa Di Kabupaten Ciamis', *Moderate Journal*, 5.3 (2019), 289.

¹⁰ Jusman Khairul Hadi, 'Kedudukan Badan Usaha Milik Desa (BUMDes) Berdasarkan Undang- Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja', *Jurnal Fakultas Hukum Universitas Gunung Rinjani*, 3.1 (2021), 30.

- 3) Maintaining village economic organization; And
- 4) Improving complementary forms including market data, the influence of technology and minimizing economic means, communication or protection relations and supervision.

c. Social Aspects in Changing Bumdes from Business Entities to Legal Entities

A country must take a number of steps to ensure that its population can exercise their right to a decent living through employment development. The Job Creation Law has created new challenges for society in deciding how to structure BUMDes as a more successful legal entity. Considering that villages do not have the same quality of human resources, opening up prospects for greater cooperation is also an obstacle for villages to build BUMDes in their regions. The villages themselves must contribute to the development of BUMDes in return for the prosperity of the community as a whole. It is possible that villages will have equal social value if efforts are made to advance them through the formation of a legal entity organization called BUMDes¹¹.

BUMDes need to establish Regional Regulations (Perda) regarding BUMDes, because from a sociological point of view, BUMDes regulations through Regional Regulations aim to create prosperity as well as legal provisions between regions and obtain legal certainty for their implementation.¹² Carrying out business operations, potential use, growth of income and production capacity, procurement of services, other forms of company. So regarding the guidelines for the establishment and implementation of BUMDes regulated in the Regional Regulation, it is able to maximize the resources and potential of villages in the region. Boyolali Regency Regional Regulation Number 6 of 2022 concerning Village-Owned Enterprises regulates the development and operation of BUMDes because Banyudono Regency is part of the district Boyolali

2. Development Of Legal Entity Status In Village-Owned Enterprises (Bumdes) In The District Banyudono

a. Overview of District Banyudono

Banyudono is a district under Boyolali Regency, Indonesia, Central Java. The height of the Banyudono terrain stretches from 75 to 400 meters. Banyudono is famous for its baths, one of which is Umbul Pegging. Live ducks and geese are often traded at the Pegging market¹³. There are 15 villages in Banyudono District, namely Bangak, Banyudono, Batan. Bendan, Cangkringan, Denggungan, Dukuh, Jembungan, Jipangan, Ketaon, Kuwiran, Ngaru-arau, Sambon, Tanjungsari, Trayu.:

b. Status of BUMDes Legal Entities in the District Banyudono

In Banyudono District, Boyolali Regency, there are 15 (fifteen) villages but there are only 5 (five) BUMDes, namely in Bangak Village, Banyudono Village, Ketaon Village, Denggungan Village, and Dukuh Village. In Banyudono District, of the 5 (five) BUMDes, there are 2 (two) BUMDes that have not yet become legal entities, namely BUMDes Banyudono and BUMDes Hamlet.

Through an interview with the Chairman of BUMDes Banyudono, It is said that the BUMDes in Banyudono village have not yet become a legal entity and have not registered for a change in legal entity status. BUMDes in Banyudono is actually just a savings and loan unit. Previously, the management of BUMDes Banyudono had received socialization

¹¹ N Nurhayati and Dkk, 'Potensi Bumdes Berbasis Syariah Pasca Legalisasi UU Nomor 11 Tahun 2020 Tentang Cipta Kerja', *Jurnal Hukum: Al-Adl*, 2020.

¹² Z. Ridlwan, 'Payung Hukum Pembentukan BUMDes', *Fiat Justitia Jurnal Ilmu Hukum*, 2013.

¹³ Edunitas.com, 'Banyudono Boyolali', *P2k.Unkris.Ac.Id*.

regarding changing the status of a business entity to a legal entity. Because the Village Community Empowerment Agency (Bapermasdes) has not directed the obligation to change legal entity status, BUMDes Banyudono does not continue to register changes to legal entity status. the.

There are several reasons why Banyudono BUMDes has not yet become a legal entity, namely because the BUMDes administrators must remain permanent and the office must be open every day. If you want to register the status of a BUMDes legal entity, you must already have a name, whereas in Banyudono BUMDes they don't have a name yet and the administrators have other jobs so they can't stay in the office all the time. day.

Apart from that, if BUMDes Banyudono wants to register legal entity status, it must first become a cooperative, whereas BUMDes Banyudono is only a savings and loan unit. In establishing BUMDes, the bylaws and articles of association both play an important role as legally binding documents that BUMDes must have. Name, position, goals and objectives, capital, business operations, when the BUMDes was established, management organization, use process, and distribution of profits are all included in the contents of the articles of association. Meanwhile, the contents of the bylaws include rights and obligations, service time, procedures for appointing and dismissing management, business classification, and sources of capital.

Through interviews with the head of BUMDes in Dukuh village, they are also not yet a legal entity and have not registered the change to become a legal entity. The BUMDes in Dukuh village already has a name, namely the Handayaningrat BUMDes Office. Previously, we had received socialization regarding changes to the BUMDes legal entity, and it was explained that if you are processing permits for changes to the BUMDes legal entity, several documents are required, such as Village Regulations (PerDes), Articles of Association (AD), Bylaws (ART), and others. etc.

Some of the reasons why BUMDes Handayaningrat has not yet become a legal entity is because in Dukuh Village in December a new Village Head was just elected, so the process of changing the legal entity status of BUMDes is waiting for the situation to stabilize in Dukuh Village. Apart from that, BUMDes Handayaningrat has not yet prepared the documents as a requirement for registering for legal entity status for BUMDes.

c. Factor Status Change Supporter Law

The public, investors and other parties are more likely to believe that a corporate entity is legitimate when it has legal status. Additionally, these businesses are legally protected because they are commercial entities. Every businessman can benefit from this and operate with security. BUM Desa employees must be based on a work agreement as another benefit, guaranteeing their professionalism¹⁴. By changing the status of a business entity to a legal entity, there are several benefits for BUMDes, including :

- 1) Providing legal entity certainty for BUMDes. BUMDes if incorporated law.;
- 2) This will provide legal certainty, so that BUMDes will have more status strong;
- 3) Provides ease of collaboration with other parties. BUMDes, if it is a legal entity, can collaborate with other partners and the trust of other partners becomes stronger, such as collaborating with PT, CV, Cooperatives, etc. etc;
- 4) Get convenience from government and commercial banking credit schemes. With the existence of a legal entity in BUMDes, BUMDes managers can access capital available in the current capital market, either from the government, banks or from partners who other.

¹⁴ E. E Simamora and D. W Kristy, 'Analisis Status Badan Hukum Badan Usaha Milik Desa Dengan Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Dan Peraturan Pelaksanaanya', *Jurnal Hukum Bisnis Bonum Commune*, 2022.

d. Factor State Change Inhibitors Law

Apart from the supporting factors for changing legal status, there are also inhibiting factors. Even though registering BUMDes as a legal entity is an easy and uncomplicated process, there are several difficulties, especially when faced with the insufficient status of Human Resources (HR) of BUMDes managers, in terms of capacity and capability. Obviously, this causes a lot of problems for BUMDes managers.

The biggest challenge that managers often face is the request for completeness and appropriateness of the registration documents required when completing the registration procedure. It takes a long time to register a BUMDes legal entity because so many documents that must be complete and proper do not meet the standards set by the ministry for further processing

Apart from that, regarding Human Resources (HR) in BUMDes. Those appointed as administrators usually only work half a day (part time), so the administrators have other activities, not just managing BUMDes. Therefore, human resources from BUMDes are not developing and many do not understand the changes in the legal status of BUMDes

- 1) Efforts that can be taken to change the status of the Bumdes legal entity Availability Conduct joint deliberations. In processing documents, mutual deliberation and agreement is required, the purpose of the deliberation is to propose that BUMDes become a legal entity, determine the name of BUMDes and include creating PerDes.
- 2) Complete the documents as requirements for legal entity registration BUMDes.
- 3) Improving the quality of management and strengthening organizational management BUMDes.

There are three simple main stages in the registration process which can be carried out online by filling in the following page <https://bumdes.kemendesa.go.id/>. The first step is to create an account. After that, fill in the BUMDes name registration. The final step is to check the BUMDES name if it has been legalized, the BUMDes manager is directed to immediately fill out the legal entity registration.

CONCLUSION

Background to the obligation to change the legal entity status of BUMDes. If viewed from several aspects, namely in the legal aspect BUMDes have an obligation to register their status with the Ministry of Law and Human Rights (Kemenkumham) which will receive a registration certificate. In the economic aspect of BUMDes, strengthening the rural economy requires strategic and systematic solutions in order to encourage BUMDes to be able to manage village economic assets while developing economic networks to increase the competitiveness of the rural economy. In the social aspect of BUMDes, it is necessary to establish Regional Regulations regarding BUMDes, so that they are able to develop Village resources and potential.

Development of legal entity status (BUMDes) of Village-Owned Enterprises in Banyudono District. In Banyudono District, Boyolali Regency, there are 15 (fifteen) villages but only 5 (five) BUMDes. All 5 (five) BUMDes are not yet legal entities. There are 2 BUMDes, namely BUMDes Banyudono and BUMDes Handayaniingrat, Dukuh village which have not yet processed the registration of legal entity status. BUMDes Banyudono because it is still a savings and loan unit and the BUMDes management is not permanent. Meanwhile, BUMDes Handayaniingrat Dukuh village has not fulfilled the documents required for registration to change legal entity status BUMDes.

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