



## Legal Study on Licensing for the Development of Salt Pond Land in the Oli'o Area, Merdeka Village Kupang Regency Based on Government Regulation No. 107 of 2015 Concerning Industrial Business Licenses

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### **Abstract**

Licensing is an important element to start any form of activity in today's business world. Permits are also one of the elements used for the protection of the law and the right to own or carry out activities. Without a permit, various kinds of problems will arise that can disrupt the order and regulation of life in society. Salt industry activities are one of the major activities in the community, where, of course, this activity will interact with the local community. Community involvement is very important; therefore, many aspects need to be considered. This research is Empirical legal research. The main problem in this study is the obstacles in the licensing process for the development of salt pond land in the Oli'o area, Merdeka Village, Kupang Regency. The author conducted interviews with the Merdeka Village Head and several communities to obtain the writing materials needed in this study. Interviews were conducted in formal and informal situations. The materials obtained and used are primary materials and secondary materials. The results of the study show that in the licensing process, the services carried out by the Merdeka Village Government run in accordance with existing procedures. However, the relationship between the community as land owners must be paid attention to so that they can coordinate with each other at all times to avoid differences of opinion or different interpretations.

**Keywords:** *Development; Pond Land; Salt; Industrial Business Licenses*

### **Introduction**

Licensing is a form of implementation of regulatory functions and is a form of control owned by the government over activities carried out by the community. Licensing can be in the form of registration, recommendation, certification, determination of quotas and permits to carry out a business that must usually be owned or obtained by an organization, company, or a person concerned can carry out an activity or action. Licensing can be in several forms such as registration, recommendation, certification,

determination of quotas and permits to carry out a business that a company or person must usually own or obtain before the person concerned can carry out an activity or action. With a permit, a company or a person can take the desired actions but still pay attention to interests and be accompanied by supervision.

As stated by Philipus M. Hadjon, permission is used to direct or control certain activities, prevent harm that certain activities can cause, protect certain objects, and select certain people and/or activities. For example, such as permits in the industrial sector, the establishment of industry has one of the objectives, which is to increase the prosperity and welfare of the people fairly and evenly by utilizing funds, natural resources, and/or cultivation products and by paying attention to the balance and sustainability of the environment (Law of the Republic of Indonesia No. 3 of 1014 Article 3a). Industry is held to realize national industry as a pillar and driver of the national economy.

Regarding industrial businesses, one of them is the salt industry. Salt is made by collecting seawater and then overflowing with sunlight so that only the salt crystals remain. Traditional salt-making involves draining seawater into ponds with the help of windmills. The seawater in the pond is then dried using the sun's heat to evaporate the water and leave the salt crystals; the salt crystals whose water settles are then harvested using rakes and dredged to the pond's edge. The remaining water is called water tuai or Nagari water, which is also economically valuable. It has even been exported to Japan as an ingredient in cosmetics and medicines.

Salt ponds are a form of utilization of coastal areas. The scope of regulating coastal areas and small islands includes transitional areas between terrestrial and marine ecosystems, inland includes sub-district administrative areas, and to the sea as far as 11 (twelve) nautical miles measured by the line.

To ensure the certainty of the central and regional governments' efforts in accordance with their authority, they set a Regional Spatial Plan for the salt mining business. In the process of spatial planning in an area, the rights, obligations, and roles of the community are very influential; this is stated in Law No. 16 of 1007 concerning Spatial Planning, which is mentioned in article 60: "In Spatial Planning, everyone has the right to submit a demand for cancellation of permits and termination of construction that is not in accordance with the Spatial Planning plan to the authorized officials.

Salt industry activities are one of the major activities in the community, where, of course, this activity will interact with the local community. Community involvement is very important; therefore, many aspects need to be considered. One very important thing is how to involve the community as the owner of the land in every pond management activity in an area, such as the example of the case that I took regarding the reaction of rejection from some people in Oli'o, Merdeka Village, Kupang Regency, according to the Merdeka Village Head, the community rejected the presence of new investors who entered to manage the Oli'o salt pond land because there was no termination of cooperation from the previous investor, So that until now the new investor has not received permission from the Merdeka Village government.

## **Method**

The method used in this study is empirical juridical (Safuddin Azwar 2005). This research is a descriptive analysis, namely describing the licensing process for the development of Oli'o salt pond land, Merdeka Village, Kupang Regency. Primary data is a source of data obtained directly from the research location through the results of interviews with respondents The data analysis process begins by reviewing all available data obtained from literature research and field research. All data obtained will be analyzed in such a way that the data has meaning and is useful for answering research problems and questions.

## ***Results and Discussion***

### **Licensing Process Issues**

Based on the research conducted, the problem of salt pond land has occurred since 1990, when manipulation was carried out by the government and companies (PT. Pangung Gunda Ganda Semesta) to the pond land owned by the community. In 1992, there began payments that were made without deliberation, which took place in the Hall of the East Kupang Sub-district Office; the people did not know which land and how many fields would be paid, so the government only immediately told the community to sign the letter and take several envelopes given, a community elder Mr. "Andreas Ismail" Because he felt confused he asked "sorry sir I have a lot of this land, which land do you want to pay?" instead of being answered by a soldier "I don't want to sign out!" so Mr. Andrew came out of the meeting place.

After being examined, people who had already signed the letter only received money worth Rp. 280,000.00. For land prices, that's where people begin to maintain their land, not to be given to companies and the government. They manipulated the company that wanted to measure the land belonging to the community, and the government was blocked by the community so that there was no land measurement at that time because they were upset with the attitude of the community, and the company persecuted several children who wanted to go to school. The people were angry and went to destroy the company's office in Tuapukan Village.

In 2017, the commander of the Kupang Corps came to the location of the salt pond and asked a community who was working on the land, "Who do you work on? Who owns the land?" he replied, "We work, we have land, and if indeed this land belongs to the company, we have parents, we will report, and you will get an answer from us!!". After that, in the afternoon, they immediately deliberated, and the clean community did not want to give an inch of their land, and if the government also insisted on taking the land, they were ready to die to defend their land. Then Mr Andreas Ismail and several community representatives went to give a complaint to the Regent of Kupang (Ayub Titueki), and he responded: "to all village people who have land and have been taken by the company to gather and face the Regent."

After that, all the people together went to the Kupang Regent Office and made a statement that the Regent would face the President to declare that the community was not willing to give their land to the company then the Regent departed with the Police Chief, the Chief of Police, NGOs and several Undana Legal Experts And the president responded well and promised that after he came to inaugurate the Raknamo Dam, the permit must be revoked so that the land is returned to the community. After the Business License has been revoked, the community, together with the Land Authority, jointly measure their land and makes a certificate.

In 2018, the Regent brought a new investor, namely PT. Indo Nasional Salt came customarily to make an agreement with the community; the agreement that the community agreed to the most was to make good road access to the salt pond land; after the agreement was completed, the land development began, and after the work had reached 80% the work was forced to be stopped due to the Coronavirus (Covid19) and the PT returned to Jakarta. After 2 years after the COVID-19 virus hit, a new investor came namely PT. Garam Terang. This surprised the public because there was a change of investors without the public's knowledge. The community does not agree with the new investor who wants to do the work because they already have an agreement with PT. National Indo salt. Because of that, PT. Garam Terang, led by the Governor together with the Sub-district Head (Deny Tadoe) and the Village Head (Abraham Kehi), tried to divide the community if they agreed with new investors who wanted to work on the salt pond land, the community that was initially united was divided into 2 camps. Because the situation was no longer supportive of one of the traditional elders, Mr Andreas Ismail, together with the community who disagreed with the presence of new investors, filed a complaint with the government, and not long after, the village head was replaced because he had to retire and be replaced with a new village

head (Vasco Soares).

Community groups that have agreed with the new investor, go to the new village head to sign a business license by PT. He could not take Garam Terang, but this step was because the community group that did not agree with the new investor threatened him, "you don't sign, you know the consequences yourself" because of this threat, the Vasco Village Head also tried to solve the problems that occurred among the Oli'o community by holding a meeting.

When there was an activity in the Oli'o area where the Deputy Regent and the Sub-district Head were also present, the community who did not agree with the presence of new investors tried to explain the conditions that occurred in the salt pond land at that time and since then the sub-district has stopped urging the Village Head and the business license has not been signed until now.

Regarding community complaints, the permission can be cancelled, the provision is regulated in Law No. 26 of 2007 concerning Spatial Planning in "article 60 in spatial planning, everyone has the right to:

- a) Know the spatial plan
- b) Enjoy the added value of space as a result of spatial arrangement
- c) Obtain appropriate replacement for losses arising from the implementation of development activities in accordance with the spatial plan
- d) Submitting objections to the authorities against developments that are not in accordance with the spatial plan in their area
- e) Submit a demand for cancellation of permits and termination of construction that is not in accordance with the spatial plan to the authorized officials and
- f) Filing a lawsuit for compensation to the government and/or permit holder if development activities that are not in accordance with the spatial plan cause losses.

### Factors Affecting the Implementation of Licensing

The licensing process and procedures can include licensing service procedures and the licensing completion process, which is an internal process carried out by officials/officers. In general, the permit application must go through certain procedures determined by the government as the permit provider. In addition, the applicant must also meet certain requirements determined by the government/ruler as unilaterally determined permitted.

The licensing procedures and requirements vary depending on the type of permit, the purpose of the permit and the licensing agency, namely, which agency can be the local or central government. Furthermore, several things related to the implementation of licensing and, lack of competencies will be explained as follows:

- a) The licensing process requires knowledge not only limited to the legal aspects of the licensing process but also beyond that. For example, to give a permit, the implementing party must also consider the permit's impact.
- b) The licensing process requires the support of the expertise of the apparatus not only in terms of following the order of procedures, but also other things that greatly support the smooth running of the licensing process itself. Proses perizinan tidak terlepas dari interaksi antara pemohon dengan pemberi izin. Dalam interaksi tersebut terkadang muncul perilaku yang menyimpang, baik yang dilakukan oleh aparatur maupun yang dipicu oleh kepentingan bisnis pelaku usaha, sehingga aparatur pelaksana perizinan dituntut untuk memiliki perilaku yang positif dengan tidak memanfaatkan situasi demi kepentingan pribadi. Ini semata-mata demi terciptanya *good governance*.

Requirements are things that must be met by the applicant to obtain the requested permit. These requirements are in the form of documents or complete papers. In regulation and deregulation, the requirements in the licensing process at least meet the following criteria:

- a) Written clearly. Regulations will be difficult to implement properly without being clearly written.
- b) It is possible to be fulfilled. Therefore, licensing must be oriented to the principle of ease of implementation by the permit applicant.
- c) Universal applicability. Licensing should not have a discriminatory effect but should be inclusive and universal.
- d) Pay attention to technical specifications and other related aspects

An effective surveillance system is the best means to make things run well in the State Administration. Supervision is the process of activities that compare what is carried out, carried out, or organized with what is wanted, planned, or ordered.

The activity is to observe the current condition, that the performance of licensing services still needs to be improved to be better. That means that government licensing services are still poor. The poor licensing service is caused by several things, including:

- a) There is no incentive system to make improvements;
- b) Poor level of initiative in licensing services, which is characterized by a high level of dependence on formal rules (rule-driven) and leadership instructions.
- c) The culture of the apparatus is still poorly understood and often violates the rules;
- d) High paternalistic culture, meaning that the apparatus puts leadership as the top priority, not the community's interests.

Various factors, both internal and external, can cause the refusal of a business license. Here are some common causative factors:

- 1) Regulatory Violations: One of the main reasons for refusal of a business license is a violation of applicable rules and regulations. If the proposed business violates the law, does not meet the technical requirements, or is not in accordance with the spatial plan or zoning, then the permit can be refused.
- 2) Inconsistency with Government Policy: Sometimes, the government has certain policies that regulate the types of businesses that are allowed in an area. The permit may be denied if the proposed business does not comply with the policy.
- 3) Environmental Issues: Refusal of permits can also be caused by potential negative impacts on the environment, such as air pollution, water pollution, or habitat damage. The government usually refuses a permit if the business does not meet the environmental standards.
- 4) Community or Interest Group Pressure: When a society or interest group opposes a particular undertaking for environmental, social, or economic reasons, the government is likely to listen to their voices and may deny them a permit to attempt to avoid greater conflict or protest.
- 5) Incompatibility with Regional Development Plans: The government usually has a regional development plan that includes zoning and land use that is set for various purposes. The permit may be denied if the proposed business does not conform to the plan.
- 6) Limited Infrastructure Capacity: Refusal of permits can also occur if the existing infrastructure is not able to handle the impact of the proposed venture, such as traffic problems, population density, or the availability of water and electricity.
- 7) Incomplete Documents or Requirements: If the documents submitted are incomplete or do not meet the requirements set, the permit may be refused or postponed until all requirements are met.
- 8) Officer's Subjective Assessment: Sometimes, a permit denial can also be affected by the subjective assessment of the officer handling the application. While this is not always the case, these factors can also influence the decision to deny a permit.

## Conclusion

In the process of developing salt pond land, the government has been good enough in supporting the activities of low-income communities. Judging from the efforts made by bringing in investors, land development is much better, and the salt-making process can already use more sophisticated tools. Licensing for pond land development can theoretically be said to be quite easy because the process is also short, and the cost is cheap. The process of building salt pond land is one of the programs that help the community manage existing natural resources. The obstacles faced in the process of permitting the development of salt pond land are complaints made by the community as land owners due to differences of opinion between them and also the attitude of the government that pits community groups. With such conditions, the division between the community that initially had one goal is now divided. In overcoming these obstacles, the solution that can be by the government is not to take sides with any party postpone the approval of development permits also the government, investors, and the community must be able to synergize and communicate with each other to immediately jointly build salt pond land to advance the local salt production process

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