

**Licensing Of SMEs Under Law Number 11 Of 2020 Concerning Work Creation
 Reviewed From Cost-Benefit Analysis**

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Keyword	Abstract
<p>Micro, Small and Medium Enterprises, Business Licensing, Job Creation Law</p>	<p><i>This research aims to find out two things, namely the amendments to the articles of Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises (MSMEs) in Law Number 11 of 2020 concerning Job Creation, especially regarding the requirements for establishing MSMEs, as well as cost analysis and benefits in comparison to Law Number 20 of 2008 concerning MSMEs and Law Number 11 of 2020 concerning Job Creation. The research design used is a normative legal research method, namely the comparison of legislation between Law Number 20 of 2008 concerning MSMEs and Law Number 11 of 2020 concerning Job Creation. The data analysis technique used is content analysis and cost and benefit analysis to determine the impact of the Job Creation Law on society. The Job Creation Law makes it easier for prospective MSMEs players and MSMEs entrepreneurs. MSME will get legality to facilitate tax administration, making it easier to get incentives. Based on the analysis of costs and benefits, the Job Creation Law can increase economic growth, increase the number of jobs, and increase income. In contrast, the costs incurred include administrative costs, monitoring costs, risk control costs, conflict costs, and environmental damage costs. The Job Creation Law must provide a single database management status, especially regarding OSS for MSMEs, related to regulated data and its functions so that business actors can feel a positive impact.</i></p>

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I. INTRODUCTION

Micro, small and medium enterprises (MSMEs) always have resilience in unstable economic conditions. In 1997/1998 caused stagnation in industrial growth in the manufacturing and service sectors. However, MSMEs always escape the pinhole called a crisis. The Organization for Economic Co-operation and Development (OECD) report entitled Financing SMEs and Entrepreneurs 2016: An OECD Scoreboard states that in many countries, such as Finland, France, Italy, South Korea, and Australia, almost 100 percent of economic actors operate on a small and medium scale. Moreover,

other findings are that MSMEs in these countries can absorb more than 60 percent of the workforce (Arifianti, 2020: 1).

The conditions in Indonesia are also almost the same. The Ministry of Cooperatives and Small and Medium Enterprises (UKM) in the release of Data Development for Micro, Small, Medium Enterprises (SMEs) and Large Enterprises (UB) in 2017-2018 shows that data of approximately 64.2 million registered SME units support 99.9% of all the number of business actors with labor absorption is 97 percent. It should be noted. Such a large number has not received adequate protection in terms of the risks faced. MSMEs

rarely get protection, even though they are an escape for workers who have been laid off.

Limited protection is caused by a lack of capital resources, training, technology, and management and the difficulty of establishing MSMEs itself. The establishment of these SMEs will be the main discussion because there are still many overlapping regulations that govern MSMEs' establishment. A person who wants to establish a SME must at least have a Business Identification Number (NIB), and to get it must also include a domicile arrangement and a Trading Business License (SIUP) (Arifianti, 2020: 7).

This is still not optimal for one-stop integrated services initiated by the central government and regional governments. Prospective MSME entrepreneurs to start a business cannot be fast, and the cost of managing them is expensive. Based on researchers' investigations, to establish MSMEs, related laws and regulations at the same time include the Civil Code, Commercial Code, Banking Law, Limited Liability Company Law, and Cooperative Law, Law on MSMEs, Law on Taxation, and Government Regulations concerning Electronically Integrated Business Licensing (PP PBTSE).

These arrangements' complexity impacts the Ease of Business Index in Indonesia until 2018, which is in position 73 (Freddy and Saputri, 2018: 6). However, what the government needs to pay attention to is the position in the indicators of starting a business, which is formulated by the World Bank consisting of the number of procedures, the number of days, and the costs incurred to register a business officially (Ibid, 2018: 7). Below will be a table regarding starting a business in Indonesia, Singapore, Malaysia, and Thailand.

Tabel I. EoDB 2017 Parameter Table “Starting a Business Rating” at Indonesia, Singapore, Malaysia, and Thailand

Country	Rating Starting a business	Number of Procedures	Time (days)	Cost (% of income per capita)
Singapore	6	3	2,5 hari	0,5
Thailand	36	5	4,5 hari	6,2
Malaysia	111	8,5	18,5 hari	5,4
Indonesia	144	11,2	23,1 hari	10,9

Source: World Bank (2018)

The central government has initiated efforts to accelerate the establishment of MSMEs by establishing an Electronically Integrated Business

Licensing (OSS) system, which changes Indonesia's business registration system. OSS has the same goal as One-Stop Integrated Service, namely to accelerate business licensing services. The difference is that OSS is operated centrally and not locally as in One-Stop Services.

Under this new system, the issuance of trade business permits (SIUP) and company registration certificates (TDP) is no longer under the One-Stop Services Office's jurisdiction but through OSS. After OSS, the One-Stop Integrated Service System was only authorized to issue local permits, such as building permits and location permits, which were a requirement for the issuance of SIUP (BKPM, 2018).

However, suppose you look at the World Bank survey above. In that case, it can be seen that many procedures must be passed, time, and costs spent by prospective MSME entrepreneurs. The Job Creation Law provides several facilities for Micro, Small, and Medium Enterprises, one of which is the licensing aspect. Minister of Cooperatives and SMEs Teten Masduki said that MSME layers would only need to register online or online to pocket a permit. Simultaneously, the details of the licensing will be completed in November (<https://www.cnnindonesia.com/ekonomi/20201008182459-92-556156/uu-cipta-kerja-izin-SMEs-hanya-perlu-daftar-online>, accessed on December 16, 2020, at 10:32).

This research aims to find out two things, namely the amendments to the articles of Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises in Law Number 11 of 2020 concerning Job Creation, especially regarding the requirements for establishing MSMEs, as well as analysis of costs and benefits in comparison. Law Number 20 of 2008 concerning MSMEs and Law Number 11 of 2020 concerning Job Creation.

II. LITERATURE REVIEW

a. Definition of Micro, Small, and Medium Enterprises

The definition of micro, small and medium enterprises according to Law Number 20 of 2008 concerning MSMEs.

- 1) A micro business is a productive business owned by an individual and / or an individual business entity that meets Micro Business criteria as regulated in this Law. The criteria for a Micro

Business are as follows: having a net asset of not more than Rp.50,000,000.00 (fifty million rupiahs) excluding land and buildings for business premises, or have annual sales proceeds of not more than Rp. 300,000,000.00 (three hundred million rupiahs).

2) Small Business is a productive economic business that stands alone, carried out by an individual or a business entity that is not a subsidiary or branch of an owned, controlled, or part, either directly or indirectly, of a Medium or Large Business. Criteria for Small Business as referred to in this Law. The criteria for Small Business are as follows: having a net asset of more than Rp.50,000,000.00 (fifty million rupiahs) up to a maximum of Rp.500,000,000.00 (five hundred million rupiahs) excluding land and buildings for business premises, or have annual sales proceeds of more than Rp. 300,000,000.00 (three hundred million rupiahs) up to a maximum of Rp. 2,500,000,000.00 (two billion and five hundred million rupiah).

3) Medium Enterprises are productive economic enterprises that are independent, carried out by individuals or business entities that are not subsidiaries or branches of companies that are owned, controlled, or are part of, either directly or indirectly, with Small or Large Enterprises with total assets. Net or annual sales proceeds as regulated in this Law.

b. Definition of Licensing

According to the Big Indonesian Dictionary (KBBI online, accessed December 20, 2020, at 08.12), the word Permission. Permission is a statement of granting (without prohibiting, etc.); consent allows. E. Utrecht argues that if the regulator does not generally prohibit an act, but still allows it as long as it is carried out in a manner determined for each concrete thing, then the act of the state administration that allows the act is a license (*vergunning*). Permission (*vergunning*) is an approval from the ruler based on law or government regulation to in certain circumstances deviate from the

prohibited provisions of statutory regulations (Sutedi, 2011: 167-168).

Permission is included as a constitutive provision, namely provisions that give rise to new rights not previously owned by a person whose name is listed in the decree, or *beschikkingen welke iets toestaan wat tevoren niet geoorloofd was* (a provision that allows something that was previously not allowed). A permit is a provision made with applicable terms and conditions, namely requirements, rights, and obligations, procedures (*procedures*), period, validity, service time, fees, complaint mechanisms and dispute resolution, and sanctions (Sutedi, 2011: 180).

c. Definition of Cost and Benefit Analysis

Cost and Benefit Analysis (ABM) is a method for evaluating a program or policy by comparing social benefits changes to society with their social costs (Sahadewo, 2020). Policymakers need to conduct ABM for regulations to be discussed with the intention of ABM organizing information logically and methodically. ABM reduces uncertainty in estimating benefits and costs. ABM reduces the tendency of policy formulation to use intuition or ideology (Sahadewo, 2020).

The following is an example of ABM analysis of smoking warning label images presented in the table below.

Tabel II. ABM Analysis

Social Benefits	Social Prices
Increased productivity due to improved health.	The cost of implementing a warning image label.
Reduced exposure to second-hand smoke.	Administration and regulatory enforcement costs.
Reduced smoking during pregnancy.	Lower consumer surplus.
Reduction in health system costs due to smoking.	

Source: Chaloupka et al., 2014 in Sahadewo (2020)

ABM measures (Boardman et al., 1996 in Sahadewo (2020)) are the identification of policy alternatives for comparison, identification of the economic agents involved and whose effects will be measured, identification of the consequences of implementing policies and indicators to measure them, estimating the quantitative consequences of policy implementation. During the period, the policy has an impact, monetization of the consequences of policy implementation, calculation of net present value (NPV), sensitivity analysis for parameters whose value is uncertain, and preparation of recommendations.

III. RESEARCH METHODS

This paper's research design is a normative legal research method, namely the comparison of legislation between Law Number 20 of 2008 concerning MSMEs and Law Number 11 of 2020 concerning Job Creation. The type of data used is secondary data. The data sources used are Law Number 20 of 2008 concerning MSMEs and Law Number 11 of 2020 concerning Job Creation. The data collection technique used was a documentation study. The data analysis technique used is a content analysis and uses cost and benefit analysis to determine the impact of the Job Creation Law on society.

IV. RESULTS AND DISCUSSION

a. Changes in MSMEs Establishment Licensing based on Law Number 20


of 2008 concerning MSMEs in Law Number 11 of 2020 concerning Job Creation

One of the changes in law occurs because the regulatory problem is out of date. This is also in the spirit of Law Number 11 of 2020 concerning Job Creation. The section that regulates MSMEs includes the provision of business identification numbers (NIB) through electronic business permits, simplification of tax administration, application for free business licenses, income tax incentives, and customs incentives for export MSEs. To find out changes regarding MSMEs establishment licensing, we can see it in the following table.

Tabel III. Regarding MSMEs Establishment Licensing

Provisions	Law Number 20 of 2008 concerning MSMEs	Law Number 11 of 2020 concerning Job Creation
Criteria	<p>Article 6</p> <p>(1) Criteria for Micro Enterprises are as follows:</p> <p>a. has net assets of not more than Rp.50,000,000.00 (fifty million rupiahs), excluding land and buildings for business premises; or</p> <p>b. has an annual sales revenue of not more than Rp. 300,000,000.00 (three hundred million rupiahs).</p> <p>(2) The criteria for Small Business are as follows:</p> <p>a. Has a net asset of more than Rp.50,000,000.00 (fifty million rupiahs) up to a maximum of Rp. 500,000,000.00 (five hundred million rupiahs) excluding land and buildings for business premises; or</p> <p>b. Has annual sales revenue of more than Rp. 300,000,000.00 (three hundred million rupiahs) up to a maximum of Rp.</p>	<p>Article 6</p> <p>(1) Criteria for Micro, Small, and Medium Enterprises can include business capital, turnover, net worth indicators, annual sales returns, or investment value, incentives and disincentives, application of environmentally friendly technology, local content, or the number of workers according to each criterion. Business sector.</p> <p>(2) Further provisions regarding the criteria for Micro, Small, and Medium Enterprises are regulated in a Government Regulation.</p>

	<p>2,500,000,000.00 (two billion and five hundred million rupiah).</p> <p>(3) Criteria for Medium Businesses are as follows:</p> <ol style="list-style-type: none"> a. has a net asset of more than Rp. 500,000,000.00 (five hundred million rupiahs) up to a maximum of Rp. 10,000,000,000.00 (ten billion rupiahs) excluding land and buildings for business premises; or b. has annual sales revenue of more than Rp. 2,500,000,000.00 (two billion and five hundred million rupiahs) up to a maximum of Rp. 50,000,000,000.00 (fifty billion rupiah). <p>(4) Criteria as referred to in paragraph (1) letter a, letter b, and paragraph (2) letter a, letter b, as well as paragraph (3) letter a, letter b, the nominal value can be changed following economic development as regulated by Regulation President.</p>	
Business Licensing	<p>Article 12</p> <p>(1) The business licensing aspect, as referred to in Article 7 paragraph (1) letter e, is aimed at:</p> <ol style="list-style-type: none"> a. simplifying the procedures and types of business licensing with a one-stop integrated service system; and b. exempt licensing fees for Micro Enterprises and provide licensing fees for Small Enterprises. <p>(2) Further provisions regarding the requirements and procedures for applying for a business license are regulated by a Government Regulation.</p>	<p>Article 12</p> <p>(1) The business licensing aspect, as referred to in Article 7 paragraph (1) letter e, is aimed at:</p> <ol style="list-style-type: none"> a. simplifying the procedures and types of Business Licensing with a one-stop integrated service system; and b. exempt Business Licensing fees for Micro Enterprises and provide business licensing fees for Small Businesses. <p>(2) Further provisions regarding the requirements and procedures for Licensing, Undertaking are regulated in a Government Regulation.</p>

<p>Ease of Business Licensing</p>		<ol style="list-style-type: none"> (1) In the framework of facilitating Business Licensing, the Central Government and Regional Governments, following their respective authorities, are obliged to carry out guidance and registration for Micro and Small Enterprises based on the norms, standards, procedures, and criteria set by the Central Government. (2) Registration as intended in paragraph (1) can be done online or offline by attaching: <ol style="list-style-type: none"> a. Identity Card (KTP); and b. Business certificate from the government at the neighborhood level. (3) Online registration as referred to in paragraph (2) shall be assigned a business ID number through the Electronic Business Licensing system. (4) The business registration number, as referred to in paragraph (3), is a single license applied to all business activities. (5) Single licensing as referred to in paragraph (4) includes Business Licensing, Indonesian National Standards, and halal product guarantee certification. (6) The Central Government and Regional Governments, under their authorities based on the norms, standards, procedures, and criteria stipulated by the Central Government, are obliged to guide Business Licensing, compliance with standards, Indonesian National Standards, and certification of halal product guarantees
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The SMEs legal reform in the Job Creation Law is aimed at ease of doing business. This goal is closely related to the low index of ease of starting a business, as stated above. The Job Creation Law aims to increase the ease of doing business from

rank 73 (2020) to position 53 in the world (Coordinating Ministry for Economic Affairs, 2020). With the easy business licensing instrument, which only attaches a National Identity Card (KTP) and a business certificate from the government at

the neighborhood level to be able to get a business registration number (NIB). It should be noted, NIB itself is a single license that applies to all business activities, which includes Business Licensing, Indonesian National Standards, and halal product guarantee certification.

However, the problem of MSMEs is not only a matter of business licensing. MSMEs face many chronic problems, the most important of which are: (i) access to finance and finance, (ii) access to raw materials, (iii) access to labor and human resources (HR), and (iv) access to markets and demand (Damuri et al., 2020: 3).

If it is related to the Job Creation Law, the convenience is only still in the stage of starting a business. It has not reached the problems that have been mentioned above and is still waiting for the operational problems of MSMEs. MSMEs themselves in operational matters are also subject to many laws. For example, these MSMEs require an AMDAL permit, meaning they are subject to the Environmental Law, the type of business entity is subject to the Trade Law, the Limited Liability Company Law, or the problem of raw materials used is subject to the Industrial Law. So, the regulation of UMKM in the Job Creation Law aims to increase the legality of MSMEs which are often considered as informal businesses.

The issue of ease of licensing is also facilitated by a single database maintained by the central government and local governments (Article 88 Paragraph (1) of the Job Creation Law). A single database is used as consideration for determining policies regarding MSMEs (Article 88 Paragraph (3) of the Job Creation Law). Of course, this single database is related to the business registration number (NIB) issued by the central government. NIB for MSMEs in the Job Creation Law has several functions, among others

1. Strengthening the position of MSMEs as formal, not informal legal entities, to facilitate tax administration in the context of proposing financing facilities from the

Central Government under the provisions of laws and regulations in the field of taxation

2. Make it easy to get incentives, such as incentives free of charge, customs incentives, income tax incentives,
3. Make it easier to get bank credit or program credit because it has become a formal business, simplifies and simplifies registration and financing of intellectual property rights,

Make it easier to import raw materials and industrial auxiliary materials if they are not fulfilled from within the country.

b. Analysis of Costs and Benefits in Comparison of SMEs Licensing and Establishment between Law Number 23 of 2008 concerning SMEs and Law Number 11 of 2020 concerning Job Creation.

Cost and benefit analysis is used to determine the Job Creation Law's benefits for its primary users, namely SMEs. The Job Creation Law will be a benchmark for potential SMEs actors and actors in the future, in addition to the Job Creation Law. A cost and benefit analysis can also be carried out to reduce the ideological factors in this Job Creation Law. Before it was enacted, the Job Creation Law was widely associated with capitalism's ideology and the influence of neoliberalism, which benefited large entrepreneurs or conglomerates and was detrimental to workers and SMEs.

The first step taken was to identify policy alternatives, comparing the old SMEs licensing and established policies, namely Law Number 20 of 2009 concerning SMEs and licensing policies, and establishing a new SMEs, namely Law Number 11 of 2020 concerning Job Creation. This has been answered in discussion point A that licensing and establishing an SMEs is more comfortable because it can be done online and offline. The requirements are also light. The SMEs will later be registered in a single database through the NIB issued by the central government. In addition to facilitating SMEs, it also makes it easier for

the government to conduct guidance, certification, and standardization of SMEs and their products.

The second step is to identify the economic actors involved. This step determines the parties who gain and lose in the policy, in this case, the Job Creation Law. The Job Creation Law has a significant impact on almost all economic actors. The household sector is a provider of labor. SMEs sector workers are often familial with SMEs owners. As a result, the quality of human resources is still constrained by a closed recruitment pattern. For the corporate sector, especially SMEs, the Job Creation Law is expected to increase the ease of doing business, reduce transaction and production costs, make it easier to find qualified workers, get bank credit, and increase productivity because SMEs are no longer fussed over the difficulty of managing the requirements for establishing a business, the requirements for managing patents and brands, and halal certification. For the community, the Job Creation Law is expected to conducive an investment climate, increase economic growth, and increase worker productivity, which ultimately means creating 3 million jobs each year. In this case, the loser is the household sector as a provider of employment opportunities to improve the quality of its human resources through education and training.

The third step is to identify the consequences of implementing the policy. The Job Creation Law will increase economic growth. The Job Creation Law, which compiled it using the omnibus law technique, can revise approximately 80 laws and 1,200 articles at once. Derivative benefits from the Job Creation Law's economic growth are increased employment opportunities and increased income. The explanation above is a benefit of the Job Creation Law policy.

Next discuss the issue of costs arising from licensing policies and the establishment of SMEs, which are costs due to the untrained labor market's adjustment. The costs that arise due to government policies are the costs for coordination, monitoring, administration, and law enforcement to harmonize various regulations. Besides, there are indirect costs such as costs of conflict and costs of environmental damage.

Other costs that arise are the relationship between business licensing and the level of risk. Article 7 Paragraph (7) of Law Number 11 of 2020 concerning Job Creation states that based on an assessment of the level of danger and an assessment of potential hazards, the level of risk and business scale rating of business activities are determined to be low-risk business activities; medium risk business activities; or high-risk business activities.

Attempt licensing for low-risk SME activities only requires a business ID number (NIB). SMEs' activities with medium risk can be divided into two, namely medium low-risk business activities and medium high-risk business activities. For SMEs, medium-low risk requires a business identification number and standard certificate. In contrast, SMEs for medium-high risk require a business registration number, standard certificate, and product standardization before commercializing products.

Meanwhile, high-risk SMEs require a NIB and a permit, which is the central or local government's approval before carrying out their business activities if high-risk business activities require compliance with business standards and product standards, the central government or local governments issue business-standard certificates and product standard certificates based on the verification of standard compliance.

To be more transparent regarding the results of the analysis of the costs and benefits of establishing and licensing SMEs in Law Number 11 of 2020 concerning Job

Creation, it is presented in the following table.

Tabel IV. The Results of The Analysis of The Costs and benefits of Establishing and Licensing SMEs in Law Number 11 of 2020 Concerning Job Creation

Social Benefits	Social Price
Economic growth	Coordination costs
Increased employment opportunities	Monitoring costs
Increased revenue	Administrative costs
Ease of starting a business for low-income people	Cost of conflict
Ease of business licensing because it has been codified in a statutory regulation	Environmental damage costs
There are incentives for SMEs.	Product standardization costs

V. CONCLUSION

Based on the research and discussion above, it can be concluded that the formation of the Job Creation Law has social benefits and costs. For SMEs, the Job Creation Law makes it easier for prospective SMEs to start a business because it only takes care of the NIB license, including Business Licensing, Indonesian National Standards, and halal product assurance certification. For SMEs entrepreneurs, SMEs will get legality to facilitate tax administration, make it easier to get incentives, make it easier to get bank credit or program credit, simplify and simplify registration and financing of intellectual property rights, make it easier to import raw materials and industrial auxiliary materials if not fulfilled from within the country.

Based on the analysis of costs and benefits, the results show that the Job Creation Law will increase economic growth, increase the number of employment opportunities, and increase income. In contrast, the costs incurred include labor training and education costs, administrative costs, monitoring costs, risk monitoring costs, costs: conflict, and the cost of environmental damage. To facilitate the implementation of the ease of licensing and establishment of SMEs, the Job Creation Law must provide a single database management status, especially regarding OSS for SMEs, related to regulated data and its functions so that business actors can feel a positive impact.

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