

Legal Consequences of Operating an Unlicensed Vocational Training Institution in Bali

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ABSTRAK

Background. Non-formal education organized for people who need provision of knowledge, skills, life skills, and attitudes to develop themselves, develop a profession, work, independent business, and / or continue their education to a higher level.

Purpose. This thesis aims to analyze the legal consequences and legal processes that Courses and Training Institutions are one form of unit taken from carrying out unlicensed job training institutions in Bali.

Method. This research is conducted with normative legal research method, namely through literature study of laws and regulations related to vocational training institutions and their operational licenses.

Results. The results of this research are expected to provide a clear understanding of the legal consequences that can arise from misusing the work training institute license given by the Government to the work training institute in Bali, where the discussion of legal consequences and what legal process will be taken when the parties feel harmed as a result of the work training institute carrying out activities without a license in Bali.

Conclusion. As well as knowing how to seek permission to legalize the operational license of a vocational training institution so that the training institution can be said to be legal. And can be a job training institution for people who need provision of knowledge skills and life skills, to develop themselves, develop their profession, work independently. Job Training Institutions also function as educational services that function as substitutes, additions, or complements to formal education in order to support education in school. Where in Government Regulation Number 5 of 2021 concerning this PP, regulates Business Licensing based on the level of risk of business activities.

KEY WORDS

Job Training, Legal Effects, Operational License

INTRODUCTION

The Indonesian government that helps educate the nation's life and advance the general welfare is one of the noble ideals of the Indonesian nation found in the preamble of the 1945 Constitution. The intelligence of the Indonesian people is also one of the visions of the realization of good governance, because the increase in intelligence will create an independent, advanced and prosperous society.

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Educating the nation's life is a national goal in an integral part and the state's function as coordinator. Thus, in realizing Intelligence, it should be accompanied by appropriate needs in the labor market. The needs that exist in the labor market will develop and advance the nation. Article 27 paragraph 2 of the 1945 Constitution (Yusuf, 2015) then mandates the issue of employment and decent livelihood to be very important in the life of the nation and state. This is the task of one of the ministries, namely the Ministry of Manpower of the Republic of Indonesia and then given autonomy to the Manpower Office of each Regency which oversees one of the institutions engaged in training and human resource development.

LPK is an institution that provides facilities to increase skills, provide information on the work environment, and provide information on lockers or internships. Another definition of LPK is a government agency, legal entity, or individual that meets the requirements and has received permission to organize job training. In general, LPKs that are in high demand are those that have connections with overseas companies, such as Japan, South Korea, China, Saudi Arabia, and other countries. The government fully supports vocational training institutions in Indonesia. In fact, the government also opened registration for LPKs to become pre-employment partners and job loss guarantees or JKP so that people who need them can easily get access to join (Irawan & Suparmoko, 2017).

Where are the Differences between Government and Private LPKs Based on who established them, LPKs are divided into two, namely government LPKs and private LPKs. The following is an explanation of the difference between the two.

1. Registration Fee, Since government-run LPKs are managed by the government, the registration fee is naturally lower or even free because it is covered by state taxes. In contrast, privately-run LPKs will have higher registration fees.
2. Pocket Money, Government-run LPKs generally have special programs in registration for government-run jobs or internships. This makes the LPK a training institution as well as a labor distribution. In general, later participants who pass will be given pocket money for initial living capital when working if they migrate, even providing business capital if what is followed is an apprenticeship program.
3. For private LPKs, of course, there are no such facilities. This is because private LPKs are only institutions that provide training and labor distribution without providing full financial support for participants during the internship or when they are hired.
4. Company Network, where both types of LPKs, both government and private, have an extensive company network. However, government LPKs certainly have their own benefits because usually the company network they have is a company that is also connected to the government in the country of origin or a direct government-owned company.
5. Registration Schedule, The last difference between public and private LPKs is in terms of registration schedule. Government LPKs have a limited enrollment schedule. In a year, there may be only two registration openings with a short duration, while private LPKs have flexible registration schedules.² However, there are also private LPKs where they only open registration if the company that enters their ecosystem is opening a job recruitment or internship program. BPS data shows a reduction in the number of unemployed people in each regency in Bali during the period 2020 to 2022, namely with total unemployment in 2020 of 5.63%, while in 2021 total unemployment in Bali decreased by 5.37% and a decrease in the number of unemployed people also occurred in 2022, namely 4.80% (Bali.bps.go.id, 2023).

This indicates that the role of vocational training institutions is very important for the people of Indonesia, especially in Bali. In this vocational training institute trains labor communities who drop out of school to be trained in skills, with the existence of this vocational training institute it is hoped that it will create a skilled and qualified community so that the quality of the workforce increases and can compete. By participating in the job training program hereinafter referred to as LPK, job seekers and unemployed people can improve their work skills according to the needs of the labor market and immediately fill job vacancies available in the company, besides that the trainees can also be entrepreneurs independently.

Meanwhile, the Head of the Bali Province Manpower and Energy and Mineral Resources Office (Disnaker ESDM) Ida Bagus Ngurah Arda in *tribunnews.com* in 2019 there were 246 private LPKs spread throughout the Regency and City. However, only 15 LPKs have permission to send workers abroad, while the rest can only conduct training, not to have the authority to send workers or apprentices at home or abroad (Manan, 2018). Based on this background, the researcher is interested in conducting research related to the license of work training institutions with the title "Legal Consequences of Implementing Unlicensed Work Training Institutions in Bali."

RESEARCH METHOD

The type of research that researchers choose is a normative type of legal research, namely research by describing the facts examined and connected to existing laws and regulations. This type of normative juridical legal research is presented by the author on the basis of the consideration that the starting point of research and analysis of researchers on existing laws and regulations, especially on the title of this thesis. However, researchers also conduct literature studies not only on statutory materials that regulate fingerprints as one of the evidence to reveal a criminal offense, but also accompanied by concepts and opinions of legal experts. In this study, researchers used normative research methods, so the approach used was the Statute- Approach and Conceptual approach. The statutory approach is an approach that examines the various rules of law that are the focus as well as the central theme of the research. While the concept approach is concerned with juridical concepts that contain regulations.

Data is the most important thing in a study, because in normative legal research what is studied is legal material that contains normative rules. The data obtained and processed in normative legal research is secondary legal material derived from library sources. The data used is secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are legal materials that have binding legal force, while the primary legal materials used in this study consist of norms, basic principles, laws and regulations such as the Criminal Procedure Code (KUHAP), laws and official regulations issued by the government, court decisions, including decisions of the supreme court and other courts, which create legal precedents. Secondary legal materials are bodies that provide explanations of primary legal materials, including books of legal science literature, scientific works from legal circles, papers, modules, legal expert opinions, articles, journals, the internet, legal news summaries or clippings, legal special reports that describe and summarize court decisions, as well as other materials related to the problems in this study, namely mainly about the legal position of crown witnesses as evidence in the trial of criminal acts of corruption and the Criminal Procedure Code. Tertiary legal materials are bodies that index and organize legal information, provide guidance and explanations of primary legal sources and secondary legal materials, for example, the Big Indonesian Dictionary, legal encyclopedias, legal databases and law libraries that provide access to laws, court decisions, and other legal references, research guides and legal indexes.

In collecting the data needed to assist in the research process, the researcher uses normative legal data collection procedures, namely using literature studies. Literature Study is a data procedure by reading, understanding, and citing data sources in the form of primary legal materials, secondary legal materials, and tertiary materials that are relevant to the issues to be discussed. From the data that has been collected, then the author analyzes the data qualitatively, namely focusing on the general principles that underlie the manifestation of all data obtained, summarized, researched, and studied as a whole so as to produce accurate data and then described in sentences (Ashofa, 1998).

RESULTS AND DISCUSSION

A good government system will create a conducive environment for market activities and private entrepreneurs to create the production of goods and services. Thus the needs of the community will be met properly, on the other hand, a bad government system will hamper the performance of market activities and private entrepreneurs which have an impact on economic collapse, neglected public needs and services coupled with increased unemployment. Local governments have high authority in the process of organizing their local governments, as well as in the sector. One form of local government intervention as a tool of State administration is to form a decree or decision.

Local governments have high authority in the process of organizing their local governments, as well as in the sector. One form of local government intervention as a tool of state administration is to form decrees and decisions, the Ministry of Manpower has issued Minister of Manpower Regulation Number 17 of 2016 concerning Licensing and Registration of Job Training Institutions (Permenaker 17/2016) as a legal basis for establishing LPK. Based on Permenaker 17/2016 LPK is a government agency, legal entity, or individual who meets the requirements for organizing job training. In principle, the regulation of a permit has the aim of removing obstacles, which means seeking a prohibited thing to be allowed (Sutedi, 2010) Decentralization is formulated as the handover of government affairs from the government or its upper level regions to the regions which are their household affairs (Napitupulu, 2007). The management of various licenses has been decentralized to local governments, because problems and obstacles are also felt in various regions, the length of permit processing, the complexity of licensing procedures, and the high costs that must be borne by the community.

The big desire of the region to create a conducive business climate along with the strengthening of regional autonomy has encouraged local governments to organize various public services and one of them is services in the licensing sector. business licenses must be owned by business people because it is proof of the legality of the company in carrying out all its business activities. With a business license, entrepreneurs will be more free and calm in running their business because it is protected by law and has been recognized by the government. A business license is intended as a source of official information from a company both regarding the identity of its founder, type of business, scope of activities and place of establishment of the company. With the existence of a trade business license, the government will be able to record and assess the growth of the regional economy and make it easier for the government to supervise, provide direction, guidance and others. Local governments are given the freedom to manage and manage the potential of their respective regions with the aim of advancing the region and developing the region in the sectors of trade, culture, tourism, education, economy and others so that people can live more prosperously.

Quality job training license services are needed as one of the factors that encourage economic growth through better service businesses. The job training license obtained will certainly provide

legal certainty for the trade / service business to be carried out and make it easier for entrepreneurs to get access to capital more broadly. One-stop integrated service is one of the efforts made by the government in terms of improving the quality of public services, especially those related to licensing services. Licensing is the granting of legality to a person or business actor or certain activities, both in the form of a license and a business registration mark. Permits are one of the most widely used instruments in administrative law, to regulate the behavior of citizens. In addition, permission can also be interpreted as dispensation or release or exemption from a prohibition (Djukisana, 2014).

The Job Training Institute is a place of learning from, by, and for the community. Job Training Institutions need to be continuously improved and developed according to direction and change. One of the demands for change that is responded to quickly according to the dynamics of the development of public knowledge is to organize the management of Job Training Institutions so that they can be empowered to carry out their functions optimally, flexibly, and neutrally. Flexible in the sense of providing opportunities for people to learn anything they need, while neutral is to provide opportunities for all citizens without distinguishing social status, religion, culture, and others to obtain educational services at Job Training Institutions.

The legal basis for vocational training institutions in Bali and Indonesia in general can be found in several regulations and laws applicable in the country. Some of the relevant regulations and laws for vocational training institutions in Indonesia include:

1. Law No. 20/2003 on the National Education System: This law regulates the national education system in Indonesia and covers various aspects of education, including vocational training.
2. Government Regulation Number 5 of 2021: This regulation regulates Business Licensing based on the level of risk of business activities. The implementation of Risk-Based Business Licensing includes: 1) regulation of Risk-Based Business Licensing; 2) norms, standards, procedures, and criteria for Risk-Based Business Licensing; 3) Risk-Based Business Licensing through the Online Single Submission/OSS System service; 4) procedures for Risk-Based Business Licensing Supervision; 5) evaluation and reform of Risk-Based Business Licensing policies; 6) funding for Risk-Based Business Licensing; 7) resolution of Risk-Based Business Licensing problems and obstacles; and 8) sanctions.
1. Government Regulation Number 17 of 2010: On the management and organization of education
2. Training Institution Accreditation: Training institutions in Indonesia often have to undergo an accreditation process to ensure the quality of the training they offer. The legal basis for this accreditation process can be found in regulations issued by the National Accreditation Board for Education or similar agencies. It is important to understand that regulations and legal basis may change from time to time.
3. Online Single Submission or OSS is an Electronic Integrated Business Licensing Service (PBTSE) system. Its presence is to serve business licenses submitted by the public and applies to all Ministries/Institutions/Departments throughout Indonesia, which are carried out by One Stop Integrated Licensing (PTSP). Apart from PTSP, the public can also access the OSS System online anywhere and anytime. PP No. 6 of 2021 changes the licensing system in OSS based on risk levels which are divided into four risk levels, namely:
 1. Low risk level. At this level, Business Actors are required to apply for NIB as a valid business license to carry out their activities, both in the preparatory, operational and commercial stages. In this section, Business Actors are obliged to apply health, safety,

security and environmental standards as determined in accordance with the provisions of laws and regulations regarding Norms Standard Procedure Criteria.

2. Low medium level. At this level, Business Actors are required to have an NIB and a Standard Certificate (SS) as a business license applicable to the preparation, operational and commercial stages. This Standard Certificate is in the form of a statement from the Business Actor stating their ability to manage the environment in the form of environmental management efforts and environmental monitoring efforts with templates available in the OSS System.
3. High medium. Similar to low medium, at this level Business Actors are also required to have NIB and Standard Certificates as business licenses applicable to the preparation, operational and commercial stages. The difference with low medium, high medium must be verified by the PTSP Unit.
4. High risk level. At this level, the NIB is only valid for the preparation stage. After passing verification, Business Actors must fulfil all requirements based on Norms, Standards, Procedures and Criteria for the issuance of Permits, for example including Environmental Feasibility Decisions. Then, the NIB and Permit can be used for the operational and commercial stages.

In order to implement these matters, the Job Creation Law is ordered to make a government regulation as a reference for the technical implementation of a number of business licensing facilities, namely in Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing. Article 2 explains that the implementation of risk-based business licensing includes various things, among others, as follows:

1. Risk-based business licensing arrangements;
2. Norms, standards, procedures, and criteria for risk-based business licensing;
3. Risk-based business licensing through OSS services;
4. Procedures for risk-based licensing supervision;
5. Evaluation and reform of business licensing policies;
6. Risk-based business licensing funding;
7. Settlement of problems and obstacles in risk-based business licensing; and
8. Sanctions.

Article 3 of Government Regulation No. 5 of 2021 explains that the purpose of implementing risk-based business licensing is to improve the investment ecosystem and business activities, namely through, implementing the issuance of business licenses more effectively and simply and transparently in structured business activity supervision, and can be accounted for in accordance with applicable laws and regulations.

In order to ensure the efficiency of obtaining business licences for Cooperatives and MSEs, business actors only need to register in the Online Single Submission (OSS) system as stipulated in Government Regulation Number 6 of 2021 concerning the Implementation of Business Licensing in the Regions. Article 1 point 8 states that OSS is an integrated electronic system managed and organised by the OSS institution for the implementation of risk-based business licensing in an electronically integrated business licensing system. By registering through OSS, business actors will obtain a Business Identification Number as a business licence. According to the Head of the Investment Coordinating Board (BKPM) Bahlil Lahadalia, submitting registration through the OSS system will shorten the estimated time to wait for the issuance of the Business Identification Number, namely with an estimated time of 3 hours if the documents are complete and have been

prepared. With this relatively short time, when compared to the previous implementation of business licensing issuance, with the system built by the Job Creation Law with its implementing regulations, this is a time that is already quite short. As the initial goal of the government to create a simple business licensing concept and a business standard certificate based on medium and high risk.

Online single submission or OSS was launched on 8 July 2018 in order to simplify the business licensing process. First mentioned in Presidential Regulation Number 91 of 2017, the rules for implementing OSS are contained in Government Regulation Number 24 of 2018. In order to accelerate and increase investment and business, Business Licences issued by ministries/institutions and Local Governments to start, implement, and develop businesses and/or activities, need to be reorganised so that they become supporters and not otherwise become obstacles to business development and/or activities. Reorganisation is carried out on the service system, and regulations in accordance with the demands of the business world, technological developments, and global competition.

Reorganisation of the service system is carried out mainly at the One-Stop Integrated Service (PTSP). This is considering that based on Article 25 paragraph (4) of Law Number 25 Year 2007 on Capital Investment, an investment company that will conduct business and/or activities must obtain a licence in accordance with the provisions of laws and regulations from the agency that has the authority, unless otherwise specified in the law. PTSP services at the Central Government and Local Government are enhanced to be more efficient, serving, and modern. One of the most significant is the provision of an Electronic Integrated Business Licensing Service (OSS) system. Through the OSS, Business Actors register and manage the issuance of Business Licences and the issuance of Commercial and/or Operational Licences in an integrated manner. Through the OSS, the Central Government and Regional Governments also issue Business Licences submitted by Business Actors. Based on the above considerations, the government feels the need to stipulate a Government Regulation on Electronic Integrated Business Licensing Services. On the basis of this desire, Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services is issued which regulates the provisions regarding:

- a. Types, Applicants, and Business Licence Issuers;
- b. Implementation of Business Licensing;
- c. Business Licensing Reform Sector;
- d. OSS System;
- e. OSS Institution;
- f. OSS funding;
- g. Incentives or Disincentives for the implementation of Business Licensing through OSS;
- h. Settlement of problems and obstacles to Business Licensing through OSS; and
- i. Sanctions.

In a broad sense, legal effect refers to the results or consequences arising from the application of a law or legal system in various contexts. This includes different types of legal outcomes that can occur in different legal situations. Here are some examples of legal effects in the broad sense:

1. Legal Protection: Individuals or entities may obtain legal protections provided by the legal system, including legal rights that protect their interests.
2. Legal Liability: Legal consequences may include legal liability, which means individuals or entities are responsible for their acts or omissions in accordance with the law.
3. Legal Recognition: The law may recognise certain statuses or relationships, such as marriage, ownership, or citizenship.

4. Legal Sanctions: Legal consequences can include sanctions or penalties imposed by the justice system as a result of a violation of the law.

Enforcement of Contracts: In the case of a contract, legal consequences include the obligation to honour the agreement made and obtain the benefits promised in the agreement.

1. Termination of Training Activities: Without authorisation, training institutions may have to stop ongoing training activities.
2. Lawsuits from Trainees: Trainees who feel aggrieved by unauthorised activities may file lawsuits against the training institution.
3. It is important to note that the rules and legal consequences may vary depending on the regulations in the respective regions and countries. Therefore, it is very important for vocational training institutions to comply with all applicable regulations and requirements and ensure that they have the necessary licences before conducting training. For more information on the legal consequences in Bali, it is best to consult with local government agencies or legal authorities. Where one example of a case that occurred in Bali is one of the Job Training Institutions that misused the meaning of the Job Training Institution (LPK) where the LPK can only provide non-formal education, but one of these LPKs misused its authority by giving or permitting the dispatch of students / individual job training communities, working abroad without using an agency.
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One example of an LPK case that was closed because of DPD-RI's role in following up reports - reports of people who feel the existence of Unlicensed Job Training Institutions in Bali is currently many Balinese people, especially young people, who are interested in working or interning abroad. Usually their departure to work abroad is facilitated by private Job Training Institutions (LPK) or the Indonesian Labour Placement and Protection Service Centre (BP3TKI) Denpasar. Head of the Bali Provincial Manpower and Energy and Mineral Resources Office (Disnaker ESDM) Ida Bagus Ngurah Arda said, the existence of LPK in Bali is currently quite a lot. According to him, currently in Bali there are 246 private LPKs spread across all districts and cities. Although the existence of private LPKs in Bali is quite a lot and touches hundreds, only 15 private LPKs have permission to dispatch workers abroad. 'Only fifteen of them have overseas apprenticeship licences,' said Arda showing the data to *Tribun Bali* when met in his office on Tuesday (6/8/2019). The private LPKs include LPJ Bali, Sakura Artha Bhuwana, Ganesha Karya Abadi, Salunglung Sabayantaka and Darma which are located in Denpasar City. There are also LPK

Bistra Kensu Senta, Lintas Negeri, Japan Indonesia Asaori in Jembrana Regency. In Bangli Regency there are LPK Yayasan Dwipahara, Bulan Palapa Bali, and Hishou Universal Style. There are also LPK Duta Sahaya in Tabanan Regency, Terakoya in Badung Regency, Yayasan Dwipayana Cipta Karya in Gianyar Regency and Word Training Centre in Karangasem. Then what about the other LPKs? Other private LPKs are not fake, they still have licences as usual. However, the permit in question can only conduct training, not to have the authority to send workers or apprentices at home or abroad. 'The LPK establishment permit is in the district / city, while the distribution permit abroad is at the Ministry of Manpower, the regulations regarding sending apprentices abroad are regulated in the Ministerial Regulation (Permen).

Regulation of Manpower and Transmigration (Permenakertrans) No. PER.08/MEN/V/2008 on Licensing Procedures and Implementation of Overseas Apprenticeship. Chapter II on Institutional Requirements in Article 4 states that private LPKs organising apprenticeships abroad must fulfil various requirements. The requirements include having a valid LPK permit; having an apprenticeship programme; and obtaining a permit to organise apprenticeship from the Director General. The requirements for apprenticeship participants are also regulated in this regulation, namely in Article 8 paragraph (1) where apprenticeship participants for private LPKs and government agencies abroad must meet two requirements. The requirements are at least a high school education or equivalent and other requirements in accordance with the needs of the programme.

CONCLUSION

Regulation on the Establishment of Vocational Training Institutions according to the Ministry of Manpower has issued Minister of Manpower Regulation No. 17/2016 on Procedures for Licensing and Registration of Vocational Training Institutions ('Permenaker 17/2016') as the legal basis for establishing LPK. Based on Permenaker 17/2016 LPK is a government agency, legal entity, or individual that fulfils the requirements to organise vocational training. The authority of local governments as stipulated in Government Regulation No. 107/2015 on education industry licensing which is an implementing regulation of Law No. 3/2014. This Government Regulation contains Licensing, Business Classification and Business Permits, division of authority, procedures for issuing permits and other permits relating to education industry licences.

Legal consequences of unlicensed Job Training Institutions which are government efforts in an effort to create the widest possible employment opportunities that Business Licensing is the legality given to Business Actors to start and run their business and / or activities, therefore a business permit is an absolute capital that must be held by every business actor in the area. Where regulated in Law Number 20 of 2003 concerning the National Education System: This law regulates the national education system in Indonesia and covers various aspects of education, including job training. and Government Regulation Number 5 of 2021 concerning this PP regulates Business Licensing based on the level of risk of business activities. The implementation of Risk-Based Business Licensing includes: 1) regulation of Risk-Based Business Licensing; 2) norms, standards, procedures, and criteria for Risk-Based Business Licensing; 3) Risk-Based Business Licensing through the Online Single Submission/OSS System service; 4) procedures for Risk-Based Business Licensing Supervision; 5) evaluation and reform of Risk-Based Business Licensing policies; 6) Risk-Based Business Licensing funding; 7) resolution of Risk-Based Business Licensing problems and obstacles; and 8) sanctions.

Suggestions that researchers can give to the government are that the government can socialise or provide information to the general public in order to achieve a goal of implementing online

services to provide convenience, speed, and accuracy of completion in applications to obtain permits, the government should more often socialise to the public either directly or by making pamphlets about the procedures and mechanisms in accessing other licensing services based on electronic technology or online, so that people dare to try or want to learn independently to apply for other licenses online. Meanwhile, the community can carefully consider plans to establish a vocational training institution, looking at what target markets are suitable for training programmes and revenue costs. As well as considering partnerships with companies or organisations that are hiring employees/students of vocational training institutions, taking into account income.

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AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

Author 3: Data curation; Investigation.

Author 4: Formal analysis; Methodology; Writing - original draft.

Author 5: Supervision; Validation.

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