



Legal Authority of the Founder of a Private Limited Liability Company Who Is Under 18 Years of Age to Perform Legal Actions Before a Notary

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Abstract

The purpose of this article was to analyze the legal authority of the person who is the founder of a private limited liability company and under the age of 18 to perform legal actions before a notary by reviewing Government Regulation Number 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Change and Dissolution of Companies that Meet the Criteria for Micro and Small Enterprises, Notary Position Law, Civil Code, Marriage Act, and also Child Protection Act. Where in these regulations there are differences in determining a person's age of majority and legal competence. The method of this research was normative juridical using primary legal materials analyzed using a statutory approach, and a conceptual approach. The results showed that the legal authority of a private limited liability company founder in carrying out legal actions before a notary became uncertain.

Keywords: *Legal Authority; Private Limited Liability Company; Legal Actions; Before a Notary*

Introduction

Indonesia is currently recovering in the economy because there has been a contraction in economic growth in 2020 which made the Indonesian economy experienced deflation or a decline in economic development in Indonesia. The impact of declining economic growth in 2020 was due to the Covid-19 pandemic, where the government issued a policy to reduce the spread of the Covid-19 pandemic. With this situation, the economy became uncontrollable until it declined¹. The decline in economic development, moving Indonesia to immediately recover its economy. Based on data in the second quarter of 2022, it is known that the Indonesian economy was able to reach 5.44% and showed economic growth above 5% in three consecutive quarters². This is in line with the statement of Airlangga Hartato as the Coordinating Minister for Economic Affairs who stated that the national economic recovery continues well³. One of the efforts made by Indonesia in realizing economic growth is to make

¹ Yanni Ratna Pratiwi, Indonesia's Economic Recovery After Contraction Due to the Covid-19 Pandemic, <https://www.djkn.kemenkeu.go.id/kpknl-banjarmasin/baca-artikel/14769/Pemulihan-Perekonomian-Indonesia-Setelah-Kontraksi-Akibat-Pandemi-Covid-19.html>. (February 24, 2022)

² Ibid

³ Ministry of Finance, Indonesia's Economy Grows Optimistically In The Second Quarter of 2022, <https://www.kemenkeu.go.id/informasi-publik/publikasi/berita-utama/Perekonomian-Indonesia-Tumbuh-Optimis>. (23 September 2022)

a breakthrough in legal arrangements that make it easier for the community to create a business entity, namely a private limited liability company that can be established by 1 (one person) only.

Regarding private limited liability company, it is regulated in Government Regulation Number 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Change, and Dissolution of Companies that Meet the Criteria for Micro and Small Enterprises. Through *a quo* government regulation, it is known that the conditions for establishing a private limited liability company include the following:

1. According to the provisions of article 6 paragraph (1) states that, "the establishment of a private limited liability company is carried out by Indonesian citizens by filling out a statement of establishment in Indonesian"
2. According to the provisions of article 6 paragraph (2) states that, "Indonesian citizens who have been referred to in paragraph (1) must meet the requirements, namely the minimum age of establishment of individuals, which is 17 (seventeen) years and competent in legal actions".

According to the regulation regarding the conditions of establishment, it can be seen that government regulations require individuals who are 17 years old to be able to establish a legal entity.⁴

Referring to the opinion of E. Utrecht in Kansil, a legal entity is defined as an entity that has legal powers (authorized) or a legal entity is any supporter of non-human rights. So the important thing in a legal entity is to have wealth that is separate from the rights and obligations of its members⁵. Besides, R. Rochmat Soemitro in C.S.T Kansil's book argues that a legal entity is an entity that can have the same assets, rights and obligations as an individual.⁶ Then legal entities have the same legal position as legal subjects, which have elements, namely having obligations and rights, having their own assets, the existence of a group of people, being able to sue and also being sued before the court, and being able to take legal action.⁷ Private limited liability companies as legal entities can carry out legal actions, where legal entities have the same authority in carrying out actions as people⁸. However, legal actions carried out by legal entities are only limited to the field of property law, in which the form is an entity or institution, so in implementing them, legal entities can act with the intermediaries of their management⁹. One of the legal actions that can be done is to apply for a money loan to the bank¹⁰. Where in this era of globalization banks are part of the financial system and the world payment system¹¹. Referring to article 1320 of the Civil Code, engagements derived from agreements are mandatory to be able to fulfill the conditions for the validity of the agreement, namely agreement, capable in carrying out agreements, a certain cause and a lawful cause. As for making money loans at banks, it also has conditions in accordance with article 330 of the Civil Code, namely regarding a person's immaturity¹². In this case, it has an association with a private limited liability company established by one person and a minimum age

⁴In accordance with the definition of the company in the provisions of Article 1 subsection (1) of Government Regulation Number 8 of 2021, which states "A Limited Liability Company, hereinafter referred to as a company, is a legal entity that is a capital partnership, established under an agreement, conducts business activities with an authorized capital which is entirely divided into shares or individual legal entities".

⁵C.S.T. Kansil, Jm Christine Kansil, Introduction to Legal Science, Rineka Cipta, Jakarta, 2011, page 9

⁶Ibid, page 2

⁷Ibid, page 12

⁸Tri Jaya Ayu Pramesti, **Subjects of law in Civil Law and Criminal Law**, <https://www.hukumonline.com/klinik/a/subjek-hukum-dalam-hukum-perdata-dan-hukum-pidana-lt52bdf2508616>, retrieved on February 19, 2023, at 19: 40

⁹Ibid

¹⁰Rosy Hardy, **Adult Age Limit In Legal Act of Bank Credit Application**, Lamlaj Journal, Volume 2 Issue 1, Banjarmasin, 2017, page 4.

¹¹Adrian Stedi, **Banking law: a review of money laundering, mergers, liquidations, and bankruptcies**, Sinar Grafika, Jakarta, 2014, page 1

¹²Rosy Hardy, Ibid.

of 17 (seventeen) years, where the company already has assets in the form of building rights, Business rights and usage rights on behalf of persero¹³. Therefore, with these assets, the company can pledge its assets to banks to develop their companies. Furthermore, those who have the authority to carry out the aims and objectives of the company are the directors¹⁴. This is what makes the problem, where in a private limited liability company whose founder is only 1 (one) person and is still 17 (seventeen) years old, namely not only as a shareholder but as a director of the company which in all legal actions is carried out by the founder of the company¹⁵. carrying out this legal action, the directors of the company will deal with a notary to enter into an agreement called a Power of Attorney to impose Mortgage Rights, in which the debtor is a private limited liability company represented by the directors.

However, to face a notary has a requirement, namely that at least must be 18 (eighteen) years old or married and capable of doing legal actions¹⁶. This makes the founder of a private limited liability company inhibited from carrying out legal actions because there are differences in the regulation of the age limit for facing notaries with the founders of private limited liability companies, where the founder of the company as well as the management cannot appear before a notary because the requirements for facing are not in accordance with the Notary Position Law or called UUJN. Another provision that regulates the age limit is the Marriage Law No. 1 of 1974, namely the age limit of a person's adult age is 18 years. In addition, another regulation that regulates the age of majority of a person in the Civil Code which is abbreviated as Civil Code article 330 is "those who are not yet adults are those whose age has reached 21 (twenty-one) years and have not married before". The Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning child protection regulates the age limit of a person's adult according to article 1 paragraph (1), namely "children whose age has not entered 18 (eighteen) years, including children who are still in the womb".

Regulations governing the age limit of majority are related to the ability to perform legal acts¹⁷. If someone commits a legal act, but is not capable, then his action still cannot be accounted for and can be canceled¹⁸. This ability determines a person to be able to receive rights or perform legal actions or not. Therefore, from the description above, it can be seen that the determination of the age of 17 years as the founder of the private limited liability company, should not be able to take legal action. Based on this background, the author sees the problems that arise with the existence of private limited liability companies established by micro and small businesses as legal entities with various other regulations governing the age limit of adulthood.

This article has used the theory of legal certainty according to Nurhasan Ismail (the creation of legal certainty in legislation requires a requirement for the internal structure of the legal norm itself), namely *the provisions of a number of laws and regulations related to one particular subject do not contradict each other*. Besides, this article applied the theory of the legal system according to **Lawrence Milton Friedman**, which in the case of this study the components in the substance of the law that can not run optimally because of the conflicting regulations.

¹³ In accordance with the definition of assets in the provisions of article 1 point 1 of Law Number 40 of 2007 concerning Limited Liability Companies, which states "company assets or known as company assets are all goods, both movable and immovable, both tangible and intangible, belonging to the company".

¹⁴ Presidential Regulation of the Republic of Indonesia Number 2 of 2022 concerning Job Creation

¹⁵ Shinta Pangesti, **Strengthening Limited Liability Company Regulations for Micro and Small Enterprises in Supporting Economic Recovery During the Covid-19 Pandemic**, Journal Rechts Vinding Volume 10 No 1, Tangerang, 2021, page 12

¹⁶ Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position

¹⁷ R. Soebekti, **Fundamentals of Civil Law** Intermasa, , Jakarta, 1994, hlm 9

¹⁸ Ahmad Mafaid, **The Ability To Accept Rights And Perform Legal Acts In The Review Of Usul Fiqh**, Journal of Islamic Family Law Volume 1 No 1 2020, page 9

Research Methods

This article was normative legal research, namely a scientific research procedure to find truth based on legal scientific logic from its normative side.¹⁹ Through this article, the author wants to review the rules of the agreement of the founder based on private limited liability company in Government Regulation Number 8 of 2021 jucto article 39 of the Notary Public Act to generate legal certainty for the person who is the founder of a private limited liability company and is under 18 (eighteen) years old to conduct legal business in front of a notary. This article used the method of statute approach and conceptual approach which is done by analyzing the consistency and synchronization between the Civil Code or the Civil Code, Law No. 11 of 2007 on limited liability companies, government regulation of the Republic of Indonesia number 8 of 2021 on the Authorized Capital of the company and registration of establishment, as well as the notary position law to determine the legal authority of the perpetrators who are the founders of private limited liability companies.

Result and Discussion

Limited Liability Company is also called the Company which is a legal entity that is one of the pillars of national economic development in the Indonesian economy²⁰. Legal developments in Indonesia now recognize a new legal entity called a private limited liability company. The basic difference between a private limited liability company and a company is that the founder, capital and organs that run the private limited liability company are only 1 (one) person. In line with the organ theory or realist theory according to Otto von Gierke and Maitland, a legal entity is a reality just like a legal subject in the form of a human who needs his equipment in the form of human limbs to perform an act. Therefore, legal entities in carrying out legal acts also still require the mediation of their equipment such as directors and commissioners. In this case, the directors and commissioners of a private limited liability company are the founders themselves. Based on the organ theory, there are many legal acts that can be carried out by private limited liability companies as legal entities like humans. Nevertheless, legal entities cannot perform legal acts within the scope of family law like humans.²¹

The definition of a private limited liability company according to Article 109 of the Job Creation Law concerning Changes in Provisions in Law Number 40 of 2007 concerning Limited Liability Companies states "A Limited Liability Company, hereinafter referred to as the Company, is a legal entity that is a capital partnership, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or *Individual Legal Entity that has met the criteria for Micro and Small Enterprises as stipulated in the laws and regulations on Micro and Small Enterprises*". Focusing on the phrase "Individual Legal Entity that has met the criteria for Micro and Small Enterprises as stipulated in the laws and regulations on Micro and Small Enterprises", it indicates a new arrangement that certifies or legalizes Micro and Small Enterprises (MSEs) with the status of legal entities also known as Private Limited Liability Companies. Private Limited Liability Companies are further regulated in Government Regulation Number 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Changes, and Changes in Companies that Meet the Criteria for Micro and Small Enterprises.

Because private limited liability companies are MSEs with legal entity status, private limited liability companies are also referred to as legal subjects. The subject of law is something that gets legal rights and obligations, those who have the right to get these rights and obligations are humans (

¹⁹(Ibrahim, 2006) p. 57

²⁰ Law No.40 of 2007 concerning Limited Liability Company

²¹ Achmad Ali, **Reveal The Law**, Second Edition, Kencana, Jakarta, 2015, p. 246

natuurlijke person) and legal entities (*rechts person*). According to researchers, there are things that need to be understood further about legal entities as legal subjects. Although a legal entity is a legal subject who is authorized to perform legal acts, it is still inseparable from the authority to act its organs in the form of humans. Therefore, the authority to act from the private limited liability company organ, in which the representation is only the founder of the private limited liability company itself, remains important, especially regarding its capabilities. It seems that the ability of a private limited liability company founder is something that has escaped careful consideration by regulators, considering the dissynchronization of the age requirements for private limited liability company founders in Government Regulation Number 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Changes, and Dissolution of Companies that Meet the Criteria for Micro and Small Enterprises with the provisions in Law Number 2 of 2014 concerning Amendments to the Law Number 30 of 2004 concerning Notary Position.

1.1 Legal Authority a Person Who Is the Founder of a private limited liability company Under the Age of 18 to Perform Legal Acts Before a Notary.

The authority to carry out legal actions (authority to act) is related to legal competence. Legal competence is the general authority to perform legal acts. The correlation with the authority to act is, when man has been declared to have legal authority, he is given the authority to carry out his rights and obligations. To be able to carry out their rights and obligations, legal skills are needed.²² Between legal authority (authority to act) and legal competence can be examined where the difference lies and consequently, in the presence of legal incompetence on the agreement made can be demanded for cancellation by the incompetent party (through his representative or by himself when he is an adult). Meanwhile, the result of the inaction is that the agreement is null and void.²³

Reviewing the Civil Code, the provisions of Article 1329 stipulate that basically everyone is capable of making agreements, unless the law specifies otherwise. The act of entering into an agreement is the most common legal act performed by members of society. Given the freedom and ability given to everyone to enter into the agreement, the regulator sets the age of majority to protect parties to the agreement who are considered unable to formulate their will correctly and have not been able to fully realize the legal consequences arising from their actions. For that reason, in this article, the researcher examines further the age of proficiency of legal subjects, which in this case are humans as founders of private limited liability companies in carrying out legal actions.

A. Regulatory Juridical Analysis Regarding the Age of Proficiency of Legal Subjects in Performing Legal Acts.

As is well known, there are various limits for determining the age of majority in the laws and regulations in force in Indonesia. Based on the Civil Code, the provisions of Article 330 of the Civil Code regulate immaturity, as follows:

“Immature are those who have not reached the age of 21 (twenty-one) years and have not married before. If the marriage is dissolved before they are even 21 (twenty-one) years old, then they do not return to immature status. Those who are minors and not under parental control, are under guardianship on the basis and in the manner set forth in sections 3, 4, 5 and 6 of this chapter.”

“determination of the meaning of the term "immature" used in several laws and regulations against the people of Indonesia. to remove any doubts caused by the existence of the Ordinance of 21 December 1971 in S.1917-738, this Ordinance is repealed, and is prescribed as follows:”

²² Civil Law, AGE RESTRICTION (Skills and authority to act based on age restrictions) in RAKERNAS Supreme Court Paper, 2011, page 1

²³ *ibid.*, page. 4

- (1)“if the regulations use the term "immature", then as far as the population of Indonesia is concerned, by the existence of the term is meant all persons who have not reached 21 (twenty-one) years of age and who have never previously married”;
- (2)“If the marriage is dissolved before they turn 21 (twenty-one) years old, then they do not return to immature status”.
- (3)“In the sense of marriage does not include child marriage”.

Considering that adulthood is associated with the ability to perform legal actions, it seems that the attitude of the Civil Code regulator is based on the assumption that a person who has reached the age of even 21 (twenty-one) years or has been married is declared to be able to formulate his will correctly and can already realize the legal consequences of his actions. In addition, the stipulation of the age of 21 (twenty-one) years in the Civil Code uses quantitative measures with the aim of emphasizing the value of legal certainty. The use of the age limit of 21 (twenty-one) years to measure maturity in Indonesia began in 1905, and in 1917 - based on S. 1917: 378 - applied to the Chinese.²⁴

Turning to Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, this law amends the provisions of the age of majority previously regulated in Law Number 1 of 1974 concerning Marriage. Referring to the provisions of article 7 paragraph (1) of Law Number 16 of 2019, it is regulated as follows:

- (1)“Marriage is only permitted when the man and woman have reached the age of *19 (nineteen) years.*”

Based on the provisions mentioned above, it can be understood that the regulator of Law Number 16 of 2019 no longer distinguishes the age of maturity between men and women for marriage. The determination of the age of maturity of 19 (nineteen) years means that a person who is 19 (nineteen) years old is considered legally capable to enter into a bond (agreement) of inner birth between a man and a woman as husband and wife with the aim of forming a family (household). Referring to the explanation of Law Number 16 of 2019, the determination of the age limit of 19 (nineteen) years with the intention that the age is considered mature in body and soul to be able to carry out marriage in order to realize the goals of marriage properly without ending in divorce and get healthy and quality offspring. The difference in determining the age of maturity of a person in the Civil Code with Law Number 16 of 2019 can be understood by researchers because of the significant development of the era between the era when the age of 21 (twenty-one) years came into force to measure maturity in 1905 and the period when the age of 19 (nineteen) years came into force as the age of maturity according to the Marriage Law. In 1905, school education was not easily accessible to all levels of society, thus affecting the process of maturity of thinking and maturity of a person. Turning to this era, the government has required a school education period of 12 (twelve years), namely up to the Senior High School (SMA) level. Thus, there is a significant difference between a 21-year-old in 1905 and a 19-year-old today. Therefore, researchers agree with the regulator of the Marriage Law regarding the determination of the age of maturity to be able to enter into a marriage bond is the age of 19 (nineteen) years.

Turning to the provisions of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, it is known that the age limit for a person to be categorized as a child is in the provisions of article 1 paragraph (1), which is as follows:

- (1) “Child is a person who is *not yet* 18 (eighteen) years old, including children who are still in the womb”.

Further examining in this law, it is known that it does not expressly regulate the age of maturity of a person in relation to carrying out legal acts, but based on the provisions of article 1 paragraph (1) it

²⁴ *ibid.*, page 5

shows that the person entitled to child protection is a person whose age is *not yet 18 (eighteen) years old*. Therefore, it can be interpreted that a person who is 18 (eighteen) years old is declared as a person with adult age and can protect himself so that he no longer needs protection like children in general.

The use of the age of 18 (eighteen) years is also found in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions. Referring to the provisions of article 39, the conditions of the Facing have been regulated as follows:

(2) "The person must fulfill the following conditions":

- a. "*Who are least inclined to be 18 (eighteen) years of age or married*"; and
- b. "Competent in doing legal acts"

(2) "The person must be known by a notary or introduced to 2 (Two) identifying witnesses who are at least 18 (eighteen) years old or have been married and are capable of performing legal acts or introduced by 2 (two) other people".

(3) "The introduction as meant in subsection (2) is expressly stated in the deed".

In the notary office law, there is no reason for using the age of 18 (eighteen) years as a requirement for someone to appear before a notary. However, when it comes to the age limit of children in Law Number 35 of 2014 (Child Protection Law), it can be understood that the regulator of the notary office law wants someone who can be faced is someone who is not a child as in the Child Protection Law. Additionally, because a person who is 18 (eighteen) years old is no longer categorized as a child, he is considered to have been able to formulate his will correctly and can already realize the legal consequences of his actions. Furthermore, it can be understood that according to the notary office law, the age of 18 (eighteen) years is the age at which a person already has the ability to act.

In the Notary Office Law, the term Facing is used to refer to legal subjects who come before a Notary. As explained at the beginning of the discussion, basically everyone is capable of entering into an agreement according to the provisions of article 1329 of the Civil Code. Therefore, when it is important to appear before a notary is a child (someone who is before 18 (eighteen) years old), then a guardianship institution is needed. Furthermore, the Civil Code regulates in such a way as to protect children, namely in accordance with the provisions of article 393, the guardian of the child in carrying out acts of transfer of land rights requires power from the court.

Based on the determination of the age of majority in the Child Protection Law and the Notary Position Law, a debate arose when the Government Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Change, and Dissolution of Companies That Meet the Criteria for Micro and Small Enterprises determines the requirements for the establishment of a private limited liability company by Indonesian citizens who are at least 17 (seventeen) years old. This provision can be found in the provisions of article 6 which states as follows:

1. "Private Limited Liability company established by an Indonesian citizen or referred to as an Indonesian citizen by filling out the statement of establishment in Indonesian";
2. "Indonesian citizens as referred to in paragraph (1) must meet the requirements, namely:
 1. "be at least 17 (seventeen) years old; and
 2. "speak the law"
 3. "A private limited liability company obtains the status of a legal entity after being registered with the Minister and obtaining a certificate of registration electronically";

4. " Private Limited Liability Companies that have obtained the status of legal entities as referred to in paragraph (3) are announced by the Minister on the official website of the directorate general which carries out duties and functions in the field of general law administration".

It can be seen from the various existing regulations, regarding the age of proficiency of legal subjects, there is one regulation that is not harmonious, namely in government regulation No. 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Change, and Dissolution of Companies that meet the criteria for Micro and Small Enterprises. In this regulation, it is required for private limited liability companies whose founders are at least 17 (seventeen) years old, where in other regulations the minimum adult age is 18 (eighteen) years. Legal adulthood in this case is meant by the existence of a certain age limit according to the law that is considered capable of carrying out legal actions. The ideals of the establishment of the regulation, which is a derivative of the Job Creation Law, are to be able to open up the widest possible job opportunities in the midst of competition in the era of economic globalization, which is expected to increase investment, empower micro, small and medium enterprises, cooperatives, accelerate national strategic projects, and also worker welfare. But the legal system in Indonesia in forming a regulation, it is required that one regulation with another interrelated regulation must be harmonious. However, based on the juridical analysis of the age limit of maturity in the laws and regulations as described above, there was found to be a disharmony.²⁵

According to **Lawrence Milton Friedman**, the legal system is divided into 3 (three) components, namely legal structure, legal substance and also legal culture. When viewed from the existing cases, the components in the legal substance cannot run optimally, due to conflicting regulations. The problematic legal substance creates legal uncertainty, while legal certainty is an inseparable feature of the law, especially for written legal norms. Based on legal certainty according to Nurhasan Ismail, he stated that the creation of legal certainty in laws and regulations requires a requirement for the internal structure of the legal norm itself. The internal requirements according to Nurhasan Ismail include the following:²⁶

1. Clarity of the concept used, meaning that legal norms contain descriptions of certain behaviors which are then integrated into certain concepts as well;
2. Clarity of the hierarchy of authority from the institution forming laws and regulations, meaning that the clarity of this hierarchy is important because it concerns whether or not it is valid and binding or not the laws and regulations it makes. Clarity of hierarchy will give direction to law formers who have the authority to form certain laws and regulations;
3. *The existence of consistency of statutory legal norms, meaning that the provisions of a number of laws and regulations related to one particular subject do not conflict with each other.*

As a result of the existence of legal rules regarding the age of maturity that conflict between Government Regulation No. 8 of 2021 with Law Number 2 of 2014, there are limitations for private limited liability company organs in carrying out certain legal acts (limited to private limited liability company founders who are not yet 18 (eighteen) years old). The Organ of a private limited liability company, namely the founder of a private limited liability company, is declared legally incompetent when in carrying out his legal actions he needs to appear before a notary. This is because according to UUJN, a person is declared capable when he is 18 (eighteen) years old. Meanwhile, Government Regulation No. 8 year 2021 with Law No. 2 year 2014 requires the founder of a private limited liability company to be at least 17 (seventeen) years old.

²⁵Riska Putri Wardani, **Analysis of Job Creation Law in Coordination of Law Formation Theory**, Journal Volume 1, Number 4, Sebelas Maret University, Surakarta, 2022, p. 724

²⁶Nurhasan Ismail, **Land Law: Political Economy Approach**, Huma and Master of Law UGM, Yogyakarta, 2007, p.39

B. Private Limited Liability Company as Legal Subject

Legal entities that are considered as legal subjects or in law are considered as persons, namely the organs that take care of the company, namely the management. Private limited liability companies which are regulated in Government Regulation No. 8 of 2021 which states that private limited liability companies are legal entities after the statement of establishment is registered with the Minister and obtain a registration certificate electronically, the provisions applicable in legal entities also apply to private limited liability companies.

In carrying out its business activities, private limited liability companies with the status of legal entities also have equipment to carry out their business activities. Equipment from private limited liability companies is referred to as the company's organs, namely the Board of Directors, General Meeting of Shareholders (GMS), and also the Board of Commissioners. However, in this private limited liability company, the Board of Directors is held by the Shareholders who are also the founders in accordance with the format of the statement of establishment. The General Meeting of Shareholders referred to as the GMS in a private limited liability company is only limited to the decision of the company's shareholders, then the Board of Commissioners in the private limited liability company organ does not exist. ²⁷*So that the internal organs of private limited liability companies established by 1 (one) person are shareholders as well as founders of the company who concurrently become directors of the company.* In the statement above, therefore private limited liability companies regulated in Government Regulation Number 8 of 2021 are included in companies that are legal entities, which means that the company is a legal subject that can be burdened by rights and obligations.

Legal entities also have the right to perform legal acts like human beings. Companies or entities or associations have their own wealth, which participate in legal traffic with intermediaries of their management, can be sued and can also sue before a judge. So those who have the authority to carry out legal actions of private limited liability companies are founders who are also directors of the company.

Unlike Limited Liability Companies, limited liability companies which are part of legal entities also have complementary tools referred to as individual organs consisting of the Board of Directors, the General Meeting of Shareholders referred to as the GMS, and also the Board of Commissioners²⁸. The General Meeting of Shareholders or referred to as GMS is an organ of the company that has authority not granted to the board of directors or the board of commissioners, the Board of Directors is an organ of the company that has full authority and responsibility for the management of the company for the benefit of the company in accordance with the aims and objectives of the company and represents the company both inside and outside the court, while the Board of Commissioners is the company's organ that has the duty to conduct general or special supervision in accordance with the articles of association and provide advice to the Board of Directors. This Limited Liability Company is established by at least 2 (two) or more people with a notarial deed made in Indonesian, Every founder of the Company is also required to take shares when the Company is established.

So that legal subjects who have the status of legal entities can perform legal acts, because legal entities have the authority to perform the same legal acts as people. However, legal acts carried out by legal subjects of legal entities are only limited to the field of property law, because the form of these legal subjects is an institution or entity. So in the implementation mechanism, the legal entity acts with the intermediaries of its administrators. *Each administrator who commits legal actions must be supported by his legal competence and authority*²⁹. In this case, legal actions that can be carried out by

²⁷Kurniawan, **Corporate Law Characteristics of Legal and Unincorporated Business Entities in Indonesia**, Genta Publish, Yogyakarta, 2014, p 13

²⁸ Kurniawan, **Company Law Characteristics of Legal Entities and Non Legal Entities in Indonesia**, Genta Publishing, Yogyakarta, 2014, pages 11

²⁹ Handri Raharjo Bala Seda, **Agreement Law in Indonesia**, Pustaka Yustisia, Yogyakarta, 2009, page 55

the management of the company's legal entity are pledging company assets in the form of a plot of land or buildings to the bank, making credit agreements at banks, buying and selling land, and pawning goods. The legal act requires a person's ability to act or a person is said to be an adult according to the law. A person considered an adult is a benchmark to be able to determine that person can be said to be capable of acting to do a legal act. A person's maturity in performing these legal acts is determined by age limits. Then, that a person's maturity is a requirement in order to be able to perform legal actions. The legal requirements that have been fulfilled as an adult state are referred to as maturity. A person who can be said to be capable or an adult who can perform legal deeds, one of which is able to carry out agreements, make wills and also perform marriages³⁰.

C. Legal Authority of a Person Who Is the Founder of a private limited liability company Under 18 Years Old to Perform Legal Actions Before a Notary.

The requirements for facing a notary as stipulated in article 39 of the Notary Office Law read as follows: "The person must meet the requirements, namely at least 18 (eighteen) years old or married, and capable in carrying out legal actions". Cakap is meant in this case is someone who has been said to be an adult who has authority in doing legal actions. While the authority meant in this case is to have or get the right or power to do something or do legal acts. In doing legal actions, the main factor is the age limit of a person, because it relates to a person's ability to perform legal acts. Private limited liability companies regulated in Government Regulation No. 8 of 2021 that have the requirements for establishment, namely a minimum of 17 (seventeen) years old, while to carry out a legal act before a notary in UUJN regulations before a notary is at least 18 (eighteen) years old.

As it is known that in the aspect of civil law, regarding the provisions of the age limit of adulthood a person relates to the provision that a person can be declared competent in carrying out legal actions. The Civil Code, also known as Article 330 of the Civil Code, states that "a person is considered an adult if he is 21 years old or has been married". This means that to perform civil law actions, a person must be declared adult and legally competent when he is 21 (twenty-one) years old or married or has been married. So someone who wants to make an agreement before a notary must pay attention to the provisions in Article 330 of the Civil Code, as required in article 1320 of the Civil Code which regulates the terms of validity of the agreement. Article 1320 stipulates that a person who wants to enter into an agreement must have agreement, competence, lawful cause and a certain thing. Regarding the terms of agreement and also competence are formal conditions of an agreement, while material conditions exist in lawful causes and a certain thing. However, if the formal conditions cannot be met, then the agreement made can be canceled. Meanwhile, if the material conditions of an agreement cannot be fulfilled, the agreement can be null and void.

Nevertheless, the regulations regarding the age limit of adulthood there are differences between the regulations in the UUJN and the Civil Code that make it confusing to use them. Given that there is a principle of *lex specialis derogat legi generali* which means that special laws (*lex specialis*) override general laws (*lex generalis*), notaries can override the provisions of the age limit of majority regulated in article 330 of the Civil Code, so that the regulations used in Article 39 paragraph (1) of the UUJN. There are differences in regulations regarding the age limit of a person's adult age are still applied differently by looking at cases that occur in society. With these different regulations, people are confused about which regulations to comply with. In doing a legal act someone has the authority to do that, but in doing so must still be legally competent, not least in carrying out legal acts of private limited liability companies.

With the difference in regulations that have the same status, namely legal entities, making the regulations in PP No. 8 of 2021 not authorized to carry out legal actions, because in carrying out legal

³⁰ Abdulkadir Muhammad, *Indonesian Civil Law*, Citra Aditya Bakti, Bandung, 2010, page 133

actions, one of the requirements is to be competent in carrying out legal actions. In order that the regulations regarding private limited liability companies are only limited to giving permission to establish private limited liability companies that have legal entity status, but to carry out legal acts such as buying and selling, dependent rights which if the private limited liability company has assets on behalf of the Company cannot perform legal actions, because those who should do legal actions are the founders. Then with the conditions for the establishment of a private limited liability company as stated in PP No. 8 of 2021, the *management of a private limited liability company becomes not authorized, which should be authorized because it has the status of a legal entity becomes unauthorized because its legal skills are not met.*

The government's efforts to resolve differences in regulations regarding the age of majority for a person to perform legal actions. First, the Supreme Court issued Circular Number 7 of 2012 concerning the Legal Formulation of the Results of the Plenary Meeting of the Supreme Court which was used as a guideline for the Court as a guideline for the implementation of duties. The Circular explains the provisions for the limit of maturity of a person, namely "that an adult is capable of acting in law, namely a person who has reached the age of 18 years or has married". The result was determined by the judge because most of the laws and regulations set the age of majority at 18 years. The second effort, the government issued a Circular Letter of the Minister of Agrarian Affairs and Space Tatat / Head of the National Land Agency Number 4 / SE / I / 2015 concerning the Age Limit of Adults in the Framework of Land Services. In the circular there is a provision number 7 which states "that the age of majority who can perform legal acts in the context of land services is at least 18 years old or married". So with these 2 efforts, it can provide a reference to the age limit for legal actions. When conducting civil law relations, the Supreme Court Circular Number 7 of 2012 can be the legal basis for determining a person's age of majority. To carry out legal actions in the land sector, you can pay attention to the Circular Letter of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency Number 4 / SE / I / 2015, to determine the age limit of a person's adult age in the context of land services. As for Circular Number 4 of 2016 concerning the implementation of the formulation of the results of the plenary meeting of the Supreme Court Chamber in 2016 as a guideline for the implementation of duties for the court, in the circular in the formulation of civil law number 1 states as follows: "the determination of the age of majority of a person in carrying out legal acts cannot be determined at the same age but is determined based on the law or legal provisions that regulate it in the context of the case the concerned (casuist)". This means that the circular states that regarding the difference in adult age limit regulations, they will use regulations in accordance with the case being experienced, so that they relate to private limited liability companies which are further regulated in PP No.8 of 2021 which requires the founder to be at least 17 (seventeen) years old if faced with legal acts carried out before a notary, it is necessary to comply with the UUJN which requires the face to be at least 18 (eight twelve) years or married and capable of doing legal deeds.

Conclusion

1. Regulations concerning the age of majority in laws and regulations in Indonesia vary. So that there are efforts to harmonize the age of adulthood through SEMA Number 7 of 2012 and Circular Letter of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency Number 4 / SE / I / 2015 that the age of majority used in carrying out legal acts in the civil sphere is 18 (eighteen) years and SEMA Number 4 of 2016 regarding the age limit of majority in carrying out legal acts will be determined based on legal provisions in the case concerned. However, specifically for marriage legal acts, it still follows the provisions for the age of 19 (nineteen) years as in Law Number 16 of 2019.
2. There is a legal conflict in positive law in Indonesia regarding the age limit of majority in Indonesian legislation. The determination of the age of 17 (seventeen) years regulated in PP No. 8 of 2021 creates legal uncertainty, which causes legal authority before a notary to be uncertain. The

authority to act possessed by a private limited liability company when reviewed under the Notary Department Law, then he is declared as an incompetent person so that he is not authorized to act as a face in the notarial deed. So that the uncertainty of the authority of the founder of the company in carrying out legal actions has an impact on the authenticity of the deed made before a notary.

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