
| RESEARCH ARTICLE

Analysis of Bantul Regency Regional Regulation Number 3 of 2022 Concerning Building Management

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| ABSTRACT

Regional autonomy has an influence on regional authorities to manage their own regional households in accordance with the capabilities and potential of the region. One of the affairs that fall under the authority of the regional government of Bantul Regency is related to the affairs of the Implementation of Building Construction which is then regulated through Regional Regulation No. 3 of 2022 concerning Implementation of Building Construction. Regional regulations, as written laws made based on the needs of the community, must, of course, be adapted to societal developments and the legal politics of government administration. Therefore, regional regulations require periodic evaluations to see the suitability of the regulated content material with developments in implementation in the community. This research focuses on what is the urgency of the analysis and evaluation of Bantul Regency Regional Regulation No. 3 of 2022 concerning the Implementation of Buildings and how to analyze and evaluate the Bantul Regency Regional Regulation No. 3 of 2022 concerning the Organization of Buildings. The research was carried out using the juridical-normative method with the laws and regulations approach, which was then analyzed descriptively and qualitatively. The research found that both formally and materially, the content was in accordance with the sectoral law, namely Law Number 28 of 2002 and further provisions stipulated in PP No. 16 of 2021 concerning Regulations for Implementing Law Number 28 of 2002 concerning Buildings, but it seems that it is only a copy and paste of the two legal bases. For this reason, in order to avoid repetition or duplication of arrangements, it is necessary to make arrangements that take into account local needs and wisdom in Bantul. Therefore, the author recommends the need for improvement in the section related to the implementation of the Bantul Regency Regional Regulation No. 3 of 2022 concerning the Organization of Buildings.

| KEYWORDS

Analysis, Regional Regulations, Building Management

| ARTICLE INFORMATION

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1. Introduction

1.1 Preliminary

The implementation of regional government is directed at accelerating the realization of social welfare through improving services, empowering community participation, as well as increasing regional competitiveness by taking into account the principles of democracy, equity, justice and the uniqueness of a region within the system of the Unitary State of the Republic of Indonesia with regional autonomy. In government, autonomy implies managing one's own household. Charles Eisenmann explained that autonomy is the freedom to make your own decisions while respecting the law. Meanwhile, according to The Liang Gie, autonomy is the authority to carry out the interests of a group of residents who live in a certain area which includes regulating, managing, controlling, and developing various needs for the life of the population.

In autonomy, there must be sufficient space to exercise the freedom to run the government; in autonomy, it is always necessary to have independence or freedom. It is not even an exaggeration to say that the essence of autonomy is independence, although

it is not a form of freedom for an independent unit (*zelfstandigheid*), not *onafhankelijkeheid*. Autonomy is not a process of regional liberation in the sense of independence (separate sovereignty), or autonomy cannot be interpreted as absolute complete freedom of a region (*absolute onafhankelijkheid*) because autonomy is a process of providing opportunities for regions to be able to develop according to their potential.

Autonomy must be meaningful as a way of optimizing all local potentials, both natural, environmental and cultural. And optimization is not exploitation but a process that allows regions to develop themselves, changing the lives of local communities for the better. Therefore, the existence of regional government and village government is a logical consequence of the theory of *division of power* which is the vertical division of power within a country between the central government and local government. The theory of *division of power* is the basic principle for the formation of a civilized government (*civil government*). This means that the division of power vertically in a country is carried out according to the regions, with the aim of realizing the basics or political values of society (*political community*).

Regional autonomy in Indonesia has an impact on each region to be given rights, powers and obligations to regulate and manage their own household in accordance with applicable laws and regulations.

In Article 9, paragraphs (3) and (4) of Law Number 23 of 2014 concerning Regional Government (Regional Government Law), the regions have the authority to regulate and run affairs in the context of implementing regional autonomy, which is then referred to as concurrent government affairs. Concurrent government affairs, as referred to in Article 9 paragraph (3), which become the authority of the Region, consist of Mandatory Government Affairs and Optional Government Affairs. Mandatory Government Affairs, as referred to, consist of Government Affairs related to Basic Services and Government Affairs not related to Basic Services. Compulsory Government Affairs related to Basic Services are Compulsory Government Affairs in which some of their substance constitutes Basic Services.

To support the implementation of the authority granted as an autonomous region, Provinces, Cities and Regencies are given the authority to administer a regulatory system that is also autonomous in nature, known as Regional Regulations (Perda). This is accommodated in Article 236 paragraph (1) of Law Number 23 of 2014 concerning Regional Government (UU Pemda), which states that in order to carry out Regional Autonomy and Co-Administration, the Regions form a Regional Regulation.

Furthermore, in paragraph (3), it is stated that the Perda contains the content of: a. implementation of regional autonomy and co-administration tasks; and b. further elaboration on the provisions of higher laws and regulations. In addition, in paragraph (4), it is also emphasized that regional regulations are instruments that can contain local content material in accordance with statutory provisions.

Seeing the authority of the affairs that have been conveyed above, the regional government of Bantul Regency has the authority to carry out affairs related to the Implementation of Buildings, which are further regulated through Regional Regulation No. 3 in the Year 2022.

From the perspective of legal sociology, laws (regulations), including in this case regional regulations, arise with the existence of a community need to resolve a problem, as well as protect the interests of the community. Therefore, the law is formed from and enforced for the community itself.

On the other hand, due to the standard nature of the law, it is often limping in adjusting to the legal needs of society. Often encounter after the law (regulation) has been passed, it is possible for new problems to arise which require settlement in the regulation of legal norms which have not been contained in the law (previous regulation). Moreover, if in a state organization, there is a shift in legal politics towards the regulation of things, then often, the law has to accelerate it. Therefore, a regulation needs to be reviewed (evaluated) periodically to ensure that the regulation is still relevant to the needs of the community. For this reason, the writer is interested in researching " **An Analysis of the Bantul Regency Regional Regulation Number 3 of 2022 Concerning the Implementation of Buildings.**"

2. Method

The research method used is juridical-normative, namely studying the application of rules or norms in positive law to concrete problems related to the effectiveness of the enactment of the law. The approach method in the evaluation study of regional regulations uses a *statute approach*. The statutory approach is carried out by examining regional regulations associated with regulations that are vertical and horizontal. Data processing and analysis in the preparation of this regional regulation evaluation study used a qualitative descriptive technique.

3. Results and Discussion

3.1 The urgency of evaluation Bantul Regency Regional Regulation No. 3 of 2022 concerning the Organization of Buildings.

Perda has an important position in the implementation of regional autonomy. In fact, with the inclusion of the word regional regulation in Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia (UUD NRI), the position of regional regulations becomes stronger in the hierarchy of laws and regulations.

Regardless of the importance of regional regulations for the implementation of regional autonomy, as stated above, there are several things that researchers/compilers need to convey. *First*, it is inevitable that a region will have regional regulations that need to be amended along with changes in regional dynamics as an implication of imperfect regional regulations owned by each region. *Second*, even a far more perfect regional regulation is not enough to guarantee that the implementation of the regional regulation's mandate can be carried out according to its substantive formulation. This is what then has the potential to occur in various regional regulations that apply in Bantul Regency.

Realizing this imperfection then collides with the role of regional regulations, which are so important in the implementation of regional autonomy; in the simplest terms, it is necessary to understand that regional regulations as a political contract at the regional level must be drawn up based on clear philosophical, juridical and sociological foundations. These three basics are important things that need to exist, considering that these three are the spirit of the drafting of the regional regulation itself. *First*, with regard to the philosophical basis. Refer to the annex to Law Number 12 of 2011 concerning the Formation of Legislation

Invitation, it is said that the philosophical basis is a consideration or reason that illustrates that the regulations formed must take into account the view of life, awareness, and legal ideals, which include the mystical atmosphere and the philosophy of the Indonesian nation, which originates from the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). In the context of regional regulations contained in Bantul Regency, all currently valid regional regulations must be reviewed for conformity with the values and basic philosophy of the state and the objectives of the Indonesian state. *Second*, with regard to the juridical basis. The juridical basis is a consideration or reason that illustrates that the regulations formed are an alternative to overcoming existing legal problems or to filling legal voids by taking into account existing rules, which will be amended, or which will be revoked in the context of realizing legal certainty and a sense of justice in society. The juridical basis concerns various legal issues related to the substance being regulated, which then makes it necessary to form certain regulations. Some of these problems are regulations that are no longer accommodative, regulations that are not in harmony or overlap with other regulations or even regulations that do not exist at all.

If it is contextualized in Bantul Regency, it can be drawn from the thread that the regional regulation to be formed must be prepared on the right juridical basis, whether the regional regulation is an alternative to address existing legal problems or is it actually used to fill a legal void by taking into account existing regulations, which will be amended, or which will be repealed. If then the regional regulations that are still in effect are drafted as an alternative.

If there are existing problems, it must be ensured that there are no material contents of regional regulations which actually give rise to various new problems that have a negative impact on society. Likewise, if the regional regulation is drafted to fill a legal void, then don't let the content of the regional regulation actually provide more "blank checks" for statutory regulations.

Invitations under it, at the practical level, will also create new legal problems. *Third*, related to the sociological basis. The sociological basis is a consideration or reason that describes the community's need for the presence of regulations in various aspects. In other words, the sociological basis is basically related to empirical facts regarding the development of problems and the community's need for a regulation to be formed. Again, if it is contextualized with various existing regional regulations, the sociological basis that needs to be considered in the formation and implementation of regional regulations is the dynamics of regional regulation implementation in the field.

In addition to its formation, which must be prepared based on clear philosophical, juridical and sociological foundations as described above, the contents and implementation must also be continually evaluated so that the substantive objectives of forming the regional regulation can be achieved. Don't come to the implementation level, regional regulations

The regional regulations that are currently in effect are not in line with the philosophy of their formation, conflict with the existing laws and regulations, or are not even accommodating to the social development of the community in Bantul Regency. It is in this phase that the study and evaluation of regional regulations are important to do in order to ensure that the regional regulations, as intended, can answer the problems that exist in society.

3.2 Analysis and Evaluation of Bantul Regency Regional Regulation No. 3 of 2022 concerning Organization of Buildings.

a. Authority

Bantul Regency Regional Regulation No. 3 of 2022 concerning the Implementation of Buildings in the form of referring to the Government in 2020 has made a regulation referring to the omnibus legislation, namely Law Number 11 of 2020 concerning Job Creation, which is then abbreviated as Law no. 11/2020 concerning Job Creation. Invite

This law reorganizes the articles that have a broad scope, which regulates cross-sectors that are under the affairs of various ministries; the aim is to accelerate the consolidation of conflicting regulations together and make it a reference for all regulations for related sectors. Referring to Law no. 11/2020 concerning Job Creation, this law amends Law Number 28 of 2002 concerning Buildings, hereinafter abbreviated as Law No. 28/2002 concerning Buildings, so the implementing regulations for this law have also changed, one of which is Government Regulation Number 16 of 2021 concerning Implementing Regulations for Law No. 28/2002 concerning Buildings, hereinafter abbreviated as PP No. 16/2021, this implementing regulation revokes the previous implementing regulation, namely Government Regulation Number 36 of 2005 concerning Implementing Regulations for Law No. 28/2002 concerning Buildings, hereinafter referred to as PP No. 36/2005 concerning Implementing Regulations for Law no. 28/2002 concerning Buildings. Referring to PP No. 36 of 2005, there is a regulation regarding Building Construction Permits, or commonly abbreviated as IMB. IMB is a permit granted to building owners to build new, change, expand, and/or reduce buildings in accordance with applicable administrative requirements and technical requirements.

b. Opening

Formally, the Regional Regulation of Bantul Regency No. 3 of 2022 concerning the Implementation of this Building is in accordance with Law Number 12 of 2011 concerning the Formation of Legislation. However, there are notes that the implementation is still not appropriate.

A regional regulation does not have to contain a philosophical, sociological and juridical basis. If the regional regulation is formed to implement higher laws and regulations, then it is enough to contain one consideration which contains a brief description regarding the need to implement the provisions of an article or several articles of the law or government regulation ordering the formation of said regional regulation by designating an article or several articles of the Act or Government Regulation that orders its establishment. If you look at the Bantul Regency Regional Regulation Number 3 of 2022 concerning the Implementation of Building Construction, in this case, it is emphasized in this case; the article explains that the government is obliged to protect a conducive business climate and business certainty, protect the public interest, and maintain the environment. So the Building Permit is a means of control, simplification, and legal certainty in doing business. The government of 2020 has made omnibus legislation, namely Law Number 11 of 2020 concerning Job Creation, which is then abbreviated as Law No. 11/2020 concerning Job Creation. This law reorganizes the broad-reaching articles, which regulate cross-sectors that are under the affairs of various ministries; the aim is to accelerate the consolidation of conflicting regulations together and make it a reference for all regulations for related sectors.

c. Legal basis

Analysis of the legal basis for Bantul Regency Regional Regulation Number 3 of 2013 concerning the Implementation of Building Construction is divided into three types of statutory status and relevance as a legal basis. First, the status of laws and regulations remains and is still relevant, namely Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia, Law Number 28 of 1999 concerning State Administrators who are Clean and Free from Corruption, Collusion and Nepotism, Law Number 14 of 1999 2008 concerning Public Information Disclosure, Referring to Law no. 11/2020 concerning Job Creation, this law amends Law Number 28 of 2002 concerning Buildings, hereinafter abbreviated as Law No. 28/2002 concerning Buildings, so the implementing regulations for this law have also changed, one of which is Government Regulation Number 16 of 2021 concerning Implementing Regulations for Law No. 28/2002 concerning Buildings, hereinafter abbreviated as PP No. 16/2021, this implementing regulation revokes the previous implementing regulation, namely Government Regulation Number 36 of 2005 concerning Implementing Regulations for Law No. 28/2002 concerning Buildings, hereinafter referred to as PP No. 36/2005 concerning Implementing Regulations for Law no. 28/2002 concerning Buildings .

4. Conclusion

The results of the research that I can conclude are as follows, the Government of the Republic of Indonesia stipulates and promulgates Law Number 11 of 2020 Concerning Job Creation with the hope that it will smoothen the economic cycle and provide legal certainty for investors who want to start investing in Indonesia, not only that the Government hopes the Republic of Indonesia will rise by facilitating licensing processes to penetrate bureaucratic boundaries that have long been known to be complicated and time-consuming.

Then the implementation of permits for the building sector itself, the application of PBG has begun to be carried out by many regions, but in Bantul Regency itself, the implementation of PBG has not been carried out and is currently in the experimental stage, so the issuance of permits still uses IMB which permits are still being issued by the Investment and Investment Service. One Door Integrated Services.

In addition, the implementation of supervision in building permits in Bantul Regency, seeing that Bantul Regency still applies IMB so that Supervision is carried out by technical SKPDs, namely by the Public Works and Spatial Planning Office, namely overseeing in terms of controlling the implementation of building construction and controlling building utilization.

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