

VALIDITY OF CIRCULATION OF MEETING MINUTES AS A BASIS FOR MAKING DEED OF MEETING MINUTES

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ABSTRACT

Abstract: Limited Liability Company (PT) is a common form of company in Indonesia. In holding a general meeting, the PT follows certain procedures, including the circulation of minutes. A general meeting is an important forum where shareholders can take strategic decisions and oversee the management of the company. Minutes circulation is the process of disseminating meeting minutes to shareholders for approval. General meeting minutes contain detailed records of discussions, decisions, and actions taken in the meeting. This document must comply with the provisions of the company's laws and regulations. After the meeting is over, minutes are circulated to shareholders for approval or revision if necessary. The process of circulating minutes allows shareholders to understand the results of meetings and provides opportunities to provide input or improvements. Approved minutes become the official record of the meeting and are important for the purposes of documentation and legal compliance, Notaris is the general officer authorized to make authentic deeds insofar as this provision is not specific to other general officials. The purpose of this paper is to see how the validity of the circulation of minutes of the general meeting of shareholders as the basis for making the deed of minutes of the meeting by a Notary

Keywords: Validity; Circulation; Meeting Minutes

Introduction

According to human nature, humans have a tendency to live in groups, there are no humans who are perfect and able to meet their own needs, the abilities of each human being are limited and each has different abilities so that to maintain life, humans live in groups, humans are *zoon politicon* which means humans are creatures who always want to get along (Seligman, n.d.). With their nature that likes to interact with each other, humans are categorized as social creatures (Hajati, Poespasari, & Moechthar, 2019), in this interaction it gives birth to an agreement between one party and another party based on the law that regulates it, to avoid any default or default where one party does not do its obligations, then the law is present as a binding between them .

Law aims to neutralize or divert conflicts towards a direction that is acceptable to society. therefore in order for life between them to be safe, orderly and peaceful, Notary services are needed that function to regulate legal relations in the field of agreements, to maintain public interests in society, maintain human rights as legal subjects

(Kusumawati & Sawarjuwono, 2019). In addition to individual human beings (*natuurlijke persoon/natural person*), legal subjects in the form of legal entities can also perform legal acts and have legal rights and obligations and interests towards other people and other entities. The main factor required by a legal entity is the separation between the wealth of an individual (in the legal entity) and what must be considered owned by an entity outside the natural person so that it is not possible for the actions of individuals who commit arbitrary legal actions against the property.

Along with the course of business of a business entity in the form of a Limited Liability Company (PT), it has become common if there is a change both in terms of capital, composition of shareholders, members of the board of directors and commissioners, or it can also be a company releasing its shares to the public known as IPO (*Initial Public Offering*). Changes that occur in the company require different procedures in accordance with laws and regulations. Based on Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), (Pura & I Nyoman Budiman, 2018) there are three types of changes to PT, consisting of changes to the Articles of Association that require ministerial approval, Changes to the Articles of Association notified to the minister; and Changes in data notified to the minister. The amendment to the Articles of Association that requires ministerial approval is a change to the company's name; the Company's place of residence; term of standing; purpose and business activities; increase in authorized capital; decrease in authorized capital; issued and paid-up capital; Company status (from closed to public company or vice versa). Meanwhile, changes to other articles of association do not require ministerial approval, but need to be notified to the minister. The changes in the basic budget in question include; increase in issued or paid-up capital without change in authorized capital; change of company type from national private to PMA (Foreign Capital Investment), PMDN (Domestic Investment), or BUMN (State-Owned Enterprises); and Changes to other chapters or paragraphs other than those mentioned above .

From the explanation above, it is known that there are changes to the PT that require ministerial approval and changes to the PT that only need to be notified to the minister. Regarding changes to the PT that must get approval from the minister, it has a period of time. The period for submitting an application for amendments to the articles of association that requires ministerial approval must be made no later than 30 days from the notarial deed containing the amendments to the articles of association. If it passes from that period, then the application for amendment of the articles of association cannot be done. (Kansil, 1997) The notary at the request of the claimants is authorized to make the first deed, ordered by laws and regulations, and the second because it is desired by the parties, for the making of the deed desired by the parties/confronters must be granted or fulfilled by the notary if the deed desired by him does not substantially violate or contradict the law. (Adjie & Hafidah, 2022).

The General Meeting of Shareholders (GMS) held by a company is a very important organ in taking various policies related to the company, so in accordance with Article 77 paragraph (4) of UUPT No.40 of 2007 every GMS must be made minutes of meeting approved and signed by all GMS participants. In practice, GMS is stated in an authentic deed made before a Notary. A notary is a general official who has the authority to make authentic deeds regarding all deeds, agreements and determinations ordered by general regulations or requested by the parties who make the deed.(Mertokusumo, 2004)

The role of Notaries in making minutes of GMS meetings can be seen from the general opinion held in every authentic deed, where the notary has responsibility for the correctness of the contents contained in a deed, for what is seen and witnessed related to an event regarding legal actions. Thus, the deed made has evidentiary value as an authentic deed. The position of the deed made by a notary in connection with the General Meeting of Shareholders (GMS) can be seen in two forms, namely as a *relaas deed (official deed) which is made by a notary*, and in the form of a partij deed, which is a deed made before a Notary.

A PT deed is a very important legal document in the establishment and regulation of a limited liability company in Indonesia. A deed of establishment is required to establish a company in Indonesia. A PT is a form of company that has a separate legal entity from the owner. This is a commonly used business structure for large, medium, and small companies in Indonesia. The PT Deed contains important information about the company, such as company name, address, purpose, authorized capital, number of shares, composition of directors, and commissioners, as well as provisions regarding the management and operations of the company. This document also lists the founding shareholders (initial shareholders) and the amount of capital paid up by each shareholder. The PT deed must be prepared by an authorized notary. Furthermore, the deed is signed by the founder of the company and then submitted to the Ministry of Law and Human Rights (Kemnaker) or Notary Office for ratification, this deed is a legal document that provides legal protection to shareholders and related parties. It also provides a transparent framework for the management of the company, which is important to avoid future disputes and conflicts.

Meeting events within a PT are an important part of corporate governance. These meetings are usually held to discuss important issues, take strategic decisions, and provide reports on the company's performance. Meeting minutes are official documents that contain notes or reports on the results of a meeting or meeting that has been conducted. This document has an important role in maintaining transparency, accountability, and documentation of processes and decisions taken in a meeting. Here is a further description of the minutes of the meeting, the minutes of the meeting begin with identifying information about the meeting. This includes the meeting title, date, time, and location of the meeting, and the name and title of the meeting leader. Meeting

minutes can list the agenda or order of events scheduled for the meeting. It provides context about the topic or issue discussed in the meeting.

Changes in the company refer to various types of changes that can occur in the structure, operation, or legal status of PT. This change can be caused by various factors, such as company growth, changes in business strategy, changes in ownership, or changes in applicable legal regulations, PT can change the company name for various reasons, such as rebranding, change of business focus, or revamping of the image. Change of Office Address, PT can make changes in capital, both increases and decreases, which require shareholder approval and notification to the competent authority. Changes to the PT's articles of association, including changes in corporate objectives, shareholder rights, or decision-making procedures, must be approved by shareholders at the general meeting of shareholders (AGMS), may replace or add members of the board of directors, commissioners, or executive management in response to changes in business needs or strategies. Changes in share ownership, such as the sale of shares to third parties or takeovers of shares by other shareholders, must be reported in accordance with applicable regulations.

Corporate organ meetings are one way to propose, discuss, and take decisions about changes in the company. The corporate organs involved in this meeting are usually shareholders, the board of directors, and commissioners (if any). Identify the changes you want to make within the company. This could include changes in the articles of association, management structure, shareholding, or company goals. Specify the date, time, and place of the meeting. Choose a suitable time and inform all parties involved. Announcement and official invitation to all parties entitled to attend the meeting, such as shareholders, board of directors, and commissioners. This invitation must include the meeting agenda and relevant documents. For each proposed change, conduct a vote or decision-making in accordance with the procedure specified in the articles of association or company regulations. Decisions may be made based on a majority vote or other applicable requirements. Document everything that happens during the meeting, including decisions taken and discussion notes. This will be the basis for the preparation of the deed of minutes of meeting by a notary (Permata, 2023).

In the world of business, organization, and law, meeting minutes become one of the main evidence or references in supporting decisions and transparency of the decision-making process. However, the reliability and validity of the circulation of meeting minutes is often a problem in determining the legal force of the deed of minutes of meeting. Research that focuses on the validity of the circulation of meeting minutes in the process of making minutes of meetings is very important to gain a deeper understanding of the legal basis resulting from the minutes of the meeting

Research Method

The qualitative approach in this study allows researchers to explore and understand in depth the characteristics, reliability, and context behind the validity of circulating

meeting minutes. This method allows researchers to explore the meaning, views, and experiences of the parties involved in the process of making meeting minutes and meeting minutes deeds. Through qualitative methods, this study aims to gain a more holistic, deep, and contextual understanding related to the validity of the circulation of meeting minutes as a basis for making meeting minutes deeds. It is expected that this research can make a significant contribution in the understanding of the legal force of the deed of minutes of meeting based on valid and reliable minutes of meeting.

Result and Discussion

In the activities of companies, organizations, or institutions, meetings are often an important pillar in decision making. Meeting minutes are documents that record important discussions, decisions, and events that occur during the meeting. The validity of the circulation of meeting minutes is crucial because the minutes are the basis for making a deed of minutes of meeting that has legal force. However, there are problems related to the reliability and validity of the minutes of the meeting which are the basis for making the deed of minutes of meeting. Meeting minutes are documents that record all discussions, decisions, and events that occur during the meeting. In various aspects of business, organization, and law, meeting minutes are an important basis in the process of making minutes of meetings that have legal force. However, problems arose regarding the validity of the minutes of the meeting which became the basis for making the deed of minutes of meeting.

Analysis and discussion of the validity of the circulation of meeting minutes in making the deed of minutes of meeting is an important part of understanding the impact and relevance of meeting minutes in the legal process of making a deed of minutes of meeting, matters of concern in making a Deed of Meeting Minutes based on a circulation of Minutes are by taking into account the following provisions:

Accuracy of Meeting Minutes

Analysis is carried out on the suitability of the information contained in the meeting minutes with the actual events and decisions that occurred during the meeting. The accuracy and clarity of the contents of the minutes is key in determining the validity of the circulation of minutes as the basis for making the deed of minutes of meeting.

Consistency and Reliability of Information: The consistency and reliability of information recorded in meeting minutes is an important factor in determining its validity as evidence that can be accounted for in the process of making minutes of meeting.

Accuracy of Procedures and Procedures: Conformity of Writing Procedure: Analysis is carried out to ensure that the procedure for writing meeting minutes has followed applicable standards and rules to ensure the validity and clarity of the information contained in the minutes.

Conformity of Signatures and Approvals: The study examines the suitability and validity of signatures and the consent of the parties involved to the contents of meeting minutes as an important step in ensuring the validity of the circulation of meeting minutes.

Meeting Minutes

The role of notaries in making deed of minutes of meeting based on the circulation of minutes is very important and has several main stages. Notary is a legal official who has the authority to ensure that the process of making the deed of minutes of meeting and circulation of minutes is carried out correctly and in accordance with the law, starting with checking the legality of the minutes of the meeting. This includes ensuring that the minutes cover all matters discussed in the meeting and are on the agenda. Comply with applicable laws and regulations, whether quorum (minimum number of participants required) has been fulfilled in the meeting in accordance with the articles of association and company regulations.

Based on the minutes of the meeting and the results of the decisions taken, the notary prepares the necessary legal documents, namely the deed of minutes of meeting. This document officially records all decisions taken in the meeting, ensures the identity and signatures of all parties involved in the meeting to ensure that they are legal parties and authorized to make decisions, Notaries are also responsible for keeping copies of the minutes of meeting and related documents safely and in accordance with applicable legal provisions. The role of the notary in making the deed of minutes of meeting based on the circulation of minutes is to ensure that all processes run in accordance with the law and that the document of the deed of minutes of meeting has valid legal force. This is important in order to maintain the validity and enforceability of the decisions taken in company meetings.

In a legal act there is an activity to convey the will of the legal act to match the intended purpose and purpose to be constated in a deed of Meeting of the company's organs about changes in the company. The company organs involved in this meeting are usually shareholders, the board of directors, and commissioners (if any) can be stated in the form of minutes of the meeting including the decisions taken during the meeting. This includes resolutions, agreements, or actions agreed upon by participants. This decision must be clearly and unequivocally outlined. After the meeting summary is compiled, participants present are usually asked to agree on the content of the minutes by signing them. This shows that they have read, understood, and agreed to the content of the minutes of the event. If there is a disagreement, participants can record their differences of opinion in the minutes of the event. Meeting minutes have a wide range of uses, including as a reference for future decision-making, evidence in legal proceedings, tools to ensure accountability, and documentation tools for company records (Astari, 2018).

The validity of the circulation of the minutes of the general meeting of shareholders as the basis for making the deed of minutes of meeting depends on the fulfillment of certain

requirements and procedures regulated by the laws and regulations in force in the country or jurisdiction where the company is registered.

Circular Meeting Decision Statement

Circulation of general meeting of shareholders minutes is a process usually used in limited liability companies (PT) to obtain shareholder approval of meeting minutes. The validity of the circulation of these minutes as the basis for making the deed of minutes of the general meeting of shareholders depends on the provisions of the laws and regulations in force in the country where the PT is registered. The circulation of minutes must be in accordance with the provisions stated in the company's articles of association and the company's laws in force in the PT area. This means that you should check whether the company's articles of incorporation allow the use of circulation of minutes as a method of approval (Bassiouni, 2006).

The minutes must be circulated to all shareholders entitled to attend the general meeting of shareholders. Every shareholder should have the opportunity to read and understand the contents of the minutes well. Shareholder approval must be given voluntarily and free from pressure or coercion. The minutes should include a clear approval mechanism, such as instructions on how shareholders can express their approval or rejection of the minutes. This may include physical signatures, electronic signatures, or other valid methods in accordance with local laws. Set a reasonable deadline for shareholders to give their approval or rejection of the minutes. Make sure this deadline gives shareholders enough time to consider the contents of the minutes. Keep a good record of shareholder approvals or rejections as part of the company's official documents. It will be used as the basis for making the deed of minutes of the general meeting of shareholders. Ensure that the process of circulating minutes and shareholder approval has complied with all applicable laws and regulations.

The legal basis for a notary in making a deed of minutes of meeting based on the circulation of minutes is based on the legal regulations and regulations in force in the country where the notary operates. In Indonesia, notaries are regulated by Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions. Under the law, notaries have the authority to perform various legal duties, including the preparation of deed of minutes of meeting.

Law No. 2 of 2014:

Law Number 2 of 2014 is a law in Indonesia known as Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions. This law regulates changes in the field of notary office in Indonesia. Some important points in Law Number 2 of 2014 include (Pemerintah Pusat, 1999):

Regulation related to Notary Position: This Law contains several changes in terms of appointment procedures, duties, obligations, and authorities of notaries in Indonesia.

This includes the requirements and procedures for becoming a notary, selection criteria, sanctions, and notary obligations in carrying out their duties (Yahanan, Febrian, & Rahim, 2017).

The Role of Notaries in Society: This law also affirms the role of notaries as public officials who have the authority to make authentic deeds, provide legality, and carry out various legal transactions that require legal validity (Zuhir, 2017).

Notary Work Procedures and Procedures: This law provides more detailed provisions on notary working procedures, including procedures for making authentic deeds, archiving documents, notary obligations in maintaining the confidentiality of documents and information received, and the role of notaries in dispute resolution.

Notary Tariff and Admission Arrangement: This Act also regulates the rates applicable to notary services and the income earned by notaries from the services they provide.

Supervision and Sanctions: There are provisions regarding supervision of notary activities by competent authorities, as well as sanctions for notaries who violate applicable legal provisions in carrying out their duties.

Law Number 2 of 2014 aims to regulate and improve the governance of notary positions, provide clarity of rules for notaries, and protect the public from practices that are not in accordance with legal provisions.

Implementing Regulation of Law No. 2 of 2014:

This regulation regulates in more detail various aspects of notary duties, including the procedure for making a deed of minutes of meeting.

Articles of Association of Limited Liability Company (PT):

The deed of minutes of the PT shareholders' meeting is a legal document directly related to a limited liability company. The articles of association of the LLC can also regulate the requirements for the amendment and preparation of the deed of minutes of meeting.

Other Related Regulations:

In addition to the above provisions, notaries must also comply with other regulations relating to their duties and responsibilities in making the deed of minutes of meeting, such as regulations on limited liability companies and the provisions of applicable notary regulations (Nurhidayatulloh et al., 2018).

Conclusion

From this study, it can be concluded that the validity of the circulation of meeting minutes greatly affects the legal strength of the deed of minutes of meeting. The quality and accuracy of meeting minutes are crucial in determining the legal force of the minutes

of meeting. Therefore, efforts are needed to ensure the validity of meeting minutes so that the process of making minutes of meetings can be legally reliable

Bibliography

- Adjie, Habib, & Hafidah, Muhammad. (2022). *Contoh-Contoh Akta Notaris Yang Tidak Biasa*. (Jilid 1). Yogyakarta: Cv. Bintang Semesta Media.
- Astari, Citra. (2018). *The Legal Construction Of Shell Company In The Perspective Of Indonesian Company Law (Case Study: Panama Papers)*. Retrieved from <https://dspace.uui.ac.id/handle/123456789/8446>
- Bassiouni, M. Cherif. (2006). International Recognition of Victims' Rights. *Human Rights Law Review*, 6(2), 203–279.
- Hajati, Sri, Poespasari, Ellyne Dwi, & Moechthar, Oemar. (2019). *Buku Ajar Pengantar Hukum Indonesia*. Airlangga University Press.
- Kansil, C. S. .. (1997). *Pokok-Pokok Hukum Perseroan Terbatas Tahun 1995*. Jakarta: Pustaka Sinar Harapan.
- Kusumawati, Lanny, & Sawarjuwono, Tjiptohadi. (2019). Individual Taxpayers Compliance in Policy of Post Tax Amnesty Program: Phenomenology Study. *International Journal of Advances in Scientific Research Ang Engineering (Ijasre)*, 5(5), 28–43.
- Mertokusumo, Sudikno. (2004). *Sudikno Mertokusumo, Arti Penemuan Hukum bagi Notaris, Renvoi*.
- Nurhidayatulloh, N., Febrian, F., Romsan, Achmad, Yahanan, Annalisa, Sardi, Martinus, & Zuhro, Fatimatuz. (2018). Forsaking Equality: Examine Indonesia's State Responsibility On Polygamy To The Marriage Rights In Cedaw. *Jurnal Dinamika Hukum*, 18(2), 182. <https://doi.org/10.20884/1.jdh.2018.18.2.810>
- Pemerintah Pusat. *Undang-Undang (UU) Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia*. , (1999).
- Permata, Elvareta Elen Bayu. (2023). Legal Aspects In The Establishment of A Village Owned Business Entity Deed And its Business Branches. *Jurnal Wacana Hukum Dan Sains*. <https://doi.org/https://yurisdiksi.unmerbaya.ac.id/index.php/yuris...>
- Pura, I. Putu Wisnu Dharma, & I Nyoman Budiman. (2018). Kebebasan Penetapan Modal Dasar Perseroan Terbatas Oleh Para Pihak Berdasarkan Peraturan Pemerintah Nomor 29 Tahun 2016. *Jurnal Analisis Hukum, Vol 1*(1).
- Seligman, Edwin. (n.d.). *Batoche Books*.
- Yahanan, Annalisa, Febrian, Febrian, & Rahim, Rohani Abdul. (2017). The Protection Of Consumer Rights For Aviation Safety And Security In Indonesia And Malaysia. *Sriwijaya Law Review*, 1(1), 027. <https://doi.org/10.28946/slrev.Vol1.Iss1.7.pp027-043>
- Zuhir, Mada Apriandi. (2017). Rethinking Legality Of State Responsibility On Climate Change In International Law Perspectives. *Jurnal Dinamika Hukum*, 17(2), 203. <https://doi.org/10.20884/1.jdh.2017.17.2.801>