

# **Legal Study of the Legality of the Palm Oil Rejuvenation Program Regarding the Completeness and Correctness of the Proposal Documents Regulated by Ministerial Regulation No. 19 Of 2023 Amendment to Ministerial Regulation No. 3 Of 2022**

**Hans Ivander Antonio<sup>1</sup>, Kartina Pakpahan<sup>2</sup>, OK Isnainul<sup>3</sup>**

Faculty of Law, Universitas Prima Indonesia<sup>123</sup>

Email: kartinapakpahan@unprimdn.ac.id

## **ABSTRACT**

The government, especially the Minister of Agriculture, through the Regulation of the Minister of Agriculture No. 19 of 2023 concerning amendments to the Regulation of the Minister of Agriculture No. 3 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations to ensure the development of sustainable oil palm plantations, has made regulations regarding the development of human resources, research and development, rejuvenation, and facilities and infrastructure for oil palm plantations funded by funds collected from oil palm plantations. The research uses a normative juridical approach with secondary data analysis from written and electronic sources. The results of this study The government must further socialize the regulations on fulfilling the completeness of documents related to the mechanism for rejuvenating oil palm for farmers whose situations and conditions experience difficulties in fulfilling the requirements for rejuvenating oil palm with government assistance. If the completeness of the applicant's documents cannot be fulfilled by the applicant, the applicant will be given an opportunity by the head of the district/city service as stated in Article 25 paragraph (1) letter (b) of the Regulation of the Minister of Agriculture Number 19 of 2023. The solution provided by the government in this case the Ministry of Agriculture for applicants in completing and verifying the validity of the applicant's documents has been stated in Article 17 paragraphs (3) to (5) of the Regulation of the Minister of Agriculture No. 19 of 2023 by providing time for applicants to complete the problem of ownership documents as one of the main requirements for submitting the application for rejuvenation of oil palm..

## **Keywords:**

rejuvenation, oil palm, legality, documents

## **INTRODUCTION**

Land is a gift from God Almighty to mankind on this earth. As is known, humans will always need land and will not be separated from land because humans and land have a very close relationship. From birth to death, humans will always need land. The limited amount of land and the increasing human population cause an imbalance between humans and land so that the management and utilization of land must also be considered. Land is also the main supporting factor for the life and welfare of society, the function of land is not only limited to the need for housing, but also a place for the growth and development of socio-political and cultural individuals and communities. The practice of land registration and land certificate ownership (recht cadastre) in Indonesia manually has been carried out for 61 (sixty-one) years since 1960, namely when the UUPA (Basic Agrarian Law) came into effect. The purpose of land registration is to guarantee legal certainty of land rights and provide legal protection for land ownership. Indonesia is an agrarian country that is rich in

agriculture. In addition, Indonesia is a country where most of its population works in the agricultural sector.

The agricultural sector plays a very important role in the national economy, this can be seen from the large number of Indonesian people who live and work in this sector, one of which is oil palm plantations. Until the 1980s, the area of oil palm plantations in Indonesia was only around 200,000 ha and most of them were inherited from the Dutch colonial government. Thanks to the credit program (PBSN 1 and 2) and the introduction of oil palm plantations with the PIR-Trans (People's Core Plantation-Transmigration) pattern, oil palm development has been very rapid, and by 2009 the area of oil palm plantations in Indonesia had reached 7.2 million ha, and in 2022 from the audit results, it was found that 16.8 million ha of oil palm plantations had been planted with oil palm trees, wider than the official government data which reached 16.38 million ha, during the first stage of the audit, double growth every year for 30 years. People's plantations, both PIR and self-help patterns, cover 41%. With a contribution to state revenue of US\$23.97 billion and a palm oil export volume of around 27.5 million tons, it is appropriate if the government does indeed give more concentration to the palm oil sector, especially if we examine 41% of the total area of palm oil plantations in Indonesia are palm oil farmer owners who if given training, access to information and capital funding support programs will be able to provide a good impact on the national palm oil harvest. In reality, not a few community palm oil lands are sold to companies due to the lack of capital capacity to carry out root replanting, capital to carry out post-harvest care, capital knowledge of standard procedures for good palm oil cultivation which results in unsuitable harvests so that small farmers prefer to leave their jobs as palm oil farmers.

The government, especially the Minister of Agriculture, through the Regulation of the Minister of Agriculture No. 19 of 2023 concerning amendments to the Regulation of the Minister of Agriculture No. 3 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations to ensure the development of sustainable oil palm plantations, has made regulations regarding the development of human resources, research and development, rejuvenation, and facilities and infrastructure for oil palm plantations funded by funds collected from oil palm plantations, but after researchers conducted surveys and research, many of our farming communities did not know about the program, did not know how to participate, and did not know where they should submit their participation.

## **METHOD**

This research uses a normative juridical research type and the nature of this thesis research method is descriptive analysis, namely research that describes, examines, explains and analyzes a legal regulation, in this case related Legal Study Of The Legality Of The Palm Oil Rejuvenation Program, Source of legal materials used in this research is secondary data, namely data obtained from official documents, books or all forms of research relating to research objects and research results in the form of reports, journals, theses, dissertations and statutory regulations relating to agrarian law. The data analysis technique used is qualitative data analysis, namely a research procedure that produces analytical descriptive data, namely by collecting materials and data as well as applicable regulations and legislation which are then analyzed using logical legal thinking.

## RESULTS AND DISCUSSION

### Results

Palm oil is also one of the natural resources that has strategic significance for Indonesia and the world. Palm oil plantations according to the formulation of Article 1 paragraph (1) of the Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Palm Oil Plantations are all activities of managing natural resources, human resources, production facilities, tools and machines, cultivation, harvesting, processing and marketing related to Palm Oil Plantation plants. The palm oil plantation business itself based on Article 1 paragraph (2) of the Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Palm Oil Plantations is a business that produces goods and/or services for Palm Oil Plantations. The oil palm rejuvenation program in Indonesia actually has a strong legal basis, which is stated in several laws and regulations, including:

1. Law Number 18 of 2004 concerning Plantations
2. Government Regulation Number 18 of 2010 concerning Plant Cultivation Business
3. Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations
4. Regulation of the Minister of Agriculture Number 19 of 2023 concerning Amendments to Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations.

Article 15 of the Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations states that,

- 1) Oil palm rejuvenation is given to Planters on the condition that:
  - a) they are members of a Planter institution; and
  - b) they have legal land.
- 2) Oil palm rejuvenation as referred to in paragraph (1) is given for a maximum of 4 (four) hectares per person.

In the provisions above, the implementation of this rejuvenation must be given to planters who are members of a planter institution and have legal land. Furthermore, the rejuvenation is given for a maximum of only 4 hectares per person. The requirement to be members of a planter institution and have legal land is a step to complete the documents required by them as the proposer. However, when they do not have land legality consisting of land ownership documents and land status, based on the provisions of Article 17 paragraphs (3) to (5) of the Regulation of the Minister of Agriculture Number 19 of 2023 concerning Amendments to the Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations, it is stated that:

- 1) In the event that the Planter does not have a Certificate of Ownership as referred to in paragraph (2), the land ownership document is proven by a statement of physical control of the land area or the basis for control of the land in accordance with the provisions of laws and regulations in the field of agrarian/land and spatial planning.
- 2) In the event that the land ownership document as referred to in paragraph (2) is different from the identity of the Planter, the land ownership document is accompanied by a statement from the village head or another name.
- 3) The land status as referred to in paragraph (1) is proven by the following statements:
  1. not located in a forest area from the work unit of the ministry in charge of the environment and forestry; and
  2. not located on the Right to Cultivate land, from the land office.

Documents related to the legality of this land are the main requirements that must be met. However, when the proposer has not been able to fulfill it, he can take steps for a land ownership letter, a statement from the village head and a statement of land status not being in the forest area of the Ministry's work unit or not being on the Right to Cultivate land from the land office.

Article 20 of the Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations also states that, The proposal for oil palm rejuvenation in the form of an application is accompanied by the following proposal documents:

- 1) photocopy of Identity Card (KTP);
- 2) determination of the legality of Poktan, Gapoktan, Cooperatives or Other Planter Institutions;
- 3) statement that it has been registered with Simluhtan if the legality of the Planter's institution is in the form of Poktan and Gapoktan;
- 4) Certificate of Ownership, or a statement of physical control of the land or the basis for control over the land;
- 5) statement if the land control document is different from the identity of the Planter;
- 6) information on land status
- 7) a picture of the land/plantation with coordinates containing at least:
  - a) 4 (four) coordinate points or more polygons for each Planter;
  - b) area of the plantation for each Planter;
  - c) location of the plantation;
  - d) scale;
  - e) legend; and
  - f) signature of the maker;
- 8) budget plan and work plan made by Poktan, Gapoktan, Cooperative or Other Plantation Institutions; and
- 9) statement made by Poktan, Gapoktan, Cooperative or Other Plantation Institutions regarding:
  - a. age of plants, productivity, or origin of seeds;
  - b. plan to purchase oil palm seeds;
  - c. rejuvenation implementer; and
  - d. rejuvenation technique.

In the provisions above, it can be seen that certain steps and requirements are needed in completing the oil palm rejuvenation application documents in order to carry out the oil palm rejuvenation. Starting from personal data to land drawings, budget plans even include a statement made by Poktan, Gapoktan, Cooperative or other Plantation Institutions regarding the plants and the oil palm rejuvenation mechanism itself in the future. When the proposer has not been able to fulfill the completeness of the documents, the application document will be returned to the proposer. However, the return was made with the aim that the proposer would improve and complete it. This improvement and completion were then carried out in coordination with the local village apparatus.

Meanwhile, Article 21 of the Regulation of the Minister of Agriculture Number 19 of 2023 concerning Amendments to the Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations also states that,

- a) To provide information regarding oil palm rejuvenation for Poktan, Gapoktan, Cooperatives, or Other Plantation Institutions, socialization is carried out.
- b) The socialization as referred to in paragraph (1) is carried out by the district/city regional office, provincial regional office, Directorate General, and/or BPDPKS in accordance with their authority.

Based on the provisions of Article 21, after fulfilling the requirements in the two articles that have been briefly mentioned previously, the party that will carry out this rejuvenation must also carry out socialization. Socialization involving all government agencies and other non-government groups. Such situations and conditions are certainly feared to hamper the implementation of oil palm rejuvenation. Given that there are too many stages and bureaucracy as well as requirements that must be met. Considering this, the government and the state should provide more convenience and flexibility in the efforts to rejuvenate oil palm.

In addition, in the author's observations in the field, it turns out that many people involved in the oil palm world are not aware of the oil palm rejuvenation program. One of the weaknesses of the community is in capital or funding. Not a few of their oil palm lands are actually sold to other parties. This reality is also compounded by the fact that the general public does not have standard knowledge regarding the implementation of good plant cultivation or oil palm rejuvenation. So, it is possible that it will produce a harvest that is very far from national and international expectations and standards. The shortcomings and weaknesses above must be addressed by the government through efforts to realize legal certainty that is just according to Pancasila. The realization of this legal certainty is carried out with the concept and mechanism of enforcing the law and using the law as briefly mentioned by Nitibaskara in the previous section. Based on the steps to enforce the law using this law, it will create legal certainty that is just Pancasila. Further realization of all these efforts is carried out by simplifying the requirements in the laws and regulations regarding oil palm rejuvenation to the community. As well as, providing a kind of discretion and further convenience at the application level by emphasizing socialization later.

## **Discussion**

Oil palm rejuvenation efforts are carried out based on applicable laws, the implementation of rejuvenation based on applicable laws is part of law enforcement



that uses the law. Because, it is based on all laws and regulations related to oil palm plantations and their rejuvenation as briefly mentioned earlier. In other words, the State has provided features of laws and regulations that can be used to carry out oil palm rejuvenation in Indonesia so that it can provide maximum benefits for the people, nation and state of Indonesia. Meanwhile, Mertokusumo has also stated that, one of the other important meanings of the concept of legal certainty is "the community expects legal certainty because with legal certainty, the community will be more orderly." The implementation of oil palm rejuvenation with legal certainty will be realized if in practice in the field it is carried out based on applicable laws and regulations. So, it can also create order in society. So, a strong combination must be created between the contents of the laws and regulations and the reality or practice in the field in the future. So that the steps and efforts of oil palm rejuvenation in Indonesia can touch the lives of many people. One of the main points in this case is the effort to complete the documents for the proponents of oil palm rejuvenation itself.

Thus, the Law is indeed tasked with creating legal certainty because it aims for public order. Without legal certainty, people do not know what to do so that eventually unrest arises. That is why all the laws and regulations regarding oil palm and its rejuvenation have been drawn up. However, if we focus too much on legal certainty and strictly obey legal regulations, the result will be rigid and create a sense of injustice. Whatever happens, the regulations remain the same, so they must be obeyed and implemented. The law often feels cruel when implemented strictly. However, regulations must be drawn up and created to regulate society so that legal certainty is created for them. Given that Indonesia is a country of law that has been firmly formulated in the provisions of Article 1 paragraph (3) of the 1945 Constitution which states that: "The State of Indonesia is a State of Law." Indonesia as a country of law has a state foundation called Pancasila. Pancasila is one of the sources of law for all laws and regulations in Indonesia. Therefore, it is certain that every regulation in Indonesia, including regarding oil palm rejuvenation, is based on Pancasila.

The existence of legal instruments regarding oil palm and its rejuvenation is also part of the concept of a state based on Pancasila. According to Hardjon, a state based on Pancasila has 4 important elements, namely: Harmonious relations between the government and the people based on harmony; Proportional functional relations between state powers; The principle of dispute resolution through deliberation and the judiciary is the last resort if deliberation fails; and Balance between rights and obligations. These four elements gave birth to a theory of Pancasila justice which underlies the formation of the legal system in Indonesia, namely:

- 1) The legal system is developed based on the values of Pancasila as its source. Thus, Pancasila does not adhere to legal positivism and relativism. The regulation of community life finally gets its meaning and basic aspirations in the orientation of Pancasila which longs for a humane, just, and prosperous atmosphere of life;
- 2) The legal system shows its meaning, insofar as it realizes justice. Thus, the law is not merely a tool of power, not a legitimacy to carry out exploitation which can be injustice itself. The law is not identical to justice, but aims to realize it for the benefit of the people;

- a) The legal system has a function to maintain the dynamics of national life. Thus, the function of law in maintaining social order is not realized solely in maintaining the status quo, but in opening up the possibility of progress reflected in the process of change and renewal. Thus, the law also needs to provide a perspective for the future;
- b) The legal system guarantees the process of self-realization for citizens in the development process. The development of society needs to be directed, so as not to fall into alienation, technocracy, or dependency.

Rejuvenation is one of the efforts to increase the productivity of oil palm plants. This step is considered as a very effective activity to encourage increased production. There are several considerations in determining when farmers should rejuvenate. In addition to the positive impacts of oil palm rejuvenation, there are a number of new problems that arise, such as lack of farmer income and causing low levels of farmer welfare. It is possible that most of them also do not have sufficient knowledge about the steps and efforts of rejuvenation above.

Palm oil as briefly stated in the previous section is one of the important plantation commodities for the Indonesian economy. However, there are quite a few palm oil plantations that have long been neglected and are no longer productive. To address this, the government then launched a community oil palm rejuvenation program to increase the productivity and income of palm oil farmers in Indonesia.

The government then took the initiative to continue to encourage the Community Oil Palm Rejuvenation Program (PSR) in an effort to increase the productivity and quality of Indonesian palm oil products, especially products produced by community oil palm farmers. Furthermore, the PSR Program is intended to improve the governance of oil palm plantations in Indonesia. In the PSR Program itself, in the first year, community oil palm farmers can receive assistance funds of IDR 30 million per hectare with a maximum plantation area of 4 ha. For the second year and thereafter, farmers can take advantage of the People's Business Credit (KUR) with a maximum ceiling of IDR 500 million with an interest rate of 6% per year.

As is known, since the beginning of this program was launched by President Joko Widodo in October 2017, the PSR Program until 2023 has reached 142,078 smallholder oil palm farmers with funds distributed reaching IDR 9.11 trillion and with a total PSR area of 326,678 ha. This PSR program continues to be pushed by the Government so that its benefits can be felt by the wider community. As of March 2024, the area of land that has been replanted has reached 331,000 hectares. Meanwhile, the increase in the area of land planted per year reaches 50,000 hectares. Although, the speed of the increase in the area of rejuvenation or replanting is actually still far from the target of 180,000 hectares per year.

Such situations and conditions can ultimately hinder the steps of oil palm rejuvenation and of course will also affect the people of oil palm farmers. Because, all these steps and activities are not in accordance with the desired target. Furthermore, the Coordinating Minister for Economic Affairs of Indonesia, Airlangga Hartarto, once said that the government would increase the amount of PSR funds from IDR 30 million to IDR 60 million per hectare and would be effective starting in May 2024. Funds would also be provided not only at the beginning of planting, but until the plants reached the productive stage. Furthermore, Airlangga also added that the PSR requirements would be simplified. Airlangga stated that the PSR application stages were cut from 6 steps to 3 steps. Verification, he said, was also accelerated

to only 15 days. Based on the brief description above, government assistance in terms of oil palm rejuvenation is implemented through community oil palm rejuvenation fund assistance for each oil palm plantation party. In addition, the government also provides administrative assistance in the form of reducing PSR requirements and accelerating verification

### CONCLUSION

If the applicant's documents are not complete, the applicant will be given the opportunity by the head of the district/city office as stated in Article 25 paragraph (1) letter (b) of the Regulation of the Minister of Agriculture Number 19 of 2023 concerning Amendments to the Regulation of the Minister of Agriculture Number 03 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations, to improve and complete the deficiencies in the documents. The solution provided by the government in this case the Ministry of Agriculture for applicants in completing and verifying the validity of the applicant's documents has been stated in Article 17 paragraphs (3) to (5) of the Regulation of the Minister of Agriculture No. 19 of 2023 concerning amendments to the Regulation of the Minister of Agriculture No. 3 of 2022 concerning Human Resource Development, Research and Development, Rejuvenation, and Facilities and Infrastructure for Oil Palm Plantations, by providing time for applicants to complete the problem of ownership documents as one of the main requirements for submitting the oil palm rejuvenation application.

### Reference

- Agustina Irene Pasaribu, Tubagus Hasanuddin dan Indah Nurmayasari,"Pola Kemitraan dan Pendapatan Usaha Tani Kelapa Sawit: Kasus Kemitraan Usaha Tani Kelapa Sawit Antara PT Perkebunan Nusantara VII Unit Usaha Bekri Dengan Petani Mitra Di Des Tanjung Jaya, Kecamatan Bangun Rejo, Kabupaten Lampung Tengah," *JIIA*, Vol.1, No. 4, Oktober, 2013.
- Aloysius R. Entah, "Indonesia: Negara Hukum Yang Berdasarkan Pancasila," Seminar Nasional Hukum Volume 2 No. 1, Semarang: Universitas Negeri Semarang/ Unnes, 2016.
- Brilliant Thesalonich Panggabean, Sakti Hutabarat dan Didi Muwardi, "Strategi Peremajaan Perkebunan Kelapa Sawit Rakyat Kabupaten Rokan Hilir," *Jurnal Triton*, Vol 14, No. 1, Juni, Politeknik Pembanguna Pertanian Manokwari, 2023.
- Elvira Fitriyani Pakpahan, et.al, Legal Protection of the Exclusive Rights of Painting Works, *Journal of Urban Society's Arts*, Vol 10 No 1, (2023);18
- Heriyanti, et.al, Implementation Of Dispute Resolutionin the Field Copyright Upon Signing of the Beijing Treaty, *International Journal of Business, Law, and Education*, Vol 5 No 2, (2024); 1910-1922
- HM Arba. *Hukum Agraria Indonesia*. Jakarta: Sinar Grafika, 2016.
- Kementerian Pertanian, *Pedoman Teknis Peremajaan Kelapa Sawit Rakyat*, Jakarta: Direktorat Jendral Perkebunan, 2019.
- Kementerian Pertanian, *Petunjuk Teknis Peremajaan Kelapa Sawit Rakyat*, Jakarta: Direktorat Jendral Perkebunan, 2018.
- Mulono Apriyanto, dkk, "Penyuluhan Tentang Peremajaan Kelapa Sawit dan Legalitas Lahan Di Kecamatan Kempas Kabupaten Indragiri Hilir," *JPM*:





*Jurnal Pengabdian Masyarakat*, Vol. 1, No.1, Juli, Universitas Islam Indragiri Riau, 2020.

Retno Syafira, Zulkifli Nasution dan Charloq, "Analisa Kendala Program Peremajaan Sawit Rakyat (PSR) Terhadap Potensi Pertumbuhan Ekonomi Petani Sawit Rakyat," *Jurnal Ilmiah Global Education*, Universitas Sumatera Utara, Medan, 2024.