



## THE APPLICATION OF SEFL DECLARE SYSTEM ON HALAL GUARANTEE SYSTEM ON MICRO AND MEDIUM ENTERPRISE

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### ABSTRACT

*Since the introduction of micro and medium enterprise and its legal acknowledgement in Indonesia, the development of these enterprises is growing steadily fast. Upcoming micro and medium enterprise in Indonesia has grown large and spread evenly throughout Indonesian archipelago. Seeing the growth, Indonesian government tried to accommodate the growth by introducing regulation to regulate and help them grow. One of the favor given by the government is the ease of Halal Certificate for these micro and medium enterprise. Usually, the Halal Certificate will be given by assessing the business. For micro and medium enterprises, they are given the choice to 'self-declare' their product as Halal without going through the usual process. However, in the implementation of this system, the standardization of Halal for 'self-declare' system need to be set straightly as if no proper procedure is given, there will be numerous non-halal product labelled as halal through the 'self-declare' system. The research has shown that through proper mechanism and by abiding the procedure given by the law, the standardization of halal throughout 'self-declare' system could be carried out in ease.*

**Keywords:** Halal standard, micro and medium enterprises, self-declare system.

### ABSTRAK

Sejak diperkenalkannya usaha mikro dan menengah dan pengakuan hukumnya di Indonesia, pengembangan perusahaan ini tumbuh terus -menerus dengan cepat. Perusahaan mikro dan menengah yang akan datang di Indonesia telah tumbuh besar dan menyebar secara merata di seluruh Kepulauan Indonesia. Melihat pertumbuhan, pemerintah Indonesia mencoba mengakomodasi pertumbuhan dengan memperkenalkan peraturan untuk mengatur dan membantu mereka tumbuh. Salah satu bantuan yang diberikan oleh pemerintah adalah kemudahan sertifikat halal untuk usaha mikro dan menengah ini. Biasanya, sertifikat halal akan diberikan dengan menilai bisnis. Untuk usaha mikro dan menengah, mereka diberi pilihan untuk menyatakan produk mereka sebagai halal tanpa melalui proses yang biasa. Namun, dalam implementasi sistem ini, standarisasi halal untuk sistem 'self-declare' perlu diatur secara langsung seolah-olah tidak ada prosedur yang tepat, akan ada banyak produk non-halal yang dilabeli sebagai halal melalui 'deklare-diri sendiri' 'Sistem. Penelitian telah menunjukkan bahwa melalui mekanisme yang tepat dan dengan mematuhi prosedur yang diberikan oleh hukum, standarisasi halal di seluruh sistem 'self-declare' dapat dilakukan dengan mudah.

**Kata kunci:** Standar Halal, usaha mikro dan menengah, sistem 'self declare

### INTRODUCTION

Halal certification for food, medicine, and cosmetic products aims to provide assurance and peace of mind to consumers. The continuity of halal production processes is guaranteed by producers through the implementation of a halal assurance system. According to Article 1, Clause 10 of Law No. 33 of 2014 on Halal Product Assurance ("UU JPH"), a halal certificate is a recognition of the halal status of a product issued by the Halal Product Assurance Agency (BPJPH) based on a written halal fatwa issued by the Indonesian Ulema Council (MUI).

There are several differences in halal certification policies before and after the enactment of Law No. 33 of 2014, particularly regarding products that are imported, circulated, and traded in Indonesia. The requirement for halal certification is explicitly stated in Article 4 of UU JPH, which reads: "Products that are imported, circulated, and traded in Indonesia must be halal-certified." Furthermore, Article 67, Clause 1 specifies that this obligation takes effect five years after the law was promulgated. Since UU JPH was enacted on October 17, 2014, mandatory halal certification has been implemented as of October 17, 2019.

The process of halal certification is carried out in phases. Initially, the focus is on food and beverages, before extending to cosmetics, medicines, and medical devices. Products without halal certification are not immediately penalized but are granted a grace period to complete the certification process until October 17, 2024.

This phased implementation is regulated under Government Regulation No. 39 of 2021 concerning the Implementation of Halal Product Assurance. Article 143 of this regulation states that during the transitional period, the BPJPH will provide guidance to businesses producing goods that must be halal-certified. The BPJPH also collaborates with stakeholders and the public to foster an environment that promotes a thriving business climate in Indonesia. The five-year transitional period is meant to maximize efforts to expedite halal certification, especially for food and beverages. Efforts include targeted outreach to micro, small, and medium enterprises (MSMEs), with a focus on educating them about the benefits of halal certification for business growth.

The government must address outstanding gaps, such as increasing the number of Halal Inspection Agencies (LPH) and training more halal auditors, to streamline the certification process. Collaboration among the government, businesses, and society is crucial to ensuring the halal integrity of traded products. Business actors are encouraged to implement halal assurance systems and prepare the necessary documentation for certification as early as possible.

On November 2, 2020, the government issued Law No. 11 of 2020 on Job Creation ("UU Cipta Kerja"), which introduced additional regulations amending several provisions of UU JPH related to halal certification in Indonesia. This was followed by Government Regulation No. 39 of 2021, aimed at simplifying the certification process, particularly for MSMEs.

According to Article 4 of UU JPH and Article 4A of UU Cipta Kerja, all products that are imported, circulated, and traded in Indonesia must still be halal-certified. However, for products from micro and small enterprises (UMK), halal status can be declared by the business owner through a self-declaration mechanism, based on BPJPH halal standards. Article 4A clarifies that this self-declaration applies only to micro and small enterprises and excludes medium-sized enterprises.

Government Regulation No. 39 of 2021 outlines provisions for micro and small enterprises in the halal certification process. For such businesses, halal certification is based on their self-declaration, provided they meet the applicable halal standards set by BPJPH. This regulation is intended to facilitate the development of MSMEs in Indonesia. However, questions remain about the prerequisites that must be met for MSMEs to use the self-declaration mechanism for halal certification.

This study will analyze these issues in-depth, particularly concerning the conditions and criteria that MSMEs must fulfill to obtain halal certification through self-declaration.

## **RESEARCH METHOD**

According to Sugiyono (2017), research methods are essentially scientific ways to obtain data with specific purposes and uses. Based on this definition, four key aspects must be considered: scientific methods, data, objectives, and utility. Scientific methods refer to research activities that are grounded in the characteristics of science, namely rationality, empiricism,

and systematicity. Rationality means that the research is conducted in a logical manner, making it understandable and reasonable to human thought. Empiricism indicates that the methods used can be observed through human senses, allowing others to observe and understand the process. Systematicity implies that the research process follows specific, logical steps (Marzuki, 2010).

In this study, the researcher employs a socio-legal approach to examine the research materials. Socio-legal research is a methodology in which social sciences influence the workings of law in various aspects related to the presence of law in society. This approach places significant emphasis on law while considering legal norms and fully utilizing various disciplines in an interdisciplinary manner (Warassih, 2016).

## RESULTS AND DISCUSSION

### **Criteria for Micro and Small Businesses (UMK) Eligible to Use the Self-Declare Principle for Halal Certification**

The halal certification for food products is very important for the Muslim community. According to survey data, nearly 95% of respondents indicated that food products, whether produced domestically or abroad, or imported, should undergo halal certification, which includes the issuance of a halal label by an authorized institution (Ralang, 2019).

The Halal Product Assurance System (SJPH) is an integrated management system that is developed, implemented, and maintained to regulate materials, production processes, products, human resources, and procedures to ensure the continuity of halal production processes. The SJPH criteria describe the requirements that companies must meet to implement SJPH, ensuring that halal products are consistently produced (Sukoso et al., 2020).

The halal standard includes a declaration from business actors in the form of a contract/oath containing the halal status of the product and ingredients used, halal production processes (PPH), and PPH assistance. Furthermore, the criteria for businesses that can use Self-Declare include products that pose no risk, materials whose halal status is guaranteed, and production processes that ensure halal compliance and are simple.

Several supporting bodies are required for SMEs to assist in the self-declaration process for halal certification. Although the self-declare principle allows SMEs to independently apply for halal certification, several organizations must accompany them (Rizki, 2022).

First, there is the PPH Assistance. PPH, as defined in Article 80 of Government Regulation No. 39 of 2021 concerning the Implementation of Halal Product Assurance ("PP 39/2021"), is the process of verifying and validating the halal status of a product by business actors. This means that the self-declare process requires verification and validation, during which business actors must be assisted by Islamic community organizations or legal religious institutions and/or universities.

Not all organizations or universities can become PPH Assistants. In the case of Islamic community organizations or religious institutions, only those established for at least 10 years and with at least 5 experts in the field are eligible to become PPH Assistants. State or private universities that are accredited and have a unit specifically handling PPH Assistance can serve as PPH Assistants.

Second, there is the Halal Supervisor. According to Article 1, Number 4 of PP 39/2021, a Halal Supervisor is responsible for the PPH process. PPH, which stands for Halal Product Process, refers to the series of activities to ensure the halal status of a product, including the provision of materials, processing, storage, packaging, distribution, sale, and presentation of the product.

Halal Supervisors will receive training to meet the competency standards set by the government, as outlined in Article 56 of PP 39/2021, which specifies that the training will be

regulated by BPJPH regulations. The Halal Supervisors are expected to assist SMEs, as stipulated in Article 58 of PP 39/2021, as follows:

1. For micro and small business activities, the Halal Supervisor can come from a community organization.
2. In addition to coming from a community organization as stated in paragraph (1), the Halal Supervisor can come from the business itself, government agencies, businesses, or universities.
3. In addition to providing Halal Supervisors as referred to in paragraph (1), community organizations, government agencies, businesses, or universities may provide facilitation in the form of participation in training and/or certification of Halal Supervisor competence.

The presence of Halal Supervisors is crucial for implementing halal certification for SMEs, especially with the Self-Declare halal process for low-risk SMEs. These Halal Supervisors will guarantee the halal production process for these SMEs. Since there is still time for regulatory improvements until the enactment of the Job Creation Law, BPJPH has time to refine its regulations to improve the process. BPJPH can hold academic discussions and gather information and constructive input from the public because these halal product regulations will also affect the public.

The Halal Product Assurance Agency (BPJPH) offers free halal certification services. This service is available to micro and small businesses (UMK) through self-declaration or Self-Declare. Only eligible SMEs can apply for halal certification through Self-Declare for free. Below are the criteria for business actors in the UMK category who can participate in Self-Declare (Halal Center, 2022):

1. The product is low risk or uses materials whose halal status is assured.
2. The production process is guaranteed to be halal and simple.
3. Annual sales revenue (turnover) does not exceed IDR 500,000,000 (five hundred million rupiahs), as evidenced by the business actor's statement.
4. The business has a Business Identification Number (NIB).
5. The location, place, and equipment for the Halal Product Process (PPH) are separate from those used for non-halal products.
6. The business may or may not have a distribution permit.
7. The business has one location for outlets and/or production facilities.
8. The business has been actively producing for at least one year prior to the halal certification application.
9. The product is a tangible good (not a service or restaurant, cafeteria, catering, or food stall).
10. Materials whose halal status is assured are documented with halal certification or included in the list according to the Minister of Religious Affairs Decree No. 1360 of 2021 on Materials Exempted from Halal Certification Obligations.
11. The product does not contain harmful ingredients.
12. The halal status has been verified by a PPH Assistant.
13. The type of product/group of halal-certified products does not contain animal products from slaughter, unless sourced from certified halal slaughterhouses.
14. The business uses simple production equipment or does so manually and/or semi-automatically (home-based businesses, not factory-based).
15. The product preservation process does not use radiation, genetic engineering, ozonization, or a combination of preservation methods (hurdle technology).

16. The halal certification application document includes an online self-declaration through SIHALAL.

These criteria must be collectively met for an SME to apply for halal certification under the self-declare principle.

### **Consumer Protection for Halal-Certified Products Through Self-Declare Process**

In Article 4A of the Job Creation Law (UU Ciptaker), two clauses govern halal certification for Micro and Small Enterprises (UMK). This article states that the obligation for halal certification can be based on a self-declaration by the business owner, or "self-declare." While the government aims to ease the certification process for UMK, the self-declare mechanism could lead to misunderstandings, especially regarding the interpretation of the business owner's declaration. This could ultimately result in violations of consumer rights.

Although the self-declaration is based on halal standards set by the Halal Product Assurance Agency (BPJPH), questions remain about oversight, which is a crucial point of concern. For this reason, the law should have robust regulations and enforcement mechanisms to protect consumers, considering the pros and cons associated with the UMK sector. Halal policies are crucial in safeguarding consumers, particularly in the current era of digitalized economies.

### **Legal Protection Efforts**

The Indonesian government has taken legal steps to protect consumers by imposing criminal sanctions on business owners who fail to comply with halal certification regulations. Both the Food Law and the Consumer Protection Law include penalties for violations. In addition to the legal protection provided, the government also carries out oversight of halal-certified food products on the market.

The protection of consumers using halal-certified products through the self-declare process is regulated by several laws and regulations, including:

1. Law No. 33 of 2014 on Halal Product Assurance
2. Government Regulation No. 31 of 2019 on the Implementation of Law No. 33 of 2014 on Halal Product Assurance
3. Government Regulation No. 39 of 2021 on the Organization of Halal Product Assurance
4. Law No. 8 of 1999 on Consumer Protection
5. Law No. 7 of 1996 on Food
6. Law No. 11 of 2020 on Job Creation

Each of these laws imposes both administrative and criminal sanctions on business owners who circulate goods or services, whether food, drugs, or other products, that are labeled halal and have halal certification, but do not comply with the regulations set forth in the laws or government regulations.

### **Types of Sanctions**

The sanctions outlined in these laws vary, but generally, they include criminal penalties such as imprisonment and fines, as well as administrative sanctions such as the prohibition of production and distribution, mass product recalls, or social sanctions like temporary suspensions of production and sales.

These regulations prove that consumers are legally protected when using products that are halal-certified through the self-declare process, ensuring that the products meet the standards outlined in the law.

## CONCLUSION

Business owners have expressed that they have greatly benefited from the free halal certification program through the Self Declare pathway. They are especially advantaged by the cost factor, which is Rp 0.00, and the very simple registration process. The socialization conducted before registering for the Self Declare halal certification has helped UMK (micro and small businesses) better understand the meaning of the certification. Business owners (UMK) explained that the term "halal Self Declare" gives them a sense of comfort and peace of mind, as it eliminates doubts about the halal guarantee of their products circulating in the market. Furthermore, the fact that the government has enacted a regulation requiring food and beverage products on the market to be halal certified (legality) has been a significant event. By obtaining halal certification, UMK owners can work to increase production, thereby enhancing their competitiveness.

The consistency and responsibility of halal supervisors, who are accountable for ensuring halal guarantees for UMK, play a key role in maintaining the stability of halal values (halal value chain) in their products. These efforts are made to maintain consistency in taste, quality, and cleanliness throughout the production process. Some of these efforts include consistently applying cleanliness protocols during production, selecting quality materials with halal labels, separating production and packaging processes, regularly reminding employees to maintain cleanliness of the premises and equipment, and displaying slogans about cleanliness and halal at the production site.

Protection for the public regarding these products has been regulated in various laws and regulations. Even the Indonesian Criminal Code (KUHP) under Article 263 has provisions for the crime of document forgery, which can be applied to the forgery of halal certificates. It can be concluded that, according to the author's discussion, the Self Declare halal certificate falls under the category of documents, as described in the 'KUHP document forgery' offense. This is because a halal certificate, including the Self Declare halal certificate (self-declaration halal certificate), is a document meant to prove the halal status of a product.

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