

Legal Implications of Equalization Administrative Position Become The Functional Position In The Government Of Riau Islands

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Abstract: In the end of 2021, The Government Riau Islands Province appointed 415 affected officials, of which 17 Administrative Officers Head Of The Finance Sub Division transferred to Functional Officers for Central and Regional Financial Analysis (AKPD). Problems in this research are, how is the implementation of the regulation of The Ministry Of Administrative and Bureaucratic Reform Number 17 of 2021 concerning the equalization of administrative Positions into functional Positions in The Government Of Riau Islands and the legal implications for officials affected after the position of The Head of The Finance Sub Division transferred to the Functional Position Central and Regional Finance Analysis. The purpose of the research are investigates the implementation of the regulation and the legal impact for the officers affected. In accordance with the issues to be discussed in this study and in order to provide usefull results, this research method used normative (normative legal research method). The hypothesis of the research is the implementation raised many legal problems such as violated the principal of *lex superior derogat legi inferior* and making the affected officials have no legal certainty in carrying out the duties of their position.

INTRODUCTION

Simplifying the Bureaucracy is a priority program of the Government of President Joko Widodo and Vice President Ma'ruf Amin for the term 2019 – 2026. The Simplification of the Bureaucracy is carried out through 3 stages, which are (1) Simplifying the Organizational Structure, (2) Equalization Position, and (3) Adjusting the Work of the System. The balancing of positions was approved by the Ministry of Administratives and Bureaucracy Reform (Kemen PAN RB) Regulation of the Minister of Administratives and Bureaucracy Reform (Permen PAN RB) No. 17 Of 2021 concerning the equalization of administrative Positions into functional Positions. And the Simplification of Organizational Structure was continued through Permen PAN RB No. 25 of 2021 Concerning the Simplification of Organizational Structure in Government Agencies to Simplify the Bureaucracy. The equalization of these positions is aimed at creating a more dynamic and professional administrative apparatus as an effort to increase efficiency and effectiveness to support the performance of government services to the public. (Tjahjo, 2021)

The Government of Riau Islands Province has implemented bureaucratic simplification through the equalization of positions by appointing 415 (four hundred and fifteen) administrative officials, both managers and supervisors, passed Decree of the Governor of the Riau Islands No. 1499 of 2021 regarding the Revocation and Appointment of Civil servants to functional positions appointed through the equalization mechanism in the

Government of Riau Islands Province in December 31, 2021. Among these, there are 17 (seventeen) Administrative Officers Head of Finance with positions equivalent to Functional Officers of Analyst's Junior Expert central and regional finance (AKPD). Referring to Regional Regulation (Perda) No. 4 of 2021 concerning the establishment and composition of regional apparatuses, Regional Organizations (OPDs) at the Provincial Government of the Riau Islands are 34 OPD, which means there are still Administrative Positions for the Chief Financial Officer that are not equalized into Functional Positions in some other OPD. Although, the duties and functions of the Head of the Finance are relatively similar in each existing OPD.

On the same day, Dispatch Decision (SK) No. 1512 of 2021 was once again issued regarding the Appointment of functional officials appointed through the equalization mechanism as Coordinator and Sub-Coordinator in the Government Of The Riau Islands Province. The functional officer is appointed as the Finance Sub-Coordinator. Based on Decree No. 1505 of 2021 regarding Coordinators and Sub-Coordinators in the Government Of Riau Islands Province. The duties and functions of this Sub-Coordinator are the same as if the affected employee assumes the Administrative Position of the Chief Financial Officer. As a state apparatus where all actions are in accordance with the provisions of the law, when appointed/accepted to a certain position, the authority of that position is attached to that person. Bagir Manan (Mexasai Indra, et al., 2021) Authority means both right and obligation (*rechten en plichten*).

This condition reflects doubts in the implementation of bureaucratic simplification through equalization of positions. Officials who are in administrative positions are appointed as functional officials, but in reality it seems that the official making the recommendation - Ministry of Home Affairs, and the inaugural official- Governor of Riau Islands, not sure about that. the role of officials in being able to maintain the stability of government operations. Considering the above-mentioned Decree, the reason for appointing a Coordinator and Sub-Coordinator is to adjust the main tasks and functions of the regional apparatus and to encourage the acceleration and efficiency of the implementation of the policy. Streamlining the organization of regional apparatus. and optimize the implementation of administrative simplification. This reluctance in setting this policy can be attributed to a number of factors as Rusliandy (2022) stated in his research, namely the absence of an organizational design suitable for the performance of the positions. capacity, the types of positions that regional organizations need are not readily available. leads to a mismatch between the performance of functional officials and the performance of the organization.

While running the government, it must deal with the general principles of good governance (AUPB) so that it can provide administrative legal protection and certainty to government officials. The AUPB under the general provisions of Law (UU) No. 30 of 2014 on Government Administration is a principle used as a reference for the use of authority by government officials in making decisions and/ or act in the administration of government. This provision is consistent with the theory developed by Utrecht (in Aan, et al., 2017) that legal certainty has two meanings, (a) Regulations provide opinions awareness to individuals about what can and cannot be done and (b) Regulations provide legal reassurance to individuals from government arbitrariness, because through regulations, individuals can find out what the state can impose on individuals.

This study analyzes the implementation of equalization positions in the Government Of The Riau Islands Province and examines the legal impact on affected officers after the Administrative Position of the Chief Financial Officer was transferred to Functional Position Central Financial Analyst and Regional

METHODOLOGY

The approach used in this study is legal research carried out by the method of documentary research or so-called secondary data. Legal research is a research process that examines and examines law as norms, rules, legal principles, legal principles, legal doctrines, legal theories, and legal principles. other documents. Soerjono Soekanto and Sri Mamudji (in Ishaq, 2017). legal entity, rights and obligations, legal facts in the law.

Using this approach, the researchers looked at the implementation of PAN RB Regulation No. 17 of 2021 concerning the equalization of administrative Positions into functional Positions in the Riau Islands Provincial Government and the correlation between its interaction with other laws and regulations. How are officials affected by the equalization of their dual-function positions (as AKPD and Financial Sub-Coordinator) in a bureaucracy area.

RESULT AND DISCUSSION

The implementation of Permen PAN RB No. 17 in 2021 raises legal issues that need serious attention, not only by the Regional Government but also by the Central Government. Because there is a regulation that the equalization of employment positions of state agencies is carried out after completing the process of organizational simplification, but the legal regulations governing the simplification of the organizational apparatus exist. apparatus has not been issued. Regulations to simplify organizational apparatus were issued only one month later. Not to mention if we consider the legal basis for promulgating regulations that are inconsistent with legal norms, such as the hierarchy of laws and regulations. Therefore, discussion of this regulation cannot be separated from Regulation No. 25 of 2021 of the Minister of Administrative and Bureaucratic Reform on Simplification of Organizational Structure.

a. Simplify Of Organizatonal Structure

At the time of the Equalization positions process, the organizational structure in the Government of the Riau Islands province still referred to Regional Regulation No. 4 of 2021, which grouped regional apparatuses based on type as defined in the Regulation. Decree No. 18 of 2016 related to the regional apparatus. However, once the start of the equalization process is done, the organizational structure reference to the modeled organizational structure as in the PAN RB Ministerial Letter B/467/KT.01/2021 May 27, 2021 on Policy Recommendations to Simplify the Organizational Structure of Regional Apparatuses in Local Government Environment Provinces and Districts/Cities. This letter has become basis for the Provincial Government of the Riau Islands to issue Governor Regulation No. 92 in 2021 regarding the Position, Organizational Structure, Duties and Functions as well as Working Procedures of the Governments. The regional apparatus, in which the organizational chart is included in the appendix, refers to the organizational structure modeling recommended by the Minister PAN RB. This condition is seen in the Culture Service. In Regional Regulation 4 of 2021 the Culture Office is included in type A, which means that based on Government Regulation Number 18 of 2016 Article 62 paragraph (1) Provincial Regional Office type A consists of 1 (one) secretariat and a maximum of 4 (four) fields. (2) The Secretariat as referred to in paragraph (1) consists of 3 sub-sections. However, in reality the Culture Service has 1 Sub-Section in the Organizational Structure Chart which is contained in the attachment to Governor Regulation Number 92 of 2021. This refers to the recommendation letter from the Minister of PAN RB which includes cultural affairs in the Model IV Structure Chart, where the Secretariat consists of a Subdivision.

In terms of statutory hierarchy, the *lex superior derogat legi inferior* principle applies when the provisions below do not conflict with those above. In this case, there was disharmony between the Governor's Regulation No. 92 of 2021 in conflict with Regional Regulation No. 4 of 2021 and the Government's Regulation No. 18 of 2016. This regulation actually refers to Letters of Recommendation as the official document. According to information from the Legal Analyst at the Legal Office of the Regional Secretariat of the Riau Islands, the dissonance of these laws and regulations has been facilitated and approved by the Ministry of Home Affairs. approved by the Legal Office to make the Governor's regulatory recommendations.

Peter Cane in formulating the theory of authority that government Institutions have the authority to perform a legal action, that legal authority can come from statutes or customary law. Alex Carol also pointed out a government official acted out of authority if a decision was based on his or her authority but involved false documentation and misinterpretation of the law used as the basis for the decision. In this case, it can be said that

there has been an error in the regulation/decision of the government agency/official due to non-compliance with the decision-making process that makes the Governor's Regulation likely to be invalidated. That means it never has binding powers and legal consequences.

b. Equalization Position

Equalization of Administrative Positions Head of Finance SubDivision becomes AKPD Young Professional's Functional Position in the Riau Islands Provincial Government is carried out in a "hasty" and tends to be "forced" without completing prior stages of structural simplification organization under the authorization of Permen PAN RB No. 17 of 2021 Article 9 stipulates that the Equalization of Government agencies is carried out after completing the process of simplifying the organizational structure. And the mission of Permen PAN RB No. 25 in 2021 Article 4, which states that the Simplification of the administrative apparatus is carried out through the following stages: a. Simplify Organizational Structure; b. Equal Position; and c. Adjust the working system. The equalization of the Positions marked by the inauguration of an Administrative Officer equivalent to a Functional Officer will be carried out on December 31, 2021 in accordance with the Minister of Home Affairs Dispatch No. 800/8868/OTDA December 31, 2021 on Approval of Equalization of Positions in Regional Government of the Riau Islands Province. Types of positions in the consideration of position equality have been regulated through Decree No. 998 in 2021 of the Minister of Administrative and Bureaucratic Reforms on standards for equalization of positions and types of positions in the work. equalization administrative positions into functional positions for regional agencies, can be seen in the following table:

Table. 1. The appropriateness of the model of position and function at the provincial level

Affairs/Supporting Function	Field Section		Secretariat	
Culture	1.	Cultural Master	1. 2. 3. 4. 5. 6. 7. 8. 9.	Policy Analyst (Associate Expert must be in Master Program) Personnel Analyst Archivist Computer Institution Public Relations Officer Planner Central and Regional Financial Analyst Goods/Services Procurement Manager Drafter of Legislation (S.H required)
Empowering communities and villages		Community Self- Help Activator Social Extension Social Worker (must have at least S1 social worker or S1 Social Welfare	1. 2. 3. 4. 5. 6. 7. 8.	Policy Analyst (Associate Expert must be in Master Program) Personnel Analyst Archivist Computer Institution Public Relations Officer Planner Central and Regional Financial Analyst Goods/Services Procurement Manager Drafter of Legislation

			9.	(S.H required)
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Source: Appendix attached to Decree No. 998 in 2021 of the Minister of PAN RB

The determination of the Administrative Position of the Financial Sub Division as the Functional Position of the AKPD looks only at the word “finance” without looking further into the description of the duties of the AKPD set forth in Permen PAN RB No. 42 2014 On Function Positions of central and regional financial analysts and regulations of the Minister of Finance No. 37 of 2019 relating to Technical Guidelines for functional positions of analysts central and regional financial analysis. This was confirmed when the Ministry of Finance approved Official Letter No. S-282/PK/PK.4/2022 dated August 22, 2022 on the appointment of civil servants to hold the position of Central Financial Analyst and region, point (4) states that in the context of career continuum, JF AKPD should be arranged in working units or OPD dealing with financial relationships between central government and local government. method (HKPD). In local government, JF AKPD can be located in BPKAD, Bapenda and Bappeda. The Ministry of Finance as the AKPD Advisory Institution has implicitly stated that it is inappropriate to move the AKPD Position due to equalization from the Finance Subsection in each OPD.

The Ministry of Home Affairs approved Official Letter No. 800/2237/OTDA dated March 28, 2022 on continuing the process of simplifying the administrative apparatus at the provincial and district/city levels at point (3) stating that Administrative officials who have been appointed through equalization in functional positions but have not yet matched their qualifications, capabilities and working units shall be adjusted to functional positions (functional positions). is different). The Provincial Government of the Riau Islands has responded to the letter of the Minister of Home Affairs by issuing Letter No. 061/2100/B.ORG-SET/2022 of September 7, 2022 regarding the Tracking of the Simplification Process Administrative apparatus in the Provincial Government of the Riau Islands, in which point (1) refers to officials Administrative positions have been appointed through the equalization of positions but have not yet been matched. between qualifications, capacity and working units, they shall be adjusted into functional positions (other functional positions).

From the official documents above, it creates legal uncertainty for officials affected by the status of the position they hold. It was appointed on December 31, 2021 as a function of the AKPD, but the advisory Institution deemed it inappropriate and the Ministry of Home Affairs and Regional Government appointed it apparently they question decisions made when implementing equalization of positions by opening the door to transfer to other functional positions or even being cancelled. As point (7) in the Official Dispatch of the Minister of Home Affairs mentioned above, in case the synchronization of administrative units and adjustment of job positions is not appropriate, the synchronization can be canceled, Adjust administrative positions.

In light of the legal uncertainty regarding their position status, the AKPD Functional Officers were appointed as the Finance Sub-Coordinators through Decree No. 1512 of 2021 regarding the appointment of Functional Officer appointed through an equal mechanism as Coordinator and Sub-Coordinator in the Provincial Government of the Riau Islands has the same duties and functions as the Financial Subcommittee Administrative Position held by Mr. implemented prior to equalization. Comparison of Duties and Functions of these positions can be seen in the following table :

Table.2. Comparison of the Job Description of the Head of the Finance Sub-Division with the Finance Sub-Coordinator

Finance Sub Division Task Description (Pergub 57/2021)	Job Description of Finance Sub Coordinator (Governor Decree No. 1505/2021)
a. Planning the activities of the financial	a. Planning the activities of the financial

<p>sub-section;</p> <ul style="list-style-type: none"> b. Dividing tasks to subordinates in the finance sub-section; c. Guiding the implementation of the duties of subordinates in the financial sub-section; d. Examine the work of subordinates in the financial sub-section; e. Carry out financial administration management; f. Carry out financial verification and accountability; g. Prepare regional apparatus financial reporting materials; h. Evaluating the implementation of activities within the financial sub-section; i. Report on the implementation of performance in the financial sub-section; and j. j. Carry out other official duties given by the leadership both orally and in writing. 	<p>Sub-Coordinator;</p> <ul style="list-style-type: none"> b. Dividing tasks to subordinates within the financial Sub-Coordinator; c. Guiding the implementation of subordinate tasks within the financial Sub-Coordinator; d. Examining the work of subordinates in e. the financial Sub-Coordinator environment; f. Carry out financial administration management; g. Carry out financial verification and accountability; h. Prepare regional apparatus financial reporting materials; i. Evaluating the implementation of activities within the financial Sub-Coordinator; j. Report on the implementation of performance in the environment of the financial Sub-Coordinator; and k. j. Carry out other official duties given by the leadership both orally and in writing.
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Source: Governor Regulation Number 57 of 2021 Regarding Position, Organizational Structure, Duties and Functions, and Work Procedures of Regional Apparatuses and Governor Decree Number 1505 of 2021 concerning Coordinators and Sub-Coordinators within the Riau Islands Provincial Government

Therefore, throughout 2022, the affected official will not perform the duties of a functional position attached to him, namely the AKPD Functional Position, but will instead perform additional duties additionally as the Finance Sub-Coordinator, will then be appointed a Financial Administrator (PPK-SKPD). The term of Head of Finance should have ended as it was balanced with the Functional Position of the AKPD Young Professional. And the Financial Sub-Coordinator is not an accomplished position, but an additional duty beyond his primary duties as the AKPD Young Professionals Function Officer. This means that officer affected do not perform the duties and functions of the position they hold, but perform additional tasks that are beyond the competence of the working position.

Referring to Yusri Munaf's opinion in his book State Administrative Law, because law is a certainty, law can guarantee certainty that someone with an expired institution will get a right or lose a right. Based on the theory of legal certainty put forward by Nurhasan Ismail and Fuller, the implementation of the Minister of Administratives and Bureaucratic Reform Regulation Number 17 of 2021 by the Riau Islands Government creates legal uncertainty for the continuity of the implementation of equalization of positions. Fuller stated louder that if the) legal principles he conveyed were not met, the law would fail to be called law. PAN RB Ministerial Regulation Number 17 of 2021, Article 6 paragraph (b) states that equalization of positions is carried out with four criteria and one of them is the duties and functions of administrative positions related to functional technical services and the duties and functions of positions can be carried out by functional officials. Based on the provisions above, the process of transferring administrative positions to functional positions was not carried out properly.

Refers to the opinion of Yusri Munaf in his book State Administrative Law, because the law is a certainty, the law can guarantee with certainty that someone with an expired

institution will enjoy the right or lose rights. Based on the theory of legal certainty put forward by Nurhasan Ismail and Fuller, (Ananda) the implementation of the Regulation No. 17 of 2021 by the Provincial Government of the Riau Islands creates legal uncertainty for the continuity of the exercise of office equality. Fuller further stated that if the eight (eight) legal principles he conveyed were not met, the law would not be called a law. PAN RB Ministerial Regulation No. 17 2021, Article 6 paragraph (b) provides that the equalization of positions is carried out with four criteria and one of them is the duties and functions of the executive positions. major related technical service functions and duties and functions of the positions may be performed by functional officials. Based on the above regulations, the process of transferring administrative positions to positions has not been carried out properly

Based on Law No. 30 of 2014 on Government Administration, Article 6 provides that government officials have the right to exercise authority in decision-making and/or action. These rights include the right to exercise the authority they have under the provisions of laws and regulations and the AUPB and to carry out governmental activities based on the authority they have. And Article 7 provides that Government Officials are obligated to carry out government administration in accordance with the provisions of law and government regulations and policies and the AUPB. These obligations include making decisions and/or acting under their authority. In exercising their authority, government officials must comply with laws and regulations and the AUPB. Government officials are prohibited from abusing their authority in making and/or implementing decisions and/or actions.

When the Young Professional AKPD Functional Officer was appointed as a Financial Administrator (PPK-SKPD), this was also the position he held before the equalization of positions. In fact, these Functional Officers perform more functions as PPK-SKPD as authorized in Regulation No. 77 of 2020 of the Minister of Home Affairs regarding Technical Guidelines for the Management regional finance, namely verification of SPP-UP, SPP-GU, SPP-TU and SPP-LS along with proof of completeness submitted by the expenditure treasurer, checking the completeness and validity of the funds data, prepare SPM, perform accounting functions and prepare SKPD financial statements. In addition, the PPK-SKPD issues a statement verifying the completeness and validity of the SPP-UP, SPP-GU, SPP-TU and SPP-LS together with their accessories as the basis for calibration. suffer from SPM. In the process of regional financial management, PPK SKPD has a role to play in whether the submission of financial documents submitted by the treasurer is appropriate to issue a Payment Order (SPM) signed by Budget user/Budget user or not . And whether the expense accounts submitted by the treasurer and PPTK comply with the requirements listed in the expenditure accountability guidelines. This means that the PPK-SKPD mission is the primary mission of the position and should not be used as an additional mission. Due to regular and continuous work.

Possible legal consequences for the affected officials under Article 19 of Law 30 of 2014 providing (1) Decisions and/or actions determined and/or taken beyond the Authority as defined referred to in Article 17 paragraph (2) letter a and Article 18 paragraph (1) as well as Decisions and/or Actions arbitrarily determined and/or taken as referred to in Article 17 paragraph (2) letter c and Article 18 paragraph (3) are null and void if they have been examined and have a Court's Decision with permanent legal effect, (2) Determination and/or Action 73 and /or done by mixing the Competent Authority as mentioned in Article 17 paragraph (2) letter b and Article 18 paragraph (2) may be canceled if it has been accepted and has a Court Decision permanent legal effect. The monitoring of the above prohibition on abuse of power was carried out by the Government's Internal Oversight Department, the results of which further showed that (a) was not at fault; (b). there is an administrative error; or (c.) there is an administrative error causing losses to the state budget. The monitoring of the results of this monitoring is that if an administrative error occurs, a major operational improvement is made. However, if the error leads to a loss of state finances, the state budget must remit the loss amount determined by the supervisory agency.

CONCLUSION

The Government of the Riau Islands has carried out the process of equalization positions based on the mandate of PAN RB Regulation No. 17 2021 in a "hasty" and tended to be "forced" manner. Because the streamlining of the organizational structure is carried out in parallel with the process of equalization of working positions. This condition can be seen in Governor's Regulation No. 92 2021 issued concurrently with the inauguration of officials due to the balance of positions on December 31, 2021. So, the structure organization in Governor's Regulation that is not subject to Regional Regulation No. 4 of 2021. Where there is a conflict between a regulation and the regulation under it, that provision may be void by law.

The legal implication of the Head of Financial Officer being equated with the AKPD Low- Level Specialist is that since taking office until 2022, the official has not exercised his powers as an official. capabilities of the AKPD that perform other external tasks. authority of his position. Thus, the official may be suspected of abusing his or her authority because the government official acted outside the authority of his position. And if the government's internal monitoring apparatus concludes that there is an abuse of power, they can be dealt with under Law No. 30 of 2014 on Government Administration. Therefore, it is necessary to conduct an in-depth assessment of this position equalization process with the participation of many stakeholders such as the Ministry of Administrative and Bureaucracy Reform, the Ministry of Home Affairs, the Ministry of Finance as supervising Institution and Regional Government.

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