

Management Rights in Underground Post Application of Law Number 11 of 2020 Concerning Copyright and Implementation Regulations

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Abstract

This thesis is entitled "Management Rights in Underground Spaces After the Enactment of Law Number 11 the Year 2020 concerning Job Creation and Implementing Regulations" with 2 (two) main problems, namely, (1) How is the Legal Certainty regarding the Granting of Permits and Limitations on the Use of Utilization? Basement? What is the legal status of basements after the enactment of Law Number 11 of 2020 concerning Job Creation and its Implementing Regulations? This research is a type of legal research with normative research methods. Besides, this research uses a statutory approach and a conceptual approach. The results of this thesis research indicate that the legal certainty of granting permits in terms of the use of underground spaces is based on Law no. 11 of 2020 concerning Job Creation, Article 146 Land or space formed in the upper and/or underground space and used for certain activities may be granted building use rights, use rights or management rights, in this case granting rights to the utilization of the underground space. based on the Basic Agrarian Law. Restrictions on the use of the authority of those who use it are limited by the existence of procedures that must be met in terms of the use of basements and the depth limit stipulated in the Implementing Regulation of the Employment Creation Act, Article 74, namely with a height limit according to the basic coefficient of the building and the floor of the building as well as a depth limit of 30. meters from the surface of the land that can be reached by the process of registering rights through the granting of rights that take into account/consider the holders of land rights under and/or above it. The arrangement for the acquisition of the right to use the basement is regulated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration Article 77, namely, Upper Land or Ground Spaces may be granted Management Rights, Building Use Rights, or Right of Use after the Upper Ground or Underground Space is utilized. The granting of rights is granted by a decision on granting rights by the Minister. The regulation regarding land rights is guided by the Basic Agrarian Law.

Keywords

management rights; utilization of underground space; job creation act



I. Introduction

The land is a place to live for mankind, as well as a source of livelihood for those who make a living through farming. Land can also be considered as a property that has a permanent nature because it provides a balance to be reserved for future life. In the end, the land is also the final burial place for the dead. This means that land has an important role in

this life. Currently, development and population growth are happening very fast. In various aspects of economic activity, such as the need for roads, housing, office buildings, trade centers, and tourism sites, additional land is needed. This is because meeting the needs of human life, of course, has an impact on the need for land. From this, we are faced with the problem of land use and utilization.

The creation of the Right to Control from the State is the delegation of tasks of the authority of the Indonesian Nation carried out by the Representatives of the Indonesian Nation by drawing up the 1945 Constitution and establishing the Republic of Indonesia on August 18, 1945 (Harsono, 2008). The delegation referred to in Article 33 paragraph (3) The 1945 Constitution which reads "Earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people", from the provisions of the article it can be delineated the meaning and mandate of the 1945 Constitution concerning basic policies that provide for the State in the control and use of existing Natural Resources (SDA), and the benchmark is as much as possible for the prosperity of the Indonesian people.

Furthermore, the UUPA and its implementing provisions become a reference for the management of land administration in Indonesia, including in land acquisition activities for development in the public interest. The construction of public facilities requires land as a container. However, the problem is that land is a natural resource that is limited in nature and never increases in size and the currently available land has a lot of rights (titled land), while state land is in very limited supply. The difficulty of development for the public interest on state land at this time. Therefore, the solution taken is to take land rights or the activity of "taking" land (by the government in the context of implementing development in the public interest) which is then called land acquisition.

Buildings that require space in the body of the earth that are not physically related to buildings on the earth's surface above it, for example, buildings for business activities, shops, restaurants, stations, and underground railways, underground water, or boreholes, etc. Ownership and use of land cannot be separated from the status of land rights attached to the land used. Based on Article 4 Paragraphs (1) and (2) of the Basic Agrarian Law Number 5 of 1960 concerning Basic Agrarian Regulations.

Every individual of the Indonesian nation has the right to obtain land and/or benefits from the land, both for himself and his family to fulfill the need for survival and life as a human right. The difficult condition of obtaining or using the earth's surface in urban areas has caused people to start looking for plots of land below the earth's surface. For example, in DKI Jakarta there is a basement area that is used as a place of business as well as an exit for MRT and busway passengers. in Makassar, there is a building under the Karebosi Field which is used for business or business purposes which is one of the shopping centers in Makassar.

Then based on Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration (State Gazette of the Republic of Indonesia of 2021 Number 28, Supplement to the State Gazette of the Republic of Indonesia Number 6630) as implementing regulations for Law Number 11 of 2021. 2020 concerning Job Creation which specifically regulates management rights in basements is contained in Article 1 point 6, which is as follows: "Underground space is a space below the surface of the land used for certain activities whose control, ownership, use, and utilization are separate from the control, ownership, use, and utilization of land parcels."

Thus, of course, this requires the control of space utilization by the government to optimize land functions because of the increasing use of basements, it is felt that there is a need for legal certainty regarding the use of basements, namely the granting of land use

rights. This, of course, requires the competent authority in terms of using land where it intersects with the right to control the state. Which agency or official has the authority in terms of providing the right base for the use of the basement, as well as the legal requirements for the permit, this has not yet been regulated in the Act. The use of the basement will have an impact in the legal field because the existing regulations are felt to be incomplete and in harmony in regulating the use of the basement. Based on the description above, the use of the basement can raise questions that become the identification of problems, namely regarding the legal certainty of regulating the use of basements and the authority to grant permits for the use of basements.

Formulation of the Problem

- a. What is the Legal Certainty regarding the Granting of Permits and Limitations on the Use of Underground Space?
- b. What is the legal status of basements after the enactment of Law Number 11 of 2020 concerning Job Creation and it's Implementing Regulations?

II. Review of Literature

2.1 Legal Certainty Theory

Providing legal certainty that is aimed at order is one of the tasks of the rule of law. Given that laws and regulations are one of the sources of law in Indonesia, every statutory regulation seeks to realize legal certainty that creates such order. There are four things related to the meaning of legal certainty. First, that the law is positive, meaning that it is legislation (gezet slice Recht). Second, that this law is based on the fact (Tatsachen), that a formulation of the judgment that will later be made by the judge such as "goodwill", "politeness". Third, that the fact must be formulated clearly to avoid mistakes in meaning, as well as being easy to implement. Fourth, the positive law should not be changed frequently.

According to Gustav Radbruch, there are two kinds of understanding of legal certainty, namely legal certainty by law and legal certainty in or from the law. Laws that succeed in guaranteeing a lot of legal certainty in society are useful. Legal certainty because the law gives other legal tasks, namely legal justice, and the law must remain useful. Meanwhile, legal certainty in law is achieved if the law is as much as possible law. In the law, there are contradictory provisions (the law is based on a logical and practical system). Laws are made based on rechtswerkelijkheid (true legal conditions) and in the law, there are no terms that can be interpreted differently.

2.2 Licensing Theory and Concepts

Licensing is the granting of legality to a person or business actor/certain activity, either in the form of a license or a business registration certificate. Permits are one of the most widely used instruments in administrative law, to limit the behavior of citizens. In general, permits consist of :

- a. Ban;
- b. Consent which is an exception (permit);
- c. Conditions relating to permits.

As a regulating function, it is intended that existing permits can be implemented according to their designation, so that there is no misuse of the permits that have been granted, in other words, this regulatory function can also be referred to as a function owned by the government. Licensing is an absolute must for every business actor. The objectives of the licensing system are:

- a. The existence of legal certainty;

- b. Protection of legal interests;
- c. Prevention of environmental damage or pollution;
- d. Equitable distribution of certain goods;
- e. Desire to control certain activities;
- f. Directing, by selecting certain people and activities.

The land-use policy, which is used as a reference, namely Law no. 26 of 2007 concerning Spatial Planning, that in line with the regional autonomy policy which gives greater authority to regional governments in the implementation of spatial planning. It is very important to do this considering the limited space so that transparent, effective, and participatory spatial planning is needed to create a safe, comfortable, productive, and sustainable space. Therefore, the authority of the regional government needs to be regulated to maintain harmony and integration between regions and between the center and regions so as not to cause regional disparities.

In the case of obtaining land for investment purposes, it is necessary to obtain a location permit from the Minister of Agrarian Affairs and Spatial Planning/Head of BPN before a company acquires or relinquishes land rights from the community. These location permits can be granted based on considerations regarding aspects of land tenure and technical use, which include the state of rights and control of the land concerned, physical assessment of the area, land use, and land capability. A location permit is issued in the form of a Decree signed by the Regent/Mayor after a coordination meeting between relevant agencies is held.

2.3 Literature Review on Management Rights

Boedi Harsono stated that the Management Rights in the systematic land tenure rights are not included in the category of land rights, but are the "Gempilan" of the state's right to control the land. Therefore, the Management Right is a function/authority of the public as the right to control the state and is not properly equated with "rights" as regulated in Article 16 of the LoGA because land rights only concern civil aspects. The term Management Rights (hereinafter referred to as HPL) only appeared at the time of the issuance of the Minister of Agrarian Regulation Number 9 of 1965 concerning the Conversion of State Land Rights and Wisdom, hereinafter. The purpose of this definition is that earnings management can be defined as deliberate management intervention in the process of determining earnings, usually to meet personal goals (Sitanggang, 2020). The existence of earnings management can result in biased financial statements; the report is manipulated using certain accounting methods so as to produce financial statements that are in accordance with the needs or desires of the manager (Yannizar, 2020). In the implementation of management and services of irrigation, it is needed employees being able to work well and having high work effectiveness so that the work can run smoothly (Kuswati, 2019).

The emergence of the term HPL is contained in Article 2 of the Regulation of the Minister of Agrarian Affairs Number 9 of 1965 which reads: "If the State land as referred to in Article 1, apart from being used for the benefit of the agencies themselves, is also intended to be granted with some rights to a third party, then the control rights mentioned above are converted into management rights as referred to in Articles 5 and 6, which lasts as long as the land is used for that purpose by the agency concerned".

Parties who can hold Management Rights are legal subjects of Management Rights. Legal subjects are all things that can have rights and obligations from the law. According to Sudikno Mertokusumo, human beings can obtain rights and obligations.

2.4 Literature Review on Dungeons

Broadly speaking, the basement is regulated in Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) Article 1 paragraph 4 and Article 2

paragraph 2 letter C . The LoGA in this case needs to define and provide boundaries related to land rights (rights on the earth's surface) and land use rights (rights below the earth's surface). The use of different land rights with the space above and/or underground controlled by different land rights holders has not been regulated in the LoGA. Space has several socio-economic functions which means that space is a social product, namely:

- a. Space serves as one of the forces of production;
- b. Space can be a variety of commodities (real estate);
- c. Political space facilitates control of the economic and political system;
- d. Space strengthens the reproduction of productive relationships.

This law defines underground space as space within the earth as regulated in Article 1 Number 2, namely space that is below the ground surface, used for various human activities. The depth level of space in the earth is also regulated, namely:

- a. Space within Shallow Earth

Namely, those that are within a depth of 0 (zero) to 30 (thirty) meters below the ground surface.

- a. Space within Inner Earth

Namely, those located at a depth of more than 30 (thirty) meters below the ground surface.

The level of depth is related to the granting of a permit to be granted by the right holder. More broadly according to Law Number 26 of 2007 concerning Spatial Planning of the State Gazette of the Republic of Indonesia of 2007 Number 68 Supplement to the State Gazette of the Republic of Indonesia Number 4725 in Article 6 paragraph 3 . The use of underground space is one of the uses of buildings below ground level, this is also regulated in Law Number 28 of 2002 concerning Buildings, State Gazette of the Republic of Indonesia of 2002 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 4247 already regulates the use of underground buildings, namely Article 7, which states that the use of space above and/or below ground and/or water for buildings must have a use permit following applicable regulations.

Buildings may be constructed above or below ground, water, or public infrastructure and facilities such as road lanes and/or green lanes after obtaining permission from the competent authority in the operation of the infrastructure and facilities concerned, with consideration that they do not conflict with the spatial plan, plan layout of buildings and the environment, does not interfere with the function of the infrastructure and facilities concerned, and still considers the compatibility of the building with its environment.

- Based on the Regulation of the Minister of Public Works Number 02/PRT/M/2014 concerning Guidelines for Utilization of Space in the Earth State Gazette of the Republic of Indonesia of 2014 Number 268 Article 1 Number 1:
- Space is a container that includes land space, sea space, and air space, including space within the earth as a territorial unit, where humans and other creatures live, carry out activities and maintain their survival.

III. Discussion

3.1 Legal Certainty regarding the Granting of Permits and Limitations on the Use of Underground Spaces

The Basic Agrarian Law stipulates that all basic agrarian elements are controlled by the state as an organization of power for the entire people. The law is one of the legal bases in the implementation of the life of the nation and state, so it is necessary for clarity and certainty without any dualism. The use of the basement cannot be separated from the existence of a

building because to utilize the basement must be accompanied by building a building to get space that can be used later. Therefore, the technical criteria are a requirement when granting a basement right.

Licensing according to the Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration, a permit is a decision by an authorized government official as a form of approval of the request of citizens following the provisions of the legislation. Permits are one of the important instruments in state administrative law, where the government makes licensing a juridical means to regulate people's behavior patterns indirectly. The policy regarding spatial planning is regulated in Law Number 26 of 2007 concerning Spatial Planning as amended by Law Number 11 of 2020 concerning Job Creation following the regional autonomy policy giving authority to local governments in the implementation of spatial planning.

The granting of permits is very important due to the limited space, so it is necessary to organize a safe, comfortable, productive, and sustainable spatial arrangement. Therefore, the authority of the regional government needs to be regulated to maintain harmony and integration between regions and between the center and regions so as not to cause regional disparities. The definition of spatial planning as regulated in Article 1 Number 1 of Law Number 11 of 2020 concerning Job Creation is a system of spatial planning processes, space utilization, and space utilization control. The implementation of spatial planning is carried out by the Central Government and Regional Governments by involving the role of the community. Among others include:

- a. Participation in the preparation of spatial plans
- b. Participation in spatial planning, and
- c. Participation in controlling space utilization.

The term of the National Spatial Plan is 20 (twenty) years and is reviewed every 5 (five) years. The proportion of public green open space in the city area is at least 20 (twenty) percent of the city area, while the distribution of public green open space is adjusted to the distribution of the population and the service hierarchy by taking into account the structural plans and spatial patterns. The permit for the use of the basement is regulated in Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning with several related laws and regulations.

When analyzed regarding the involvement of the state controlling the land following Article 2 of the LoGA which is the implementing regulation of Article 33 paragraph (3) of the 1945 Constitution, the state then gives authority to the relevant parties, namely the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency in terms of administering the allocation, use, supplies and maintains them as well as determines and regulates the rights that can be owned over parts of the earth, water, and space. The authority to manage buildings in shallow basements always follows the process of buildings that are above ground, so that development activities in basements are carried out still attached to buildings above ground. The existence of this development process is only from the ground surface to a depth of 10 m.

Activities allowed in shallow basements include access to MRT stations, namely mass transportation based on railroads that utilize special routes, road infrastructure network systems, network systems utilities, office areas, parking facilities, trade, and services, supporting activities for the building above it and the foundation of the building above it. Meanwhile, the authority to manage buildings located in this deep basement has limits from ground level to a depth of 40 m and up to technological capabilities. This is only done by the government to ensure the welfare of the community by looking at what the needs of the community in each region will be. Activities allowed in the Deep Underground Space include

the MRT system, road infrastructure network, and utility network system and building foundations on it.

3.2 Arrangement of Utilization of Above Ground and Underground Space

Land use shows human activities on a type of land use to obtain added value without changing the physical form of land use. For example, if land use is classified as housing, then the land use, in this case, may be in the form of residential houses, so the term land use is a detail of the type of land use. General provisions regarding the use of space are regulated in Article 32 of the Law on Spatial Utilization. the use of space can be carried out by using space vertically or by utilizing space in the earth. Implementation of space utilization is held for:

- a. Realizing the spatial structure and spatial pattern that is planned to ensure the sustainability of community life in a quality manner.
- b. Realizing sustainable development that is implemented in an integrated manner. The implementation of spatial use is the implementation of sectoral development and regional development, whether carried out by the government, regional government, or by the community, must refer to spatial planning.

Utilization of space on land or basement is regulated in Article 76 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration, the land where structurally and/or functionally separate from the holder of land rights is a space on land or underground spaces which are directly controlled by the state must obtain conformity with spatial use activities issued by the Minister. Law Number 26 of 2007 concerning Spatial Planning that the government's authority in implementing spatial planning includes: regulation, guidance, and supervision of the implementation of spatial planning in national, provincial, and district/city areas.

As for other authorities, such as the implementation of spatial planning for national, provincial, and district/municipal strategic areas, then the implementation of spatial planning for national areas, as well as the implementation of spatial planning for national strategic areas, as well as cooperation in spatial planning between countries and facilitation of spatial planning cooperation between provinces. Based on the explanation above, the state gives authority to the minister in terms of the implementation of spatial planning with duties and responsibilities including the regulation, guidance, and supervision of spatial planning; implementation of national spatial planning; and coordination of cross-sectoral, cross-regional, and cross-stakeholder spatial planning.

The minister who holds this role is the Minister of Public Works and Public Housing (PUPR), based on the task of carrying out government affairs in the field of public works and public housing to assist the president in administering the state government. Buildings in the basement can be utilized and managed by obtaining a utilization permit, which for shallow basements follows the applicable licensing process as for above-ground spaces, while for deep basements it is given specifically.

The agencies involved in implementing the use and utilization of land and their authorities include the Regional Office of the National Land Agency or the Regency/City Land Office. In the context of Issuing a Land Use Change Permit (IPPT) or Location Permit, it is required that a study of the land tenure and land use aspects from the Land Office be contained in the Land Technical Considerations (PTP). The granting of permits is entirely the authority of the Regional Government where the procedures/procedures are regulated by Regional Regulations, while the ranks of the BPN (National Land Office) are involved in the preparation of the PTP.

3.3 Legal Status of Underground Spaces after the Enactment of Law Number 11 of 2020 concerning Job Creation and Its Implementing Regulations

The regulation regarding the use of land is regulated in Article 2 paragraph (2) of the LoGA, namely the right to control the state included in paragraph (1) of this article giving the authority to:

- a. Regulate and administer the designation, use, supply, and maintenance of the earth, water, and space;
- b. Determine and regulate legal relations between people and the earth, water, and space;
- c. Determine and regulate legal relations between people and legal actions concerning the earth, water, and space.

The above has the aim of achieving people's prosperity in the framework of a just and prosperous society. What is meant by land rights are rights that give authority to those who have the right to use or take advantage of the land they are entitled to. The word "use" implies that land rights are used to construct buildings, for example, houses, shops, hotels, offices, factories. The word "take advantage" implies that land rights are used for non-construction purposes, for example for agriculture, fisheries, animal husbandry, plantations.

Article 18 of the UUPA stipulates that for the public interest, including the interests of the nation and the state as well as the common interests of the people, land rights can be revoked by providing appropriate compensation and according to the method regulated by law. The purpose of this article is to create conditions as regulated in Article 33 paragraph (3) of the 1945 Constitution, namely that the Earth, water and natural resources contained therein whose control is assigned to the Republic of Indonesia must be used for the greatest prosperity of the people.

To own land, the community must register it according to the regulations of the government of the Republic of Indonesia. Land registration as stipulated in Articles 3 and 4 of the Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration (hereinafter referred to as PP on Land Registration) is to provide legal certainty and protection to holders of rights to a plot of land, apartment units, and other rights. Other registered rights so that he can easily prove himself as the holder of the right to a plot of land, apartment unit, and other registered rights so that he can easily prove himself as the holder of the right in question. To provide legal certainty and protection to the right holder concerned, a certificate of land rights is granted.

The concept of land rights is regulated in the Basic Agrarian Law which divides land rights into two forms. First, primary land rights. Both land rights are secondary. The definition of primary land rights is land rights that can be owned or controlled directly by a person or legal entity that has a long period and can be transferred to other people or their heirs. In the UUPA there are several primary land rights, namely:

- a. Right of ownership;
- b. Cultivation Rights;
- c. Building rights;
- d. Right of Use;
- e. Rental Rights for Buildings;
- f. Land Clearing Rights;
- g. The Right to Collect Forest Products;
- h. Other rights that are not included in the rights above the land to be stipulated by law, as well as rights of a temporary nature as mentioned in Article 53.

Land use is currently very diverse and limited. This is due to the increasing demand for land while the availability of land does not increase. Current technology in constructing a building is no longer limited to using land in 2 dimensions but also in 3 dimensions, no

longer utilizing the earth's surface but also above (air space) and also below the ground (earth). At this time, apart from the earth's surface, many underground buildings and floating buildings have been built such as pedestrian bridges (JPO).

The utilization of underground space is generally used as a support for buildings above or below ground level. The underground space is used as an alternative to the development of surface construction from the top to the bottom due to the limited land above ground level. The legal basis for using the Underground Space is taken in Article 4 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, namely based on the right to control the state as referred to in Article 2, it is determined that there are various types of land rights, which can be granted to and owned by people either alone or jointly with other people and legal entities.

The rights to land as referred to in paragraph (1) of this article authorize the use of the land in question, as well as the body of the earth and water and the space above it, only as necessary for interests directly related to the use of the land within the limits according to This Act and other higher legal regulations. Currently, the use of basements is regulated in Article 146 of the Job Creation Act. The basement at this time can be converted to support the main activities, namely mass transportation, production activities, commercial activities, warehousing, underground space utilization should be integrated with the underground layout following the legislation. The right to use the basement is defined as a right for the right holder who uses the underground space for both personal and collective purposes.

The arrangement for the acquisition of the right to use the basement is regulated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration Article 77, namely, Upper Land or Ground Spaces may be granted Management Rights, Building Use Rights, or Right of Use after the Upper Ground or Underground Space is utilized. The granting of rights is granted by a decision on granting rights by the Minister. If the granting of use and utilization of land space interferes with:

- a. In the public interest, approval from the Central Government is required; and/or
- b. In the interest of the holder of Land Rights in the Land sector, approval from the holder of Land Rights is required.

The form of approval from the holder of land rights is in the form of an authentic deed. Utilization of underground space has a period in accordance with the basis of its rights, if:

- 1) The Management Right to the Upper Ground or Underground Space shall be nullified if:
 - a. Canceled by the Minister because:
 1. administrative disability; or
 2. Court decisions that have permanent legal force;
 - b. The building/spatial unit and/or the land is destroyed and cannot be used or utilized again;
 - c. is released voluntarily by the right holder;
 - d. released for the public interest; and/or
 - e. revoked by law.
- 2) The right to use the building and the right to use the Upper Ground Room or Underground Room are nullified if:
 - a. the expiry of the period as stipulated in the decision on granting, extending, or renewing the rights;
 - b. the right is canceled by the Minister before the term expires because:
 1. does not fulfill obligations and/or violates the prohibition;
 2. non-fulfillment of the conditions or obligations contained in the agreement on the utilization of the Right to Management of the Upper Land or Underground Space;

3. administrative disability; or
4. a court decision that has obtained permanent legal force;
- c. the rights to other land rights are changed;
- d. is released voluntarily by the right holder before the expiry of the term;
- e. released for the public interest;
- f. revoked by law;
- g. the building/spatial unit and/or the land is destroyed and cannot be used or utilized again;
- h. the end of the agreement on granting rights or utilization of land for building use rights or usufructuary rights over ownership rights or management rights; and/or
- i. the right holder no longer meets the requirements as the subject of the right.

IV. Conclusion

1. Legal certainty of granting permits in terms of the use of underground spaces based on Law no. 11 of 2020 concerning Job Creation, Article 146 Land or space formed in the upper and/or underground space and used for certain activities may be granted building use rights, use rights or management rights, in this case granting rights to the utilization of the underground space. Based on the Basic Agrarian Law. Restrictions on the use of the authority of those who use it are limited by the existence of procedures that must be met in terms of the use of basements and the depth limit stipulated in the Implementing Regulation of the Employment Creation Act, Article 74, namely with a height limit according to the basic coefficient of the building and the floor of the building as well as a depth limit of 30 meters from the surface of the land that can be reached by the process of registering rights through the granting of rights that take into account/consider the holders of land rights under and/or above it.
2. Arrangements for the acquisition of rights for the use of basements are regulated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration Article 77, namely, Upper Land or Ground Spaces may be granted Management Rights, Rights Use of Buildings, or Right of Use after the Upper Ground or Underground Space is utilized. The granting of rights is granted by a decision on granting rights by the Minister. The regulation regarding land rights is guided by the Basic Agrarian Law.

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