



The Authority of Class II Auction Officials Regarding the Legality of Auction Minutes in Relation to Legal Certainty

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Article	Abstract
Keywords: Authority; Class II Auctioneer; Minutes of Auction; Legal Certainty	<i>Minister of Finance Regulation Number 189/PMK.06/2017 authorizes Class II Auctioneer to conduct sales of goods through voluntary non-execution auctions and prepare minutes of the event known as "minutes of auction". The limited explanation of Article 15 paragraph (2) letter g of the Law on Notary Position Amendment (UUJN-P), regarding notaries being appointed as Class II Auctioneer to exercise similar authority, creates normative ambiguity that causes legal uncertainty. This study aims to examine the legal certainty of the authority of the Class II Auctioneer on the legality of the minutes of the auction and the form of responsibility if there are problems with the minutes of the auction. The research method used is normative legal research method using a statutory approach and conceptual approach. The results showed that Class II Auctioneer has the capacity to make minutes of auction prepared in accordance with the provisions of Article 1868 of the Civil Code. Based on the analysis of the explanation of the UUJN-P article, notaries must follow the requirements and procedures for the appointment of Class II Auctioneer and do not require applicants to have a notary background. The Class II Auctioneer is fully responsible for the formal and material correctness of the minutes of auction prepared. If there are editorial errors, corrections can be made through the procedures specified in the Ministry of Finance Regulation Number 86 of 2024 concerning Minutes of Auction, as a form of administrative responsibility of the official concerned.</i>

INTRODUCTION

An auction official is a person who is given special authority by the Minister of Finance to carry out the sale of goods by auction based on statutory regulations (Kumala 2020). Auction officials are divided into 2 (two) types, namely Class I Auction Officials and Class II Auction Officials. Class I Auction Officials are State Auction Officials who are employees of the Directorate General of State Assets (DJKN) who have the authority to carry out various types of auctions, including execution auctions,

mandatory non-execution auctions, and voluntary non-execution auctions. Meanwhile, Class II Auction Officials are Private Auction Officials who have the authority to carry out types of auctions only for voluntary non-execution auctions. (Sudiarto 2021) .

After carrying out the auction process, the auction official is required to make an 'auction minutes' as mandated in Article 95 paragraph (1) of the Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines, which states " Every Auction implementation is made an Auction Minutes by the Auction Official. " The auction minutes are an authentic deed as proof of the auction implementation, which contains the results of the auction implementation including identification of the auctioned goods, the bid price, the identity of the auction participants, and the final decision regarding the auction winner (Usman 2019) . Meanwhile, an auction is a process of selling goods which is usually carried out through the highest price bidding mechanism (Salim and Subagyo 2022) .

On the other hand, a notary is a public official who has the authority to make authentic deeds and process various legal documents (Ningsih et al. 2022) . The role of a notary is regulated in Law Number 30 of 2004 concerning the Position of Notary, which was later updated through Law Number 2 of 2014 (hereinafter referred to as UUJN-P). With the existence of UUJN-P, notaries obtain various authorities to provide authentic legal services to the public, one of which is making auction minutes as stated in Article 15 paragraph (2) letter g, which reads " In addition to the authority as referred to in paragraph (1), Notaries are also authorized make a deed of auction minutes."

Furthermore, there is an explanation of Article 15 paragraph (2) letter g in the UUJN-P, explaining that this provision is intended for " the appointment of notaries as Class II Auction Officials, appointed by the minister who organizes government affairs in the financial sector in accordance with the provisions of statutory regulations ." In other words, to exercise this authority, notaries must first be appointed as auction officials, in this case Class II Auction Officials.

The explanation of the above article indirectly indicates that all notaries have the potential to become auction officials without formal training or appointment. Furthermore, this explanation suggests that to exercise the authority of a Class II Auction Official, the position must be held by a notary or be based in the notarial profession itself. This raises the question of whether a notarial background alone is sufficient to meet the requirements without the specific training required to exercise the authority to prepare auction minutes.

This issue creates a regulatory ambiguity, with no clarity regarding the requirements or procedures a notary must follow to perform this function . This ambiguity can lead to differing interpretations of what is required to qualify as an auction official. It's also important to note that the explanation of the article is not a direct source of authority and therefore insufficient to legitimize legal action.

The principle of *lex specialis Derogat legi generali* justifies the application of the provisions of Minister of Finance Regulation Number 122 of 2023 in the context of auction minutes. The issuance of this Minister of Finance regulation represents a government step to regulate auction authority more clearly and structured. This is based on the consideration that auction officials are considered to possess special competence and expertise in the auction process, including technical aspects not possessed by notaries (Wardani 2021) .

This duality in the regulation of authority gives rise to varying interpretations regarding which regulation should be followed. On the one hand, notaries have a basis for authority through the UUJN-P. However, on the other hand, the Minister of Finance's regulations provide more specific provisions, which can hinder the exercise of that authority. This misalignment creates inconsistencies that can undermine the effectiveness of legal services in Indonesia (Novianti, Prasetya, and Sahira 2023) . Therefore, harmonization of the two regulations is necessary to achieve greater legal certainty (Purwanto et al., 2024).

This problem prompted the author to conduct a more in-depth study on the authority of the Class II Auction Officer regarding the legality of auction minutes and the form of accountability of the Class II Auction Officer regarding the legal certainty of problematic auction minutes. The purpose of this study is to examine the legal certainty of the authority of the Class II Auction Officer regarding the legality of auction minutes and the form of accountability if problems occur in the auction minutes. Thus, it is hoped that a more comprehensive understanding of the role of the Class II Auction Officer can be obtained, so that all parties can feel confident in the validity and legal force of the auction minutes produced.

METHOD

This article utilizes two previous studies as comparative material to provide a broader context for the topic discussed. By comparing the findings and methodologies of these previous studies, similarities and differences can be identified that can enrich the analysis. These studies were selected because of their relevance and contribution to the understanding of the issue being studied, including "The Authority of a Notary as a Class II Auction Official Reviewed from a Legislative Perspective" by Vira Mildasari. (Mildasari and Musyafah 2024) and "Harmonization of the Authority to Prepare Auction Minutes between Notaries and Auction Officials" by Ni Made Ayu Sintya Dewi (Dewi and Resen 2021) .

The two previous studies tend to emphasize legal issues related to normative conflicts related to dualism of regulations between UUJN-P and the Minister of Finance's regulations that regulate the same object of authority and emphasize the perspective of the notary profession as a Class II Auction Official regarding the authority to make auction minutes. Meanwhile, this study tends to emphasize legal

issues related to the ambiguity of norms related to the limited explanation of Article 15 paragraph (2) letter g of UUJN-P and emphasizes the perspective of the Class II Auction Official profession regarding the legality aspect of the authentic deed of auction minutes, especially if it is related to the existence of regulations on the authority to make auction minutes by a notary. In addition, this study also explores the form of accountability of the official concerned regarding problems arising from the auction minutes made .

Based on the legal issues raised by the author, the research method that will be used is normative legal research using a statutory approach (Statute Approach) and a conceptual approach (Conceptual Approach). The legal materials used in this study consist of primary legal materials, including the Civil Code (KUHPperdata), Law Number 30 of 2004 concerning the Position of Notary, Law Number 2 of 2014 Amendment to Law Number 30 of 2004 concerning the Position of Notary, and Regulation of the Minister of Finance Number 189/PMK.06/2017 concerning Class II Auction Officials , Regulation of the Minister of Finance Number 122 of 2023 concerning Auction Implementation Guidelines, Regulation of the Minister of Finance Number 124 of 2023 concerning Class I Auction Officials, and Regulation of the Minister of Finance Number 86 of 2024 concerning Auction Minutes . Secondary legal materials include legal literature and interviews with authorized officials. Tertiary legal materials include legal dictionaries and the Big Indonesian Dictionary (KBBI). To examine and collect these three types of legal materials, data collection techniques included literature review, internet access, and interviews. The analysis technique employed in this study was descriptive qualitative, where data consisting solely of words and not quantifiable or numerical is collected and presented using a clear and structured narrative.

RESULTS AND DISCUSSION

1. The Authority of Class II Auction Officials Regarding the Legality of Auction Minutes in Relation to Legal Certainty

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that Indonesia is a state based on law. This concept of a state based on law implies that all actions and decisions in the administration of the state must be based on applicable law. Important issues in the life of a state based on law are related to justice and legal certainty (Dicky Eko Prasetyo, Muh Ali Masnun, 2024). One form of legal certainty is the existence of written and authentic evidence in civil relations. (Yudha and Rasji 2023) Authentic deeds are made by authorized public officials, one of whom is an auction official.

Auction officials are divided into 2 (two) types, namely Class I Auction Officials and Class II Auction Officials, each of which has different authorities. Class I Auction Officials are State Auction Officials who are Employees of the Directorate General of

State Assets (DJKN) who have the authority to carry out various types of auctions, including execution auctions, mandatory non-execution auctions, and voluntary non-execution auctions (Sudiarto 2021). To carry out their duties, Class I Auction Officials are regulated in detail in the Regulation of the Minister of Finance Number 124 of 2023. Meanwhile, Class II Auction Officials are Private Auction Officials who have the authority to carry out types of auctions only for voluntary non-execution auctions (Sudiarto 2021). To carry out their duties, Class II Auction Officials are regulated in detail in the Regulation of the Minister of Finance Number 189/PMK.06/2017.

Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines, authorizes auction officials to create authentic deeds in the form of auction minutes. This is stated in Article 1 number 34, which states that "Auction minutes are minutes of the auction implementation made by the Auction Official which is an authentic deed and has perfect evidentiary power." Thus, auction officials have the legitimacy to compile authentic deeds of auction minutes.

The evidentiary power of the auction minutes is perfect because it is an authentic deed that meets the legal basis as regulated in Article 1868 of the Civil Code which reads "An authentic deed is a deed made in the form determined by law by or before a public official authorized for that purpose at the place where the deed was made." Therefore, an authentic deed is not because of the stipulation of the law, but because it is made by or before a public official (Usman 2019). So to be able to make an authentic deed, a person must have the position of "public official" which in the context of an auction is an auction official.

The existence of a legal basis regarding notaries regulated in the Republic of Indonesia Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN), which was later amended by the Republic of Indonesia Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, known as the Amendment UUJN (hereinafter referred to as UUJN-P), has given rise to several interpretations regarding the authority to make auction minutes. In Article 15 of UUJN-P, it can be seen that notaries have various authorities, including the authority to make "Auction Minutes Deed" as stated in Article 15 paragraph (2) letter g. In other words, notaries are also authorized to make auction minutes.

The existence of dual regulations governing the same subject matter certainly creates the risk of legal uncertainty. Parties involved also have the potential to lose or diminish trust in notaries when it comes to notarial deeds. Although the UUJN-P provides a legal basis for notaries to exercise their authority, in practice, notaries are unable to prepare auction minutes due to this uncertainty. (Rafika et al. 2024).

According to the hierarchy of laws and regulations, it can be seen that the position of the Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines is lower than the Amendment to the Notary Public Law

(UUJN-P) which is higher in the hierarchy. The existence of the Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines which specifically regulates the implementation of auctions including authorized officials thus provides a reason for the provisions in the Minister of Finance Regulation to be applied in the context of auction minutes. In line with the main legal basis for auction regulations in Indonesia, namely *Vendu Reglement*, the authority to make auction minutes is more entitled to be held by an auction official.

Further examining the authority of notaries in making auction minutes, the explanation of Article 15 paragraph (2) letter g of UUJN-P, states " This provision is intended that the appointment of notaries as Class II Auction Officials, is appointed by the minister who organizes government affairs in the financial sector in accordance with the provisions of statutory regulations ." From this explanation, it can be understood that the provisions in Article 15 paragraph (2) letter g, are intended for the appointment of notaries as Class II Auction Officials. For the rest, it is not explained further whether all notaries have the potential to become auction officials without going through formal training and appointment or must come from notaries or start from the notary profession itself. This limited explanation can certainly have the potential for many multiple interpretations which actually become the cause of unclear norms .

In relation to the explanation of the article, it can be seen that to carry out the position as a Class II Auction Officer, a notary must follow the requirements and appointment procedures stipulated in the provisions of Article 2 to Article 6 of the Minister of Finance Regulation Number 189/PMK.06/2017 concerning Class II Auction Officers. To submit an application as a candidate for Class II Auction Officer, a notary must fulfill the requirements as stipulated in Article 4 paragraph (2) of the Minister of Finance Regulation Number 189/PMK.06/2017 concerning Class II Auction Officers, including:

- a. "minimum education is Bachelor's (S1) or Diploma IV (D4), preferably in the field of law or management/accounting economics;
- b. never been sentenced to a criminal offense or is not currently serving a criminal sentence;
- c. not holding concurrent positions or professions as:
 1. State Civil Apparatus/TNI/Polri;
 2. State officials;
 3. Curator;
 4. Assessor;
 5. Lawyer/Advocate; and/or
 6. Board of Commissioners, Board of Directors, or Auction House employees; and
- d. never been dishonorably discharged as a Class II Auction Officer."

Based on the above article, the notary profession is not mentioned in the requirements, so a notary can hold the position of Class II Auction Officer concurrently. In other words, a notary is permitted to hold the position of Class II Auction Officer concurrently, as it is not a profession prohibited by statutory provisions. In their application, the notary does not apply for the position, but rather as an individual who meets the requirements to apply for the position of Class II Auction Officer.

Turning to the discussion regarding whether a Class II Auction Officer must be a notary public to exercise the authority to draw up auction minutes, an analysis of the provisions governing the application for Class II Auction Officer candidates reveals no requirement requiring applicants to have a notary background. The stated requirement is for candidates to have at least a Bachelor's degree (S1) or Diploma IV (D4), with a preference for law or management/accounting economics. Therefore, to become a Class II Auction Officer, one does not have to have previously worked as a notary.

2. Form of Accountability of Class II Auction Officials for Legal Certainty regarding Problematic Auction Minutes

The issuance of the auction minutes, which constitute an authentic deed after the auction, is a form of legal certainty. These auction minutes serve as the legal basis for the auction and ensure that the auction proceeds in accordance with applicable procedures. Furthermore, they also strengthen the legal legitimacy of the established auction results, thus ensuring that the auction minutes play a strategic role not only as an administrative document but also as a legal instrument that ensures that all stages of the auction process have met the principle of legality (Wijaya and Ratna 2022). In line with the principle of legal certainty in auctions, every auction process must guarantee legal protection for all interested parties (Prasetio, Masnun, Disantara, et al., 2025). Thus, the auction minutes function as an official document used by the seller or owner of goods, the buyer, and the auction official to safeguard and enforce their rights and obligations.

Auction minutes not only serve as a form of repressive legal certainty, namely as a means of legal evidence in the future, but also reflect a form of preventative legal certainty. In the context of auctions, preventative legal certainty is intended to provide assurance from the outset that the auction process is conducted transparently, openly, and in accordance with statutory provisions. This plays a crucial role in preventing potential future legal disputes.

The existence of auction minutes is very important to ensure legal certainty that can provide legal protection for the parties involved in the auction process (Prasetio, Masnun, & Widodo, 2025). Auction minutes must be made in a form that has been determined by law, so that the preparation of auction minutes must place the subjective

and objective requirements of the auction minutes in accordance with the meaning of an agreement that can be canceled and void by law as regulated in Article 1320 of the Civil Code (Fachriza and Wardhana 2024) . Therefore, the preparation of auction minutes must pay attention to the provisions in the Regulation of the Minister of Finance Number 86 of 2024 concerning Auction Minutes.

In its implementation, a Class II Auction Officer in carrying out his duties, there is a possibility of making mistakes that have legal consequences for the parties. The theory of responsibility explains that a person is legally responsible for a certain act or that a person bears legal responsibility (Diana 2017) . Forms of legal responsibility include administrative responsibility, civil responsibility, and criminal responsibility .

According to Moch. Syamsudin (informant), a Class II Auction Official who also serves as a notary, revealed that during his tenure as a Class II Auction Official, the problem often experienced in making auction minutes was editorial errors (Syamsudin 2025) . According to KBBI, editorial is about the way and style of arranging words in sentences: in addition to various changes, there are also additions of several sentences that can better explain the meaning. Therefore, what is meant by editorial errors in auction minutes are errors that occur in the preparation or typing, where they do not affect the substance or content of the auction minutes.

In relation to this issue, legislation, specifically Minister of Finance Regulation Number 86 of 2024 concerning Auction Minutes, has provided a systematic procedure for corrections through an administrative correction mechanism that can only be carried out by auction officials. This aims to ensure that the correction process does not raise legal doubts in the future and can be clearly accounted for. Given that auction minutes are a legal product prepared by auction officials, auction officials are fully responsible for the accuracy and truthfulness of the contents of the auction minutes. The existence of valid auction minutes free from administrative defects is crucial to ensure legal certainty and avoid potential disputes that could be detrimental to the parties involved.

Changes after the auction minutes are closed and signed may not be made as stated in Article 12 of the Minister of Finance Regulation Number 86 of 2024 concerning Auction Minutes which states that " There are Auction Minutes which cannot be corrected ". However, corrections in the event of editorial errors before the auction minutes are closed are permitted. Corrections to editorial errors before the auction minutes are closed, the procedure for corrections is carried out based on Article 12 paragraph (3) of the Minister of Finance Regulation Number 86 of 2024 concerning Auction Minutes , as follows:

- a. *"crossing out errors in words, letters or numbers is done with a thin straight line, so that what is crossed out can be read;*
- b. *additional words or sentences, written on the left edge of the Auction Minutes sheet or written at the bottom of the footer of the Auction Minutes by pointing to the sheet and*

line related to the change, if the writing on the left edge of the Auction Minutes sheet is not sufficient; and/ or

- c. The number of words, letters or numbers that are crossed out or added is stated on the edge of the Auction Minutes sheet, as is the number of words or numbers added."*

Corrections to editorial errors after the auction minutes have been closed and signed generally cannot be made, except under certain conditions as regulated in Article 12 paragraph (4) of the Minister of Finance Regulation Number 86 of 2024 concerning Auction Minutes, including:

- a. "is of a principle nature related to the legality of the subject and object of the auction which could be detrimental to the seller and/ or buyer if corrections are not made; or*
- b. "This is a finding of the Superintendent or functional auditing officer and needs to be followed up with corrections."*

After correcting editorial errors in the auction minutes, it is important to make similar corrections to the derivative auction minutes as mandated by Article 13 of the Minister of Finance Regulation Number 86 of 2024 concerning Auction Minutes, which states that " In the event that the Minutes of Auction Minutes have been corrected, the derivative Auction Minutes will also be corrected, printed, signed, and redistributed. " This aims to ensure the accuracy and consistency of the information conveyed to all relevant parties, thereby avoiding potential confusion or disputes in the future.

In relation to Article 99 paragraph (2) letter i of the Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines, in the case of correcting editorial errors after the auction minutes are closed, which are of a principle nature, namely stated in the Minutes and recorded at the bottom after the foot of the Auction Minutes as explained above, and are an inseparable part of the Auction Minutes. Editorial errors are administrative errors. An auction official can make corrections on his own initiative (ex officio) or upon written request from the buyer and/or seller to in this case the Class II Auction Official. If the Class II Auction Official is dismissed, on leave, or is permanently incapacitated which prevents the implementation of his duties, then the process of making and signing the Minutes of Correction of Editorial Errors will be transferred to the Head of the Regional Office of the Directorate General of State Assets in his capacity as Superintendent.

The action of correcting the editorial error above is a form of administrative responsibility by the Class II Auction Officer for the document or deed he made. This is evidence that the Class II Auction Officer is not only responsible for the beginning and end of the deed, but must also be responsible for the formal and material accuracy of the deed he made (Diana 2017) . All deeds or other legal actions will be legally accountable if carried out in accordance with their authority. Likewise, if there is a violation of the authority that has been granted by the legislation, it will result in legal liability (Bahraïne 2024).

CONCLUSION

Minister of Finance Regulation Number 189/PMK.06/2017 concerning Class II Auction Officials, provides legitimacy to Class II Auction Officials to exercise authority in making auction minutes. All legal actions carried out by the official concerned are valid if carried out in accordance with their authority. The preparation of auction minutes must be made in accordance with the provisions of Article 1868 of the Civil Code as the basis for the legality of authentic deeds that have perfect evidentiary power. In connection with the explanation of Article 15 paragraph (2) letter g of UUJN-P, notaries must follow the requirements and procedures for appointing Class II Auction Officials as stipulated in the provisions of Minister of Finance Regulation Number 189/PMK.06/2017. In these requirements, there is no requirement that requires applicants to have a background as a notary. Instead, the requirements set are more general, namely candidates who have a minimum education of Bachelor's (S1) or Diploma IV (D4), with a preference in the field of law or management economics/accounting.

Class II Auction Officials are legally responsible for certain actions, including responsibility for their authority in making authentic deeds in the form of auction minutes. Considering that auction minutes are legal products made by auction officials, auction officials are also fully responsible for the accuracy and truth of the contents of the auction minutes they make. Making changes after the auction minutes are closed and signed is not allowed, however, if an auction minute contains problems in the form of editorial errors, then the auction official is responsible for making corrections on their own initiative (*ex officio*) or based on a written request from the buyer and/or seller by complying with the procedures or methods that have been systematically regulated through the Minister of Finance Regulation Number 86 of 2024 concerning Auction Minutes. This aims to ensure that the correction process does not raise legal doubts and can be clearly accounted for.

SUGGESTION

Addressed to the Notary Association, to immediately submit the right to judicial review to the Constitutional Court to declare the revocation of Article 15 paragraph (2) letter g of the UUJN-P regarding the authority of notaries in making auction minutes so that there is no dualism of regulations which can result in legal uncertainty and the emergence of several interpretations regarding the actual authority in making auction minutes and addressed to the House of Representatives (DPR), to revise Article 15 paragraph (2) letter g of the UUJN-P and to form a new law in order to harmonize the regulations between Article 15 paragraph (2) letter g of the UUJN-P and Regulation of the Minister of Finance Number 122 of 2023 concerning Auction Implementation Guidelines.

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