



# The Auction System in Motorcycle Arisan Practices: A Review of Minister of Finance Regulation Number 122 of 2023 on Auction Implementation Guidelines

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## Abstract

*Auction in motorcycle arisan are organized by a business entity without interference from the government with the aim of selling goods, namely motorcycles. Motorcycle arisan adopts an auction system to be used as the determination of the winner of the arisan. This study aims to determine the implementation of auction at motorcycle arisan in terms of the regulation of the minister of finance regarding auction implementation guidelines. The data used was obtained through literature studies related to the issue. This type of research is normative legal research using a legal approach and a conceptual approach. In this study, it can be concluded that the auction carried out at the motorcycle arisan is actually used only for business purposes for the arisan organizers, where the auction team is formed independently by the arisan organizers without an Auction Official. Judging from the purposes of motorcycle arisan which is the sale of motorcycles with an auction system, then it is included in the category of voluntary auctions where the implementation stage is regulated in the ministerial regulation, so that business entities as the organizers of motorcycle arisan with an auction system must carried out auction activities to be adjusted to the voluntary auction procedures that have been regulated in laws and regulations.*

**Keywords:** *auction, motorcycle arisan, voluntary auction*

## Introduction

Auction is one of the well-known ways of selling in Indonesia, this sale is carried out openly to the public. Auctions have an influential role in meeting the needs of the community. The positive impact of auctions includes increasing the volume of buying and selling transaction, increasing money turnover, and helping to increase the liquidity of organization, especially financial institutions (Tista, 2016). Auction in Indonesia have been known since 1908 where auctions at that time were regulated in the *Vendue Reglemenet* (Stlb. No. 189 amended by 1940 No. 56). However, the regulation cannot stand alone, so in positive law it is necessary to regulate the implementation of the auction system with the issuance of various regulation of the Minister of Finance (Harahap, 2005). The arrangements regarding auctions have undergone many developments. Auction based on Article 1 number 1 of Minister of Finance Regulation No. 122 of 2023 concerning Auction Implementation Guidelines confirm that an auction is a sale of

goods that are open to the public with written and/or oral price bids that increase or decrease to reach the highest price preceded by the announcement of the auction. According to Sudiarto, auctions are limited to public sales that must have five elements, namely a form of selling goods; the price is determined to be competitive because it uses special bidding method verbally up and down and with writing behind closed doors; cannot appoint buyers except to the highest bidder; add an element of publicity because it is transparent sale; and is carried out in a certain place so that it is effective and efficient (Sudiarto, 2021).

Auctions are widely used by business entities to carry out the sale of goods, as is done in the *arisan* system, the adoption of this *arisan* system is used to determine the winner of the *arisan*. *Arisan* is part of an activity carried out by a group of people in Indonesia (Anjani Abdullah, 2016). In economic activities, the *arisan* community has been divided into several more varied concepts, one of which has become a system that can improve family welfare (Asakdiyah, 2015). According to the Big Dictionary Indonesian, *arisan* means the activity of collecting money or goods of equal value by several people who are then drawn among them who get it, the lottery is carried out periodically until all members get it. This activity is widely carried out among people in certain groups such as in the same environment or in the same group. In *arisan* there is a regulatory system because it contains rules used to carry out all activities related to its management (Hopses, 1992). Actually in the basic *arisan* is an agreement between members, than the rules contained in the *arisan* will apply as regulations that bind the members, this is in accordance with Article 1338 paragraph 1 of the Civil Code (KUH Perdata) which states “all agreements made validly apply as a law to the maker”. The regulations regarding *arisan* in Indonesian positive law have not been clearly classified, so they are only guided by the law of agreements between parties who participate in the *arisan*. This activity is usually carried out periodically in accordance with the provisions made by the parties. After the objects of the *arisan* are collected, one of the members will come out as the winner. The selection of winners can be done in two ways, with lottery and auction. It is said to be an auction because in its implementation is different from the *arisan* system which generally determines the winner by lottery. The use of the auction system in motorcycle *arisan* can be found at CV Amanah Bersama motorcycle *arisan* and in Dealer Kurnia Kasih Honda motorcycle *arisan*, for people who want to join must submit a photocopy of Identity Card and signing a statement letter to be a participant (Sholikah, 2021). This *arisan* is paid periodically every month until all members get their rights. The *Arisan* uses an auction system, so for a participant who offers the highest price at the auction is determined as the winner and has the right to take the motorcycle.

Due to the rise of community groups participating in motorcycle *arisan* with an auction system, this study focuses on how the auction runs at motorcycle *arisan* and whether the legal event of auction in this *arisan* is in accordance with what is regulated in the laws and regulations. With this research, it is expected to provide an explanation of the suitability of auction in motorcycle *arisan* with regulation of the minister of finance regarding auction implementation guidelines.

## Research Methods

This type of research is normative legal research, this research aims to find an explanation of an issue by reviewing laws. According to Bahder Johan Nasution, normative legal research includes the study of legal principles, legal systematics, degree of legal synchronization, comparative law, and legal history (Nasution, 2008). The data collection method used is a

literature study consisting of primary legal materials in the form of Minister of Finance Regulation No. 122 of 2023 concerning Auction Implementation Guidelines (hereinafter referred to PMK 122/2023) and other laws and regulations relating to auctions, secondary legal materials in the form of books, journals, and articles, for tertiary legal materials is from the internet and other legal dictionaries. There are several approaches used in legal research, the purpose of this approach is so that researchers get information from various sides about the issue being discussed (Marzuki, 2005).

This study uses statute approach, by examining all laws related to the legal issue discussed, this approach provides an opportunity for researchers to study the compatibility between laws and other laws, between laws and the Basic Laws, and between a regulation and the law. Another approach used is the conceptual approach, which is an approach that studies doctrines in legal science (Marzuki, 2005).

## Results and Discussions

### A. Implementation of the Auction System at Motorcycle *Arisan*

The auction system has become a common thing to do in the community, this system is also used in social gathering such as *arisan* to determine the winner in a certain period. In motorcycle *arisan* activities, the auction system is used with closed bidding way. In practice, member registration is carried out by fulfilling the requirements determined by the organizer of the *arisan*. The participant will sign an agreement that has been prepared by the organizer of the *arisan* after knowing how the *arisan* system works. The agreement contains the rules of *arisan*, the right and obligations of all parties, and how to resolve in case of default. In one group, *arisan* begins with the introduction of types and standards of motorcycles as objects of agreement that have been provided.

The brochure provided contains various information about the nominal provisions of social gatherings on each motorcycle standard, for example *Arisan* motor joint financing IDR 300.000 / month: with the standard price of motorcycle is IDR 17.720.000, with 48 members in a group, and the minimum auction price is IDR 4.620.000, the duration of *arisan* is 48 months, and the auction system used is closed bidding to determine the winner (Sholikah, 2021). Each group will determine the type of motorcycle as an object in accordance with the mutual agreement of all group members, then the nominal installments paid will be adjusted to the one chosen. The auction system at the motorcycle *arisan* is carried out in the following way:

#### a. Auction Announcement

At this stage, the auction will be announced through notice boards at the office of the *arisan* venue and other social media. The date has been determined by the business entity that makes the motorcycle *arisan* service along with monthly payments.

#### b. Auction Preparation

Within 7 days before auction, the chairman of the *arisan* will form an auction execution team, this team consist the auction leader, auction administration, and auction members (Sholikah, 2021). The tasks of the auction execution team are:

- Carry out the auction from the preparation stage to the handing over auction item stage.
- Research the completeness of auction requirements documents.
- Provide information to *arisan* members who participate in auctions regarding auction bidding procedures, security deposits, repayment of auction proceeds,

auction limit values, and another necessary levies.

c. Auction Bidding stage

At this stage the auction is carried out by closed bidding. A close auction is a system where participants simultaneously submit closed bids to the auctioneer so that no bidder knows the nominal offered by other bidders (Yearico, 2020). This auction is carried out using an auction card that has been prepared by auction execution team, contains the name, sequence number of the participant, and the auction nominal offered by the participant. After filling out the card, then it can be submit to the auction team so they will determine the winner of the auction based on the highest nominal that has been collected by the auction participants.

d. Delivery of Auction items or motorcycle

Motorcycle *arisan* are often held by motorcycle dealers who cooperate with some business entities. The two parties will enter into a cooperation agreement, where the *arisan* organizer will buy motorcycle from the dealers every month. The position of business entity will be equated with sales because it indirectly affects motorcycles sale at dealers. The submission of auction objects will be carried out at dealers who cooperate with the *arisan* organizer, this submission is attended by the auction winner, the auction execution team, and the dealer as seller. For the Motor Vehicle Ownership Book (BPKB) will be temporarily withheld by the organizer of the *arisan*, as a guarantee that the winner will continue to pay installments even though he has obtained his rights, as a form of fulfillment of the beginning of member registration.

**B. The Motorcycle *Arisan* with Auction System Reviewed from the Minister of Finance Regulation No. 122 of 2023 Concerning Auction Implementation Guidelines**

An auction is defined as the sale of an item that is open to the public with an increasing or decreasing price bid to reach the highest price. Although carried out by private business entities, the implementation of auctions must remain under training and supervision from the government. The sale of moveable and immovable object through auction must remain in accordance with the established auction rules, the formal and material requirements of the auction in the regulations must still be obeyed. Business entities utilize the auction system as a company business, as is done in motorcycle *arisan* with an auction system. The benefits taken are as follows:

- a. The motorcycle auction *arisan* uses a motorcycling standard pricing system, which will be determined by the company, the winner of the *arisan* will be given money according to the predetermined motorcycle standard. For example, in a monthly payment of *arisan* is IDR 300.000, with 48 members so the acquisition is IDR 14.400.000, but the standard of motorcycle is IDR 17.720.000, so the company will give the winner IDR 17.720.000.
- b. There is difference between the acquisition of the *arisan* and the standard price of motorcycle, so it is closed with a minimum auction that determined by the company. The minimum auction that has been determined is IDR 4.620.000, so when the auction is held the lowest bargain values start with that number and participants are entitled to bid above the price. The minimum auction value determined is what used for business for the company which if added up all the auction nominal with the following details:
  - For cover the difference between the amount of money earned in the *arisan* and the standard price of motorcycle

- Fee for *arisan* coordinators
- Consumption for participants
- Monthly door prize as consolation prizes
- Salaries for employees
- Social funds in the form of donation assistance
- For the company finance

The procedure above states that the auction carried out at the motorcycle *arisan* is beneficial for the company's finances as a business so that company has operational costs, where the implementation team is formed by the company itself. This is not in line with Minister of Finance regulation No. 122 of 2023 concerning Auction Implementation Guidelines (hereinafter referred to as PMK 122/2023). According to PMK 122/2023, it is essentially a regulation to determine the implementation of auction related to execution auction, and non-execution auction. Execution auction is an auction to carry out court decision, other documents that are likened to court decision or implement statutory provision. Non execution auction are divided into compulsory and voluntary non-execution auctions. Compulsory non-execution auction is the sale of goods where the good as required to be sold by a statutory auction system, while voluntary non-ecution auction is a sale of private, individual or legal entity or business entity property carried out by voluntary auction (Sudiarto, 2021).

Auction for the sale of goods belonging to sellers are included in the category of voluntary auctions, because the definition of voluntary auction is to carry out the sale of private, individuals, or legal entities or business entities that are auctioned voluntary (Article 1 number 8 PMK 122/2023). Further arrangements regarding voluntary auctions are contained in Article 5 of PMK 122/2023 which state that voluntary auction consist of voluntary auction of goods belonging to State-owned or regional enterprises in the form of company; Voluntary auction of property belonging to the liquidation company unless otherwise provided by laws; Voluntary auction of goods belonging to public service agencies that do not include State entities or regional property; Voluntary auction of goods belonging to representative of foreign country; Voluntary auction property belonging to individuals or legal entities or private undertakings; Voluntary auction of collection rights or receivables; Voluntary first-hand auctions of timber and other forest products; and other voluntary auctions in accordance with the provisions of laws and regulations. Article 1 a in the Auction Rules (*Vendur Reglement*) confirms that public sales by auction may only be carried out by the Auction Officer or Auction Judge, if it's carried out by a person who is not an Auction Officer it is considered a criminal offense (overtrading, minor offence) and is threatened with a maximum fine of IDR 10.000,00 (the amount when the regulation was issued 1908) (Harahap, 2005).

Voluntary auctions can be conducted at: State Wealth and Auction Service Office (KPKNL) at request of the seller. KPKNL is an agency under the auspices of the Director General of State Assets which reports directly to the head of the regional office; can be conduct at Auction Hall as the request of seller, the auction hall is legal entity in the form of a limited liability company (PT) specifically established to carry out business activities in the field of auction; and can also be done at the Office of the Class II Auction Officer, which is private office where the seat of an individual of private or public origin who is specially appointed as a class II auction official. The Auction Officer in accordance with the Minister of Finance in Article 1 number 49 is a general official who is given special authority to conduct auctions. Class II Auction Officials are further regulated in the Minister of Finance Regulation Number

189/PMK.06/2017 concerning Class II Auction Officials. The duties of the auction officers are as follows (Soemitro, 1987):

a. Conduct auction preparation

Auction preparation by the Auction Officer is regulated in Article 6 of DJPLN Kep. No. 36/PL/2002 which confirms that in preparation for the auction, the Auction Officer is charge of requesting and receiving auction requirement documents relating to the auction object; reviewing the formal completeness of documents; provide information related to auction bidding procedures, security deposits, settlement and payment, auction duties and other levies according to law, auction object, and auction announcements; as well as making the head of auction reports.

b. Conduct an auction

In conducting auction, the Auction Officer in charge of read out the head of the auction report; Provide opportunities for bidders to ask question about the auction to be held; Lead the auction to run in an orderly, safe, and smoothly; Maintain punctuality; Be assertive, communicative and authoritative; Resolve disputes fairly and wisely; Temporarily stop the auction if there is a commotion in the auction; Set auction buyers; and create a body auction reports.

c. Conduct activities after the auction

in the same article of DJPLN affirms that the duties and functions of Auction Officer after the auction activity is complete are to make the foot section of auction reports, close and sign the auction reports, deposit the auction proceeds and auction duties and other levies in accordance with the law.

Voluntary auctions in their implementation must be based on PMK 122/2023, this is done with the aim that the auction is carried out in accordance with applicable rules and does not cause errors in the process. Voluntary auctions are conducted in stages:

a. Auction request

The seller or owner of the goods must submit an auction application in writing to the Auction Officer selected to conduct the auction in accordance with PMK 122/2023. The auction officer may not reject the submitted auction application as long as the application is complete and has met the formal requirements and legality of the subject and object of the auction. The legality of the subject and object means that the bidder *i.e.* the seller and the object of auction have a legal relationship, so it is entitled to apply for an auction of the object in his possession (Astriani & Ngadino, 2022).

b. Auction schedule setting

The Auction Officer will determine the schedule and place of the auction after the auction application is examined and deemed to have met the requirements and completeness of the auction application documents. Voluntary auctions can be conducted outside working hours and working days as agreed by the Head of the local Regional Office (Astriani & Ngadino, 2022).

c. Auction announcement

The auction of the seller's goods must be preceded by an announcement of the auction made by the seller and then the seller reports to the Auction Officer. Against voluntary auctions, article 65 paragraph 6 PMK 122/2023 concerning Auction Implementation Guidelines states that auction announcements can be made through leaflets or daily newspapers at least five calendar days before the auction day held. The

auction announcement must contain the identity of the seller, complete information about the auction object, the time and place of the auction, the limit value of the auction object, the time and place to view the auction item, information regarding the auction payment obligation by the buyer, and how to bid the auction. The seller can choose the medium used to announce the auction, but the announcement of voluntary non-execution auctions is still required to be announced through daily newspapers as a fulfilment of the legal aspects of the auction (Wirawan & Donarin, 2021).

d. Auction bidding

Bidding in a voluntary auction can be made orally, in writing or in writing followed by oral if the highest bid has not reached the limit value. Auctions conducted orally must be with the presence of participants, participants can bid auctions independently or with their proxies who have been appointed as powers attorney before the auction is carried out (Astriani & Ngadino, 2022). Auctions are conducted in writing, using an auction offer letter, after writing the price bid, it is put in an envelope and collected into the auction box. The auction officer will collect the bid letter and designate the participant with the highest bid as the winner of the auction. Auctions conducted without the presence of participants are carried out according to Article 72 paragraph (4) through:

- a) Postal drum letter
- b) Electronic mail
- c) Auction application with open bidder or closed bidder
- d) e-Marketplace Auction

Each participant must bid at least equal to the limit value in the auction whose limit value is announced. The limit value is the price of the auction object set by the seller to be achieved in the auction bid as a basis for determining the winner. However, in voluntary auction which are sale of moveable goods belonging to private entities, individual, or community group may not require a limit value at auction (Bawuna *et al.*, 2024).

e. Auction Duty

Each auction is subject to auction duty in accordance with Government Regulations regarding no-tax rates applicable to the Ministry of Finance (Sudiarto, 2021). Regulations regarding auction duties are regulated in Article 92 – Article 94 of PMK 122/2023.

f. Buyer Assignment

The determination of the buyer in a voluntary auction is carried out by the Auction Officers. According to Article 86 of PMK 122/2023, in a voluntary auction the seller can determine the rolling determination for the winner of the auction, with the following conditions:

1. In the event of default, the highest bidder of the second-ranked auction can be authorized as the buyer
2. However, if the second place is not willing to be authorized as a buyer, then the bidder of the third highest bidder can be authorized as a buyer.

In a voluntary auction, the buyer with the highest bid price can be authorized as the buyer, even if the auction does not use a limit value. In the case of electronic auctions by e-mail or internet by close bidding when participants submit the highest bid equally,

the Auction Officer will determine which bid accepted first as a winner (Sudiarto, 2021).

g. Payment and deposit

Payment and deposit of the auction are based on Article 88 to Article 90 of PMK 122/2023. The winner of the auction must make payment of the auction price and auction duty no later than five working days after the auction is held. If payment has not been made until maturity, the Auction Officer can make a Warning Letter to the buyer to perform his obligations within a day after warning letter is notified. If after the time in Warning Letter reaches the limit and no payment has been made, then the Auction Officer can make Final Warning Letter, but if it still has not been paid yet, the endorsement as a buyer by the Auction Officer can be canceled (Astriani & Ngadino, 2022).

Payment made by cash must be made receipt as a proof of auction payment to the Auction Offices. The payment is then deposited to the buyer in one working days after payment is received by the Auction Officer.

h. Submission of Ownership Documents

According to Article 76 of PMK 122/2023, the submission of ownership documents is carried out by the Auction Officer no later than one working day after the buyer shows proof of payment and quotation of auction reports.

i. Creation of Auction Reports

The auction report are minutes of the auction made by the Auction Officer which has strong evidence in the eyes of the law. The auction reports consist of the head of the report contains at least the time of the complete auction, the name and position of the auction officer handling, the identity and information of the seller, the place where the auction is held, the nature of the item auctioned, and the terms and conditions of the auction. The body section contains the identity of the buyer, the auction price and a description of the goods sold. The foot section contains the number of items offered, the number of items sold, the amount of the price of the goods sold, the amount of the price of the goods withheld, the number of documents attached to the reports of auction, and the signature of all parties.

For auction conducted electronically or online without an Auction Officer and carried out through electronic media, the substitute for auction reports is in the form of proof of transaction. The validity of an electronic information or document or proof of a transaction related to a voluntary non-execution auction is still considered valid as long as the information can be accessed, displayed, and accounted for (Salim & Subagyono, 2022).

The auction stage in the regulation of minister of finance is intended as a basis for each legal subject who wants to carry out an auction sale. Meanwhile, in the event that the auction at the motorcycle *arisan* occurs in the community is not accordance with PMK 122/2023, which is not registered with the Auction Officer, but in its implementation, the application of auction principles still exist even though it is not fully implemented. In the auction, there are six principles that become the basis for the auction, including the principle of openness, the principle of competition, the principle of fairness, the principle of legal certainty, the principle of efficiency, and the principle of accountability (Sudiarto, 2021).

The principle of openness, which requires all levels of society to be aware of the auction plan and have the same opportunity to participate in the auction as long as it is not prohibited



by law. The principle of competition, that the implementation of the auction each participant is given the opportunity to compete in submitting a higher auction bid to reach or exceed the limit of the item auctioned. The principle of fairness, that in the process of conducting the auction must be able to meet a sense of justice that is comparable to each party in the auction. The goal is to prevent partiality by Auction Officer to bidders so that it is not based on proportional justice. The principle of legal certainty, requires that the auction carried out is based on legal regulations so as to ensure legal protection to interested parties. The principle of efficiency, ensuring that the auction is carried out quickly and at relatively low cost because it is carried out at a time and place that has been determined by the buyer and ratified right away. The principle of accountability, this principle requires that auctions conducted by auction officer be accountable to all interested parties (Sudiarto, 2021).

## Conclusion

1. The auction system in motorcycle *artisan* that is rise in the community is carried out with provision that have been made by the *artisan* organizing company itself. The participants will be explained in advance about the *artisan* system that adopt auction system as a way to determine the winner. The auction system is carried out by means of close bidding which is carried out by the presence of auction participants, closed auction is where the bidders do not know the nominal offer by other bidders, so that the determination of winners can only be seen by the auction organizer and the announced to auction participants.
2. There is discrepancy between the auction system at the motorcycle *artisan* and PMK 122/2023 because it basically the auction system in the motorcycle *artisan* is regulated independently by the *artisan* organizing company, and only adopt the auction system to be used in the *artisan*. However, in general a business entity that sell goods using auctions, like in motorcycle *artisan* when viewed from the sale side, are included in voluntary auctions. Arrangements regarding the procedures and provision for voluntary auctions have been regulated in PMK 122/2023, namely through stages including: auction application, determination of auction schedule, auction bidding, determination of buyers, payment and deposit, submission of ownership documents of goods, preparation of auction reports.

## Suggestion

1. Based on the result of research, if the main purpose of a motorcycle *artisan* is to sell moveable goods with an auction system that is categorized as a voluntary auction, so the implementation must be carried out in the voluntary auction procedure in PMK 122/2023, so that the acution does not make mistakes in the process and in accordance with laws and regulations.
2. There is discrepancy in the practice of conducting auction in motorcycle *artisan* and the Minister of Finance Regulation Number 122/2023 concerning Auction Implementation Guidelines that must be adjusted immedietly, because in the principle, the alignment in the regulation of a business entity must remain in line with government regulations, in this case regulations regarding auctions.

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