

## KUNINGAN REGENCY GOVERNMENT POLICY ON THE CIRCULATION OF EXPIRED FOOD



Faisal Malik Fidale<sup>1</sup>, Tina Marlina<sup>2</sup>, Harmono<sup>3</sup>

DOI 10.33603/responsif.v15i2.9569

<sup>123</sup>Faculty of Law, Gunung Jati Swadaya University

**Abstract.** Consumer Protection is any effort that guarantees legal certainty to protect consumers against expired food. This study aims to explore policies and legal protections for consumers related to expired foods, as well as the efforts that consumers can take in dealing with them. In this study, the author uses a normative juridical approach, which is a method of literature law research which is carried out by researching library materials or secondary data. Then it was continued with the collection of data on secondary legal materials obtained from literature studies in the form of law books, legal journals, and other literacy associated with the core of this research. Verification of tertiary legal materials obtained from law dictionaries, Indonesian Language dictionaries, and other dictionaries. This research can provide new insights for legal practitioners and judges in developing civil law. In addition, the study also promotes a better understanding of the role of the local government in Kuningan Regency in improving consumer protection and overcoming barriers such as public mindset, buyer negligence, lack of knowledge about expired food, and inadequate legal supervision.

**Keywords:** Consumer protection, Kuningan Regency, Expired food.

### INTRODUCTION

National development on the one hand has benefits for consumers because consumer needs for the desired goods and/or services can be met and the freedom to choose various types and qualities of goods and/or services according to the wishes and capabilities of consumers is increasingly wide. On the other hand, national development has resulted in the position of consumers and business actors becoming unbalanced and consumers are in a weak position. Consumers are used as business activities by business actors to obtain the greatest profits. The main factor that is a weakness of consumers is that the level of consumer awareness of their rights is still low.<sup>1</sup>

<sup>1</sup> Adrian Sutedi, Product Responsibility in Consumer Protection Law, Cet-1, Ghalia Indonesia, Bogor, 2008, p. 63

Consumer Protection is a part of the law that contains principles or rules that regulate and also contain properties that protect Law Number 8 of 1999 concerning Consumer Protection (UUPK) mandates that "business actors are prohibited from producing and/or trading goods and/or services that do not include an expiration date or the best period of use/utilization of certain goods". The inclusion of this expiration date must be done by business actors so that consumers get clear information about the products they consume, but the dates that are usually listed on the product label are not only the expiration date but other dates.

Talking about consumer protection means questioning the guarantee or certainty regarding the fulfillment of the protection provided to the public as consumers, in this case consumers who consume a certain type of food product. Food products are one of the production products that have a high risk because food is consumed by the community for its survival and even recently there are many expired food products circulating. The sale of expired foods can be found in several traditional markets, supermarkets or other food sales places. If consumers consume these expired foods can endanger their health, so it is a loss for consumers.

Based on a phenomenon that is often seen and heard, not a few cases occur related to the inclusion of expiration dates on food products. For example, in the case of the discovery of expired food with the POP Mie brand in a supermarket in Bayuning Village, Kuningan Regency, which was bought by one of the consumers named Mr. Ade in 2022. This is done because producers do not want to lose and only think about their profits. In the Food Law which concerns consumer protection of expired products as stated in Article 30 of Law Number 7 of 1996 concerning Food paragraphs 1 and 2. The objectives of this study are 1. To find out local government policies for consumers due to the circulation of expired food. 2. To analyze the legal remedies that consumers can take and settle losses due to the circulation of expired food. Based on the explanation that has been described in the background above, the author is interested in conducting research in the form of a thesis entitled **"POLICY OF THE KUNINGAN REGENCY GOVERNMENT ON THE CIRCULATION OF EXPIRED FOOD"**.

## **Literature**

The guidance and supervision carried out by the government in enforcing the consumer protection law is not only regulated in Law Number 8 of 1999 but is also supported by other regulations, such as Government Regulation Number 58 of 2001 concerning the Development and Supervision of the Implementation of Consumer Protection. In this regulation, it is more detailed about the guidance and implementation of the government.

It is explained in Chapter II of the Development of Article 2 which reads "The government is responsible for fostering the implementation of consumer protection that guarantees the acquisition of consumer rights and business actors as well as the implementation of consumer and business actors' obligations". As stipulated in article 2 which is then explained in article 3 paragraph 1 letter a, namely "the creation of a business climate and the emergence of a healthy relationship between business actors and consumers".

Consumers as users of goods or services need a clear legal protection in obtaining satisfaction and feasibility in consuming goods or services. Disputes between consumers and business actors are not new. This is due to the large number of transactions made outside of existing regulations. In its development, consumers are increasingly aware of their rights and struggle in terms of consumers receiving achievements that are not by the content of the contract, the goods purchased are not of good quality or there are hidden defects that harm consumers and there are elements of fraud or coercion in making transactions.<sup>2</sup>

If fraud occurs in this case, both business actors and consumers can submit losses to government agencies related to consumer protection such as the Consumer Dispute Resolution Agency (BPSK), the Consumer Dispute Resolution Agency is an independent body/institution, a public body that has the duties and authority, among others, to carry out the handling and settlement of consumer disputes through conciliation, mediation and arbitration, Providing consumer protection consultations, supervising the inclusion of standard clauses, reporting to the general investigator, receiving complaints both written and unwritten, summoning business actors who are suspected of having committed violations, summoning and presenting witnesses

<sup>2</sup>Syukur Kasieli Hulu, Op.cit.

and imposing administrative sanctions against violating business actors<sup>3</sup>.

It is also explained in Chapter 1 regarding the general provisions in article 1 of this government regulation, number 6 reads "The Consumer Dispute Resolution Agency, hereinafter referred to as BPSK, is the body in charge of handling and resolving disputes between business actors and consumers".

The Consumer Dispute Resolution Agency or BPSK itself has a role in carrying out the process and resolving consumer conflicts by means of mediation, artitraser, or conciliation with opportunities provided ranging from consumer protection consultation, supervision in agreements, making reports to investigators if there are indications of violations of the law, receiving complaints, conducting studies and analysis of conflicts that occur, summoning the parties, witnesses and any individual who knows of the violation of the law.<sup>4</sup>

With the existence of Government Regulation of the Republic of Indonesia Number 58 of 2001 concerning the Guidance and Supervision of the Implementation of Consumer Protection and the existence of the Consumer Dispute Resolution Agency, it can assist consumers and business actors in resolving their disputes.

## **Research Methods**

The type of research used by the author in conducting research on consumer protection over the circulation of expired food uses normative juridical research methods. The normative juridical research method is a literature law research conducted by researching library materials or secondary data.<sup>5</sup>

<sup>3</sup>Pratiwi, Anggun Amanda Endah, Submission of the Existence of the Supreme Court to the Decision of the Consumer Dispute Resolution Agency on Customer Savings Funds at Bank Rakyat Indonesia (Study of the Supreme Court Decision No. 1182 K/Pdt, Sus-BPSK/2017). Diss Faculty of Law, Islamic University of North Sumatra, 2021, p.61

<sup>4</sup>Arianto Hulu, et al, The Role of the Consumer Dispute Resolution Agency (BPSK) in the Resolution of Consumer Disputes (Case Study: Decision of BPSK Bandung No. 01/AP/BPSK/IV/2016), Journal of the Legal Profession, Volume 1, Number 2, 2020, p.31.

<sup>5</sup>Johny Ibrahim. Theory and Physiology of Normative Law Research, Bayu Media. Malang, 2013, p. 57.

In this study, the author will use primary data in the form of literature studies by analyzing laws and regulations, literature, or documents, as well as journals, books, and articles related to the problem to be researched. To support this research, to solve the issue of existing legal issues, the author needs research sources in the form of legal materials, namely in the form of primary, secondary, and tertiary data. In normative research, the main data is secondary data (ready-made data), which is then developed and reprocessed to solve the problems in this research, so that literature research/literature study is the main research stage, while field research is only supporting literature data. The author uses secondary data that is in accordance with the subject of the problem.

## **Discussion**

### **A. Local Government Policies in Consumer Protection of Expired Food Circulation**

Regional Governments have an important role in supporting the direction of domestic trade policy, especially related to improving consumer protection and trade order as well as securing the domestic market to increase the competitiveness of national products, namely: (i) encouraging the development of standardization, product quality, and pro-consumer regulations; (ii) intensification of supervision of pre-market goods, markets, and measurement orders; (iii) the movement of smart, independent, and loving domestic products; (iv) trade order; and (v) strengthening the institutional capacity of consumer protection. The implementation of the Improvement of Consumer Protection and Commercial Order is:

1. Policy development and consumer empowerment through smart consumer education (smart, independent consumer movement and love for domestic products) and more massive consumer protection publications through the implementation of *Training of Trainers* (ToT) to form consumer protection motivators for students, independent motivator training and activation of consumer protection motivators who have been trained, business actor development, and human resource training consumer protection institutions.
2. Increasing the effectiveness of supervision of circulating goods and services through the preparation of guidelines/guidelines/SOPs for the supervision of circulating goods and

services, supervision of products subject to mandatory SNI, labels, warranty card manuals, distribution and services, improving the quality of human resources for supervision of goods and services, socialization and facilitation of cooperation in the field of supervision, supervision of products in accordance with the provisions of laws in the market and in border areas, guidance for Consumer Protection Civil Servant Investigators (PPNS-PK) and Circulating Goods and Services Investigators (PBBJ), as well as consumer protection law enforcement.

3. Improvement of measurement order through the intensification of services in the field of legal metrology which includes standard traceability, establishment of orderly measurement markets, establishment of measurement order areas, development of UPT and UPTD Legal Metrology that implements quality systems, improvement of metrology services through the implementation of quality systems, tera and re-marking services and licensing in the field of metrology, increased supervision of UTTP and BDKT, as well as law enforcement in the field of legal metrology that optimizing community participation in the field of legal metrology.
4. Standardization and quality control through the preparation of draft service standards in the field of trade, preparation of draft technical regulations for trade standardization, preparation of product standard samples, identification of compliance with standards/technical regulations, standardization negotiations, preparation of standard information on export destination countries, capacity building of human resources in the field of standardization and quality control, monitoring of processed export commodity materials, increasing cooperation and coordination with related agencies for the implementation of pre-market quality supervision of domestic products and imported products whose SNI is enforced compulsory, as well as increasing the capacity of goods quality control through strengthening and cooperation with the conformity assessment institution of the export destination country. In addition, in the quality control of goods, there are also implementations: (i) Improvement of goods quality testing services, (ii) Improvement of calibration services, and (iii) Improvement of certification services.
5. Improving trade order aims to increase business actors' compliance with the provisions regulated in the Trade Law. Efforts to realize commercial order are carried out through

the development of Trade Civil Servant Investigators (PPNS) and Commercial Order Supervisory Officers (PPTN), the provision of registration and supervision services for goods related to Health, Occupational Safety and Environment (K3L), supervision of licensing provisions in the field of trade, and law enforcement as a follow-up to the supervision of trade activities carried out strictly against parties who do not comply with applicable regulations.

6. Institutional Improvement of Regional Consumer Protection with a focus on providing technical guidance related to BPSK operational assistance.
7. Improvement of good governance through increased management support and other technical support in the framework of improving domestic market security and consumer protection.

The expected outcomes of the Increase in Consumer Protection are increased consumer empowerment, increased traceability of goods quality, increased suitability of circulating goods and services supervised against legal provisions, increased measurement order, and increased commercial order in the field of trade.

Article 33 paragraph (4) of the 1945 Constitution states that the government guarantees the stability of the national economy which is held based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity. This means that the main purpose of economic regulation is not the division of authority to implement the economic sector, but rather the government's obligation to maintain economic stability in the life of the nation.<sup>6</sup>

In Article 33 paragraph (4), it is stated that the national economy is organized based on economic democracy and other principles, such as togetherness, efficiency, justice, sustainability, environmental insight, independence, and maintaining a balance of progress and national economic unity. This means that the economic system is intended and can be controlled by the people. It's just that in its implementation, the economy cannot be directly controlled by the community, but can be represented by people's representatives, such as the MPR, DPR, DPD and the president.

<sup>6</sup><https://www.kompas.com/skola/read/2021/07/05/132235369/isi-pasal-33-uud-1945-dan-meaning?page=all>  
Accessed on May 31, 2023 at 05:52

In Law No. 23 of 2014, it is explained in the division of government affairs in the field of trade, in sub-affairs 2, namely about the distribution of goods. Local governments have 2 tasks, namely the development and management of trade distribution facilities and coaching distribution managers. Meanwhile, the provincial government has the task of building and managing regional and provincial distribution centers.

And in sub-affairs 5 in Law No. 23 of 2014 concerning standardization and consumer protection. The local government has the task of implementing legal metrology in the form of stamps, re-stamps, and supervision. Meanwhile, the provincial government has the task of implementing consumer protection, testing the quality of goods, and supervising circulating goods and/or services in all districts/cities.

According to BPSK Kuningan, the district government through the district or city DISKOPDAGPERIN conducts product supervision (expiration, etc.), the results will be withdrawn and minutes will be made according to the goods. By sub-affairs 5 in Law No. 23 of 2014, the local government is only a companion and the supervision of goods is the authority of the provincial government.<sup>7</sup>

**B. In law number 8 of 1999 concerning consumer protection, article 8 paragraph 1 point g explains that business actors are prohibited from producing and/or services that do not include an expiration date or period of use or best utilization of certain goods. Policy on Supervision of Expired Food Circulation in the Kuningan Region by the Regency Government**

The supervision of the circulation of expired food in the Kuningan area by the district government will refer to various laws and regulations that apply in Indonesia. Below are some of the relevant laws and generally used to regulate the supervision of food circulation in Indonesia:

1. Law Number 18 of 2012 concerning Food (Food Law): This Food Law is the main legal framework that regulates food in Indonesia. One of the aspects regulated in this Law is the supervision and control of food quality and safety, including supervision of expired food.

<sup>7</sup>Law No. 23 of 2014 concerning Regional Government



2. Law Number 33 of 2014 concerning Halal Product Assurance (Halal Product Law): This law regulates the certification of halal products, including food. Food that does not comply with halal requirements can be considered expired or illegal food.
3. Law Number 36 of 2009 concerning Health (Health Law): The Health Law regulates various aspects of health including food and its supervision.
4. Government Regulation Number 28 of 2004 concerning Food Safety (PP Food Safety): This PP provides more detailed guidance on food safety and regulates various aspects of food supervision.
5. Regulation of the Minister of Health Number 28 of 2019 concerning Processed Food Safety Requirements and Regulation of the Minister of Health Number 13 of 2021 concerning Supervision and Control of Household Industrial Food Products (PP-IRT): This Regulation of the Minister of Health regulates the supervision and food safety requirements that apply to food producers and distributors.

Supervision of the circulation of expired food in the Kuningan area by the district government is an important responsibility in maintaining public health and safety. This supervision is carried out by various local government agencies, usually under the auspices of the Health Office or related agencies. Here are some aspects that are usually part of the supervision of the circulation of expired food in district areas such as Kuningan:

1. Drafting of Regulations: The district government usually has regulations governing the circulation of food, including provisions regarding the date of expiration, food storage, and sanctions for business actors who violate these regulations.
2. Production and Distribution Supervision: The authorities carry out supervision of food producers, distributors, and food traders in the district area. They ensure that the food produced or sold meets the set safety and quality standards.
3. Expiry Date Check: Inspection teams from relevant agencies can conduct routine inspections of food sold in various places, including in traditional markets, supermarkets, restaurants, and cafes. Food that has passed its expiration date is usually

withdrawn from circulation.

4. **Training and Education:** The district government can provide training and education to food producers, distributors, and traders on the correct practices in food storage and handling so that food does not expire quickly.
5. **Community Complaints:** The public may report findings of expired food or dubious practices to the authorities, who will then conduct investigations and take appropriate action.
6. **Sanctions and Legal Actions:** The district government may impose sanctions on business actors who violate food circulation regulations, such as temporary or permanent closures, fines, or other legal actions in accordance with applicable regulations.
7. **Cooperation with Related Agencies:** The district government can also work with other relevant agencies, such as the Food and Drug Supervisory Agency (BPOM) and the Agriculture Office, to increase food supervision.
8. **Surveillance on Public Events:** At public events such as night markets or food festivals, the county government can intensify supervision of the food sold at these venues.

Supervision of the circulation of expired food is a very important effort to protect public health from the dangers that can arise from consuming food that is not fit for consumption. Therefore, the district government in areas such as Kuningan needs to make serious efforts in carrying out this task.

## **Conclusion**

The conclusions of the results of the study are as follows:

1. **Role of Local Governments:** Local governments have a key role in realizing consumer protection. This involves increasing standardization, supervision of goods and services, consumer empowerment, and product quality control. These measures aim to support business growth, innovation, and community welfare. **Improving Product Quality:** The openness of the domestic market as an impact of economic globalization must be accompanied by an improvement in the quality of the products produced. Products circulating in the market must provide certainty of Security, Safety, Health, and Environment (K3L) for consumers. **Consumer Protection Measures:** Local governments have several steps in realizing consumer protection and commercial order, including

smart consumer education, increasing the effectiveness of supervision, improving measurement order, standardization and quality control, and improving good governance. Consumer Legal Remedies: In the case of losses due to expired food, consumers have the right to seek damages through legal channels. Law No. 8 of 1999 concerning Consumer Protection provides a legal basis for consumers to sue violating business actors, such as not including an expiration date.

2. The conclusion of these sentences is that consumer protection has an important role in creating a healthy and competitive economy. A balance between consumer protection and business actors is needed to achieve this goal. Local governments have a responsibility to improve standardization, consumer empowerment, product supervision, and quality of goods. These measures are directed to support business growth, innovation, and community welfare. Certainty in products and services traded in the market is also needed to improve people's welfare. Local and provincial governments play a role in the implementation of consumer protection policies and goods supervision. Finally, appropriate consumer protection regulations are regulated in the law to ensure consumer rights and welfare.

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