

## PENATAAN PELAKSANAAN HAL IHWAL KEGENTINGAN YANG MEMAKSA DALAM PEMBENTUKAN PERATURAN PEMERINTAH PENGANTI UNDANG-UNDANG DI INDONESIA

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### INTISARI

Penelitian ini berfokus pada dua hal yaitu: *Pertama*, kajian dimaksudkan untuk menganalisis bagaimana pelaksanaan hal ihwal kegentingan yang memaksa PERPU yang telah ditetapkan pasca Putusan MK No. 138/PUU-VII/2009. *Kedua*, menganalisis gagasan penataan pelaksanaan hal ihwal kegentingan yang memaksa dalam penetapan PERPU di Indonesia. Penelitian ini merupakan penelitian hukum normatif yang dilakukan dengan menggunakan tiga jenis pendekatan, yakni: pendekatan perundang-undangan (*statute approach*), pendekatan konseptual (*conceptual approach*), dan pendekatan perbandingan (*comparative approach*). Hasil dari penelitian menunjukkan bahwa: *Pertama*, bahwa tidak semua PERPU yang ditetapkan pasca Putusan MK No. 138/PUU-VII/2009 memenuhi syarat kegentingan yang memaksa, namun tidak ada PERPU yang ditolak oleh DPR untuk disahkan menjadi Undang-Undang. Secara praktis penetapan PERPU sejauh ini belum berpijak pada prinsip-prinsip hukum yang konkrit, tetapi penetapannya masih dominan menjadi ruang subjektivitas Presiden. *Kedua*, PERPU memiliki sifat kediktatoran yang berpotensi disalahgunakan oleh kepentingan politik kekuasaan eksekutif. Gagasan konsep penataan pelaksanaan hal ihwal kegentingan yang memaksa yang dihasilkan antara lain: Konsiderasi PERPU harus menjelaskan secara detail dan jelas pertimbangan mengenai tiga syarat kumulatif Putusan MK 138/PUU-VII/2009, termasuk di dalamnya pokok-pokok pikiran secara filosofis, yuridis, dan empiris; limitasi materi muatan PERPU; teknis waktu penetapan PERPU dan batasan masa berlaku PERPU; preview kegentingan yang memaksa oleh lembaga kehakiman; redesain persetujuan PERPU oleh DPR; serta tindak lanjut Putusan MK No. 138/PUU-VII/2009 mengenai syarat kumulatif hal ihwal kegentingan yang memaksa dalam peraturan perundang-undangan.

Kata Kunci: Penataan, Hal Ihwal Kegentingan yang Memaksa, PERPU.

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## THE ARRANGEMENT OF THE IMPLEMENTATION ON MATTERS OF COMPELLING CRISIS IN THE ESTABLISHMENT OF GOVERNMENT REGULATIONS IN LIEU OF LAWS IN INDONESIA

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### ABSTRACT

This research focuses on two things. First, the paper analyses on how the implementation of matters of compelling crisis in the Government Regulation In Lieu of Law that had been enacted after the Constitutional Court Decision No. 138/PUU-VII/2009. Second, this study analyses and describes the concept of structuring the implementation of the matters of compelling crisis in the stipulation of Government Regulation In Lieu of Law in Indonesia. This study is normative legal research conducted using three types of approaches, namely: statute approach, conceptual approach, and comparative approach. The results of the research show that: First, not all Government Regulation In Lieu of Law stipulated after the Constitutional Court Decision No. 138/PUU-VII/2009 fulfils the matter of compelling crisis, but no Government Regulation In Lieu of Law rejected by House of Representatives (DPR) to be legalized into Laws. The stipulation of Government Regulation In Lieu of Law has not been postulated on concrete legal principles, but its stipulation is still dominant as part of the subjectivity of the President. Second, Government Regulation In Lieu of Law has a dictatorial nature that can be potentially misused by the political interests of the executive power. The result regarding the idea of the concept in structuring and implementing the matters of compelling crisis include: Considerations and reasons for the compelling crisis must clearly explain the three cumulative conditions in detail set forth in the considerations of Government Regulation In Lieu of Law including philosophical, juridical, and empirical points of view; content limitation of Government Regulation In Lieu of Law; the technical timeframe stipulation and the validity period of Government Regulation In Lieu of Law; a preview of the compelling crisis by the judiciary; redesign the approval of Government Regulation In Lieu of Law by House of Representatives; as well as follow-up the Constitutional Court Decision No. 138/PUU-VII/2009 regarding the cumulative requirements for matters of compelling crisis in Laws and Regulations.

**Keywords:** Arrangement, Matters of Compelling Crisis, Government Regulation In Lieu of Law

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