

Type: PRESIDENTIAL REGULATION (PERPRES)
By: THE PRESIDENT OF THE REPUBLIC OF INDONESIA
Number: 14 YEAR 2017 (14/2017)
Date: 13 FEBRUARY 2017 (JAKARTA)
Reference: STATE GAZETTE OF 2017/27
Subject: AMENDMENT TO PRESIDENTIAL REGULATION NUMBER 4 YEAR 2016 REGARDING THE ACCELERATION OF THE CONSTRUCTION OF ELECTRICITY INFRASTRUCTURE

BY THE GRACE OF THE ONE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. whereas in the context of the acceleration of the completion of electricity infrastructure development as set out in Presidential Regulation Number 4 Year 2016 regarding the Acceleration of the Construction of Electricity Infrastructure, it is necessary to revise the provisions on the implementation of financing, schemes for electricity infrastructure construction cooperation, asset utilization cooperation, and environmental management;
- b. whereas based on the consideration as intended in point a, it is necessary to stipulate a Presidential regulation regarding Amendment to Presidential regulation Number 4 Year 2016 regarding the Acceleration of the Construction of Electricity Infrastructure;

In view of:

1. Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 30 Year 2009 regarding Electricity (State Gazette of the Republic of Indonesia Year 2009 Number 133, Supplement to State Gazette of the Republic of Indonesia Number 5052);
3. Government Regulation Number 14 Year 2012 regarding Electricity Supply Business Activities (State Gazette of the Republic of Indonesia Year 2012 Number 28, Supplement to State Gazette of the Republic of Indonesia Number 5281) as amended by Government Regulation 23 Year 2014 regarding Amendment to Government Regulation Number 14 Year 2012 regarding Electricity Supply Business Activities (State Gazette of the Republic of Indonesia Year 2014 Number 75, Supplement to State Gazette of the Republic of Indonesia Number 5530);
4. Presidential Regulation Number 4 Year 2016 regarding the Acceleration of the Construction of Electricity Infrastructure (State Gazette of the Republic of Indonesia Year 2016 Number 8);

HAS DECIDED:

To stipulate: PRESIDENTIAL REGULATION REGARDING AMENDMENT TO PRESIDENTIAL REGULATION NUMBER 4 YEAR 2016 REGARDING THE ACCELERATION OF THE CONSTRUCTION OF ELECTRICITY INFRASTRUCTURE.

Article I

Several provisions in Presidential Regulation Number 4 Year 2016 regarding the Acceleration of the Construction of Electricity Infrastructure (State Gazette of the Republic of Indonesia Year 2016 Number 8) shall be amended as follows:

1. The provision of sub-article 9 of Article 1 shall be amended, so that Article 1 shall read as follows:

Article 1

Referred to herein as:

1. Electricity Infrastructure shall be all matters related to the generation of electricity, transmission of electricity, distribution of electricity, main relay station, and other supporting facilities.
2. Construction of Electricity Infrastructure, hereinafter briefly referred to as PIK, shall be the planning, procurement and implementation activities in the context of the provision of Electricity Infrastructure.
3. PT Perusahaan Listrik Negara (Persero) hereinafter referred to as PT PLN (Persero) shall be a State-owned Limited Liability Company (Persero) PT Perusahaan Listrik Negara.
4. Licensing shall be all forms of approval issued by the Central Government and Regional Government having the authorities in accordance with laws and regulations.
5. Non-licensing shall be all forms of services, fiscal facilities, data, and information in accordance with laws and regulations.
6. Central Government shall be the President of the Republic of Indonesia holding the state administrative power in the Republic of Indonesia, assisted by the Vice President and ministers as intended in the 1945 Constitution of the Republic of Indonesia.
7. Regional Government shall be the head of region as an element of regional government administration leading the implementation of governmental affairs which are the authorities of an autonomous region.
8. Self-management shall be PIK activities that are planned, implemented and/or supervised independently by PT PLN (Persero).
9. Power Plant Developer hereinafter briefly referred to as PPL shall be electric power supply business entity in the form of state-owned enterprise, regional government-owned enterprise, cooperative, and private company engaging in cooperation with PT PLN (Persero).

10. Electricity Primary Energy shall be energy sources, either energy originating from fossil or renewable energy required for producing electricity.
 11. Single Window Integrated Services, hereinafter briefly referred to as PTSP shall be integrated services in one single process from the application phase up to the service product completion phase through one single window.
 12. Provincial Investment and Single Window Integrated Service Agency hereinafter briefly referred to as Provincial BPMPTSP shall be the administrator of PTSP at the provincial level.
 13. Regency/City Investment and Single Window Integrated Service Agency hereinafter briefly referred to as Regency/City BPMPTSP shall be the administrator of PTSP at regency/city level.
2. The provisions of Article 4 shall be added with 1 (one) paragraph, namely paragraph (3), so that Article 4 shall read as follows:

Article 4

- (1) The implementation of PIK by PT PLN (Persero) as intended in Article 3 paragraph (1) shall be conducted by:
 - a. Self-management; and
 - b. electricity supply cooperation.
 - (2) The implementation of PIK by PT PLN (Persero) by way of electricity supply cooperation as intended in paragraph (1) sub-paragraph b, shall be conducted jointly with electricity supply business entities, namely:
 - a. subsidiaries of PT PLN (Persero); or
 - b. PPL.
 - (3) Provisions regarding electricity supply cooperation in the context of assignment shall be implemented based on the guidelines set out in regulations of the minister administering government affairs in the sector of state-owned enterprises.
3. The provisions of paragraph (2) Article 5 shall be amended, so that Article 5 shall read as follows:

Article 5

- (1) PIK by way of self-management as intended in Article 4 paragraph (1) shall be implemented in the following events:
 - a. PT PLN (Persero) has the financing capacity for equity and affordable financing sources;
 - b. the construction risk is low;
 - c. fuel supply is available;

- d. peaker power generator serves for controlling the operational reliability; and/or
 - e. for the development of isolated systems.
 - (2) The implementation of PIK by way of self-management shall include:
 - a. power generator;
 - b. transmission;
 - c. distribution;
 - d. main relay stations; and/or
 - e. other supporting facilities.
4. The provision of paragraph (1) sub-paragraph d and paragraph (2) sub-paragraph c of Article 6 shall be amended, so that Article 6 shall read as follows:

Article 6

- (1) In order to enhance the financing capacity of PT PLN (Persero) as intended in Article 5 paragraph (1) sub-paragraph a, the Central Government shall support the financing availability through:
 - a. state capital participation;
 - b. on-lending from Government's loans from foreign and/or domestic sources;
 - c. loans of PT PLN (Persero) from financial institutions;
 - d. provision of facilitation in the form of tax incentive and tax facilities in accordance with laws and regulations; and/or
 - e. other financing in accordance with laws and regulations.
 - (2) In order to enhance its financing capacity, PT PLN (Persero) shall conduct:
 - a. restructuring of financing through the optimization of financial assets of PT PLN (Persero);
 - b. hedging in accordance with the profile of foreign exchange liability risk exposure of PT PLN (Persero);
 - c. refinancing; and/or
 - d. appropriation of the company's profits by lowering the dividend payout ratio to the minimum possible extent.
5. 1 (one) new articles shall be inserted between Article 8 and Article 9, namely Article 8A which shall read as follows:

Article 8A

- (1) PT PLN (Persero) shall establish cooperation on the supply of electricity with PPL by way of sale and purchase transactions and not lease agreement transactions.
 - (2) The accounting of sale and purchase agreement transactions as intended in paragraph (1) shall be subject to regulations of Indonesian Financial Services Authority in accordance with laws and regulations in the capital market sector.
 - (3) The implementation of the accounting as intended in paragraph (2) may be commenced for the financial statements for the year 2016.
6. The provisions of Article 9 shall be amended, so that it shall read as follows:

Article 9

- (1) PIK by way of electricity supply cooperation with the subsidiaries of PT PLN (Persero) as intended in Article 4 paragraph (2) sub-paragraph a shall be implemented in the event that there is a cooperation between PT PLN (Persero) and domestic and/or foreign business entities.
 - (2) The subsidiaries of PT PLN (Persero) as intended in paragraph (1) shall be the subsidiaries of PT PLN (Persero) the shares of which are owned by PT PLN (Persero) at least 51% (fifty-one percent) either directly or indirectly through another subsidiary of PT PLN (Persero).
 - (3) Cooperation with domestic or foreign business entities as intended in paragraph (1) shall be conducted in the event that the business entities have strategic value for PT PLN (Persero) in PIK including:
 - a. the provision of financing required by PT PLN (Persero);
 - b. having available energy to be used by PT PLN (Persero) in PIK;
 - c. transfer of technology; and/or
 - d. enhancement of domestic production capacity.
 - (4) Cooperation with foreign business entities as intended in paragraph (1) shall be prioritized for foreign business entities the shares of which are owned by the relevant countries (foreign state-owned enterprises).
7. The provisions of Article 16 shall be added with 1 (one) new paragraph, namely paragraph (4), so that Article 16 shall read as follows:

Article 16

- (1) In order to improve the use of domestic goods/services, PT PLN (Persero), subsidiaries of PT PLN (Persero), and/or PPL may establish cooperation with foreign business entities having the commitment in the development of electricity equipment and components, national human resources, and transfer of technology required in the implementation of PIK.

- (2) The development of electricity equipment and components as intended in paragraph (1) shall be conducted domestically.
 - (3) The cooperation as intended in paragraph (1) shall be implemented by applying inter-governmental cooperation scheme.
 - (4) Provisions regarding cooperation with foreign business entities in the context of assignment shall be implemented based on the guidelines set out in the regulations of the minister administering governmental affairs in the state-owned enterprise sector.
8. The provisions of paragraph (3) of Article 32 shall be deleted so that Article 32 shall read as follows:

Article 32

- (1) In the context of the acceleration of the implementation of PIK, the Central Government and Regional Government shall complete the stipulation of Spatial Layout Plans, Detailed Regional Spatial Layout Plans, or Zoning Plans of Coastal Areas and Small Islands.
 - (2) In the event that the completion of the stipulation of Spatial Layout Plans, Detailed Regional Spatial Layout Plans, or Zoning Plans of Coastal Areas and Small Islands as intended in paragraph (1), cannot be conducted because approval has not been obtained for the alteration of forest area allocations and functions from the minister administering governmental affairs in the environment and forestry sector, the completion shall be conducted by way of The application of Areas Which Spatial Allocations Has Not Been Stipulated (*Holding Zone*).
 - (3) Deleted.
 - (4) PIK in the form of the utilization of water, thermal and wind energy, may be implemented in Nature Protection Areas and Nature Conservation Areas in accordance with laws and regulations.
 - (5) PIK as intended in paragraph (4) shall include transmission.
9. Ketentuan Article 33 diubah sehingga shall read as follows:

Article 33

- (1) The provision of land for the implementation of PIK shall be conducted by PT PLN (Persero), subsidiaries of PT PLN (Persero), or PPL in the context of the implementation of PIK.
- (2) The provision of land as intended in paragraph (1) may be conducted by the procurement of land or the utilization of other infrastructure lands.
- (3) The provision of land as intended in paragraph (2) shall be conducted based on laws and regulations on land procurement for development purposes for public interest by using the minimum period of time.

- (4) The title to land for PIK the location of which has been determined by a governor, cannot be transferred by the title holder to other parties other than to the National Land Agency.
 - (5) The use of other infrastructure land as intended in paragraph (2) shall be the use of land for road infrastructure, railway infrastructure, or gas pipeline infrastructure to be passed by Electricity Infrastructure either above land or underground.
10. 1 (one) new article shall be inserted between Article 35 and Article 36, namely Article 35A which shall read as follows:

Article 35A

- (1) The use of other infrastructure land as intended in Article 33 paragraph (5) shall be conducted by way of cooperation with the Central Government, Regional Government, and/or business entities.
- (2) The period of cooperation as intended in paragraph (1) shall be similar to the period of the use of Electricity Infrastructure as determined by PT PLN (Persero).
- (3) Cooperation of PT PLN (Persero) with the Central Government or Regional Government as intended in paragraph (1) shall be in the form of the use of state-owned/regional government-owned assets in accordance with laws and regulations on state-owned/regional government-owned assets management.
- (4) In the context of the cooperation as intended in paragraph (3) PT PLN (Persero) shall pay compensation in the form of rent for the state-owned/regional government-owned assets which shall be paid once for the whole period of cooperation.
- (5) The Central Government or Regional Government may give dispensation in relation to the formula of rates/amount of rent for the lease of state-owned/regional government-owned assets as intended in paragraph (4).
- (6) Cooperation between PT PLN (Persero) and business entities shall be based on good business principles.
- (7) In the context of the cooperation as intended in paragraph (6) PT PLN (Persero) shall pay compensation which shall be made once for the whole period of cooperation.
- (8) In the event that the business entities as intended in paragraph (6) are state-owned enterprises, the cooperation to be established shall be cooperation between state-owned enterprises.
- (9) The implementation of the cooperation between state-owned enterprises as intended in paragraph (8) shall be subject to coordination with the minister administering governmental affairs in the state-owned enterprises sector.
- (10) Further provisions regarding the compensation as intended in paragraph (4) and paragraph (7) shall be set out in a regulation of the minister

administering governmental affairs in the energy and mineral resources sector.

11. 1 (one) new chapter shall be inserted between CHAPTER VII and CHAPTER VIII namely CHAPTER VIIA which shall read as follows:

CHAPTER VIIA
ENVIRONMENTAL MANAGEMENT

12. 1 (satu) article shall be inserted between Article 37 and Article 38, namely Article 37A which shall read as follows:

Article 37A

- (1) PT PLN (Persero), subsidiaries of PT PLN (Persero), or PPL may use the waste generated by power plants using fossil energy in the form of coal in accordance with laws and regulations in the environmental management sector.
- (2) The waste as intended in paragraph (1) may be used as building materials for infrastructure.

Article II

This Presidential Regulation shall come into effect as of the date of its promulgation.

For the purpose of public cognizance, this Presidential Regulation shall be promulgated by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
On February 13, 2017

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,
Signed
JOKO WIDODO

Promulgated in Jakarta
On February 20, 2017
THE MINISTER OF LAW AND HUMAN RIGHTS OF
THE REPUBLIC OF INDONESIA,
Signed
YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2017 NUMBER 27

Issued as true copy
THE CABINET SECRETARY OF THE REPUBLIC OF INDONESIA
Deputy for Maritime Affairs,
Signed and stamped
Satya Bhakti Parikesit

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Source: LOOSE LEAF OF THE STATE SECRETARIAT YEAR 2017