



New Regulations Overhaul Location Permit Scheme

by Budi Wibowo

On 13 July 2018, the Minister for Land and Spatial Planning in Indonesia issued regulation No. 14 Year 2018 (**Regulation 14**). Regulation 14 completely overhauls the system for issuing location permits. All entrepreneurs in Indonesia who wish to purchase or lease land for their business activities, require a location permit. A location permit may be applied for prior to the purchase of the land.

Regulation 14 fulfills a number of purposes. First, it brings the location permit scheme into line with Government Regulation No. 24 Year 2018 relating to Electronic Based Integrated Licensing Services. Second, it speeds up the process and provides entrepreneurs with clarity.

Regulation 14 sets out two ways to apply for a location permit; with or without a commitment letter, a statement in which entrepreneurs promise to fulfil certain obligations. Article 7 of Regulation 14 sets out the circumstances in which an entrepreneur may apply for a location permit without a commitment letter, which include:

- if the land is located in a special economic, industry, free trade or free harbor area; and
- if a location permit in relation to the land was already obtained by the previous owners.

Regulation 14 provides that if an entrepreneur submits a location permit application along with a commitment letter, those commitments must be completed within 10 days after the location permit has been issued. If the entrepreneur fails to honor his or her commitments within the specified time, the location permit becomes void.

Location permits are valid for 3 years and entrepreneurs must purchase the land in question within that time. The location permit's validity may be extended for a further year only if the entrepreneur is able to show that he or she has purchased at least 50% of the relevant land.



Location permit holders have certain rights and obligations including:

- mandatory quarterly reporting;
- registering certain types of land occupation of the land; and
- using the land in accordance with the provisions of the location permit.

The Online Single Submission Agency is the body that administers the location permit scheme.



Palm Oil Plantation Moratorium

by Gilbert Hansel



On 19 September 2018, the Indonesian Government issued a moratorium on Palm Oil Plantation licenses. This was issued via Presidential Instruction No. 8 of 2018 regarding the Suspension and Evaluation of Palm Oil Plantation Licenses and the Improvement of Palm Oil Plantation Productivity.

The six government institutions most affected by this Presidential Instruction are; the Coordinating Ministry for Economic Affairs; the Ministry for the Environment and Forestry, the Ministry for Agriculture, the Ministry for Agrarian Affairs and Spatial Planning / Head for the National Land Agency; the Investment Coordinating Board; and the regional governments consisting of the governors and regents/mayors.

The Investment Coordinating Board will suspend any new investment applications relating to palm oil plantations and any application for the expansion of palm oil plantations, other than those applications made in accordance with article 51 of Government Regulation No.104 of 2015.

Neither the Ministry for the Environment and Forestry nor the regional governments will issue any licences or approvals relating to palm oil plantations. The Ministry for the Environment and Forestry's suspension relates to all new applications, applications that have not been fully processed and any applications relating to forested areas. The regional governments' suspensions relate to the issuance of palm oil business licences. Any valid application made in accordance with article 51 of Government Regulation No. 104 of 2015 will, however, be issued.

Each government institution issues specific licences, permits, approvals and requirements. Each government institution will re-evaluate the following:

- the regional government will re-evaluate location permits (izin lokasi), plantation business licenses (izin usaha perkebunan), and plantation business registration letters (surat tanda daftar usaha perkebunan);
- the Ministry for the Environment and Forestry will re-evaluate the release or swap of forest area approvals, any palm oil plantation that has not acquired a release or swap of forest area approval, and High Conservation Value Forest (HCVF) developments;
- the Ministry for Agriculture will re-evaluate plantation business licenses (izin usaha perkebunan), plantation business registration letters (surat tanda daftar usaha perkebunan), and will ensure that plantation companies allow at least 20% of the total land in their control to be developed by smallholders; and
- the Ministry for Agrarian Affairs and Spatial Planning / Head of the National Land Agency will re-evaluate the suitability of cultivation rights (HGU) in relation to spatial planning and issues relating to HGU.

The evaluation process for currently held licences and applications includes that:

1. the relevant government institution will collect and verify information based on the scope of the application;
2. the Coordinating Ministry for Economic Affairs will set the compliance standards;
3. based on the data collected by the relevant government institution, each institution will review the licenses, permits and approvals that they have issued;
4. the relevant government institution will then report the evaluation outcomes to the Coordinating Ministry for Economic Affairs;
5. the Coordinating Ministry for Economic Affairs will then review the information and issue a recommendation;
6. the relevant government institution will implement those recommendations.

Once the re-evaluation has taken place, each government institution will revoke the relevant licence or approval, if the owners are not complying with the standards or the prevailing laws. Any revocation must be carried out by the government institution within 3 years from the date of the Presidential Instruction, that is, 19 September 2018.

New Forestry Regulations Issued by the Ministry for the Environment and Forestry

by A.A.A. Reditha Saras



On 13 July 2018, Indonesia's Minister for the Environment and Forestry issued Guidelines on Lend-Use Forest Area* (**Regulation 27**).

Among other things, Regulation 27 limits the development of forested areas to 17 separate types of development. A Lend-Use Forest Area permit (Izin Pinjam Pakai Kawasan Hutan/IPPKH) is required to carry out any of these permitted types of development

Permits for the use of land for the provision of electricity, industry and transport may be applied for electronically through the Online Single Submission system. Applications for permits relating to mining and the development of geothermal energy must be submitted to the Ministry for the Environment and Forestry. Applications for permits relating to public use of the area must be submitted to the relevant Governor.

The Lend-Use Forest Area permit requires the holder to comply with certain obligations to maintain the forested area. The obligations are determined by the size of the area in question as a percentage of the province in which the forest is situated.

If the forested area in question is less than 30% of the area of the province in which it is situated, then obligations relate to the use of the area, requiring a certain ratio of the land to be given over to forest rehabilitation. If the forested area in question is more than 30% of the area of the province in which it is situated, then certain taxes are levied on the permit holder.

Generally, permit holders will be required to fulfill certain obligations within 1 year of being issued a permit. These obligations will be made clear at the time the permit is issued. Other obligations may have different fulfillment periods. Permit holders must comply with all obligations relating to revegetation and reclamation of the land, even if the permit has expired.

Permit holders may not transfer their permits without the prior permission of the Minister for the Environment and Forestry. The fulfillment of these obligations is overseen by the General Director of Forestry Planning.

*Regulations of the Ministry for the Environment and Forestry No. P.27/Menlhk/Setjem/Kum.1/7/2018 concerning Guidelines on Lend-Use Forest Area.

Ministerial Regulation No. 75 of 2018: A New Regime for API

by Melisa Kristian

Following the enactment of Government Regulation No. 24 of 2018 concerning the Electronic Integrated Business Licensing Services (**Government Regulation No. 24 of 2018**), the Minister for Trade of Republic of Indonesia (**Minister for Trade**) has issued Minister for Trade Regulation No. 75 of 2018 concerning Importer Identity Numbers (*Angka Pengenal Importir*, **API**) (**Regulation No. 75 of 2018**) to amend the Minister of Trade Regulation No. 70/M-DAG/PER/9/2015 (**Regulation No. 70/M-DAG/ PER/9/2015**)

Government Regulation No. 24 of 2018 specifies that the Single Business Number (*Nomor Induk Berusaha*, **NIB**) issued by the Online Single Submission system (**OSS**) can be used as API (the **API Bearing NIB**) for the purposes of the laws and regulations in the trading sector.

This provision may cause confusion relating to the validity of APIs issued by government authorities pursuant to the laws and regulation in the trading sector. To clarify such confusion, Regulation No. 75 of 2018 states that both NIB and API issued by the relevant government authorities are valid.

Regulation No. 75 of 2018 further sets out the supervision provisions relating to importation carried out by importers with API Bearing NIB. Importers with API Bearing NIB carry similar obligations to those imposed on importers with API and importers without API.

Importers with API Bearing NIB, API, and without API are all under the supervision of the Directorate General of Foreign Trade (the **Director General**). The Director General carries out an assessment of each importer to ensure that they are complying with their obligations. Importers in each classification must file a quarterly report to the Director General.

As with importers that hold an API, those holding an API Bearing NIB may have their API Bearing NIB suspended if the director/person in charge/owner:

- 1) does not submit its quarterly report to the Director General;
- 2) submits incorrect information in the API application documents;
- 3) violates any provisions under the prevailing laws and regulations in the importation sector;



- 4) does not take responsibility for their imported goods; and
- 5) misuses documents and letters in relation to their importation activities.

However, any API that has been suspended, may be reactivated if:

- 1) the importers rectify their quarterly reporting failures; and/or
- 2) the importers who have had their API suspended under points 2-4 above, have been suspended for 1 year.

An API Bearing NIB and an API may be revoked in cases where the holder of the API and/or the person in charge/director of the importers with API carries out activities outside their permitted scope.

The courts may also revoke or invalidate any type of API.

The Director General, on behalf of the Minister for Trade, will inform the OSS of the revocation of any API Bearing NIB. The suspension, reactivation, and revocation of API Bearing NIB are carried out by the OSS.

Regulation No. 75 of 2018 states that importers that hold API Umum and API Produsen issued under Regulation No. 70/M-DAG/PER/9/2015 must apply to the OSS for an NIB no later than 6 months following the introduction of the regulation.