



## Transfer of Data Privacy outside Indonesia on Data Privacy Bill

by Jessica Leonard



Currently Indonesia does not have any specific laws governing data protection. The House of Representatives of the Republic of Indonesia will issue a Bill on Data Privacy (the **Bill**) in order to stimulate Indonesia’s digital economy by creating trust in the handling of personal data.

The Bill sets out detailed criteria relating to the transfer for personal data outside of Indonesia. Criteria for transferring personal data outside Indonesia include that transfers must only take place to countries with data protection law at least as rigorous as Indonesia’s, there are international agreements between countries, there is a contract between the Personal Data Controllers that have a standard and/or guarantee of personal data protection, and/or with the consent of the owner of the personal data.

If passed into law, this Bill will protect citizens’ personal data from unauthorised use and make the handling of personal data safer, thereby, creating trust in the digital economy.

In its current form, the Bill raises some complications. The Bill only allows personal data to be transferred to a country with at least equivalent data protection (unless otherwise authorised by the owner of the personal data). Establishing which countries have equivalent data protection rules may be difficult and may require a register to be set up and continually monitored. In its current form, the Bill gives rise to some complications. The Bill only allows personal data to be transferred to a country with at least equivalent (unless otherwise authorised by the owner of the personal data). Further clarification will be needed as to how countries’ data protection standards are assessed.

In any event, the Bill represents Indonesia’s first steps to creating a thriving, well-regulated and trusted digital economy.

## New Regulations on Land Banks

by Melisa Kristian

On 2 November 2020, the government of the Republic of Indonesia enacted a wide-ranging law on job creation, also known as the omnibus law (the **Omnibus Law**).\* The Omnibus Law amends a number of laws in different sectors with a view to stimulate investment and create jobs.



This article will discuss the particular amendments made to Law No. 41 of 2009\*\* relating to land banks, which is an entity set up to acquire vacant properties (e.g., abandoned, unused, permanently empty) so that they can be repurposed.

As mandated by the Omnibus Law, the central government will set up state-owned entities to acquire vacant and unused properties to create land banks to repurpose land for the benefit of communities. The Omnibus Law also sets aside 30% of state-owned lands to be transferred to these land banks for the purposes of agrarian reform.

The Omnibus Law sets out eligibility criteria to determine whether land is able to be acquired for the land banks. The Omnibus Law grants the state-owned entities that set up the land banks, the management rights (hak pengelolaan) over the properties that they acquire and cultivation rights, building rights and all other land use rights can be granted over such management rights.

\*Law Number 11 of 2020 concerning Job Creation.

\*\*Law Number 41 of 2009 concerning the Protection of Continuous Food Agriculture Lands.

# Job Creation Law: Forested Land

by Metha Dewi Subakti

On 2 November 2020, President Joko Widodo officially enacted Law No. 11 of 2020 concerning Job Creation (the **Job Creation Law**). The Job Creation Law amends a number of regulations across a wide variety of sectors, including energy and mineral resources, plantation and forestry. The purpose of the Job Creation Law is to stimulate Indonesia's economic growth and to create jobs.



This article focusses on how the Job Creation Law amends the Forestry Law\* and the Prevention and Eradication of Deforestation Law.\*\*

While the Job Creation Law reiterates provisions in the Forestry Law relating to adequacy of forest area and forest coverage, it eliminates the requirement that the Government must maintain a minimum of 30% forest cover of forested land.

The Job Creation Law introduces major changes to the Prevention and Eradication of Deforestation Law; in particular, setting out robust sanctions for the violation of its provisions. Newly introduced penalties for breach include administrative penalties, such as the freezing and/or revocation of business licences, fines and written warnings and criminal penalties.

The government will not issue criminal penalties for specific breaches retrospectively but will create a system whereby any entity that is in violation of the new provisions may pay a fine calculated in accordance with a formula set out in the Job Creation Law that takes into account various factors such as the area in which the entity operates, the time period of the operation and the amount of economic benefit the entity received from the operation.

The system for the imposition and collection of the fines and Non-Tax State Revenues has not yet been set out in law.

\*Law No. 41 of 1999 concerning Forestry.

\*\*Law No. 18 of 2013 concerning Prevention and Eradication of Deforestation.

# New Stamp Duty Law: Forms and Tariffs

by Metha Dewi Subakti



On 26 October 2020, the Indonesian Government enacted new stamp duty regulations,\* revoking the previous stamp duty law, which was enacted in 1985. \*\*

The new Stamp Duty Law comes into effect on 1 January 2021 and introduces the new category of electronic stamp, to the other categories of stamps (eg, paper-based), on which duty is payable. The law also broadens the types of documents that are subject to stamp duty to include electronic documents.

The new Stamp Duty Law does away with the two-tariff system under the old law and introduces a single tariff of IDR 10,000. The law increases the minimum limit of stamp duty to IDR 5 million for both paper and electronic documents.

Payment of stamp duty under the new law remains the same; a stamp or a tax payment slip. Tax payment slips will be used when paper stamps are not appropriate, for example, for evidentiary purposes.

The penalty for late payment of stamp duty is reduced under the new law from 200% to 100% of the value of the stamp duty. The new law also sets out a variety of exemptions to stamp duty including when land/buildings are transferred to restore communities impacted by natural disasters.

\* Law No. 10 of 2020 concerning Stamp Duty.

\*\* Law No. 13 of 1985 concerning Stamp Duty.