

## Guidelines for the Leasing and Use of Forested Areas in Indonesia

by Dedi Putra

The Minister for Environment and Forests (the **Minister**) recently issued new regulations relating to the leasing and use of forested areas (**Regulation No. 27**). Regulation No. 27 sets out the regulatory regime relating to the granting of licences for the lease and use of forested areas (*Izin Pinjam Pakai Kawasan Hutan*) (a **Forest Licence**). A Forest Licence is a licence given to use forested areas for development with minimal impact on the area.



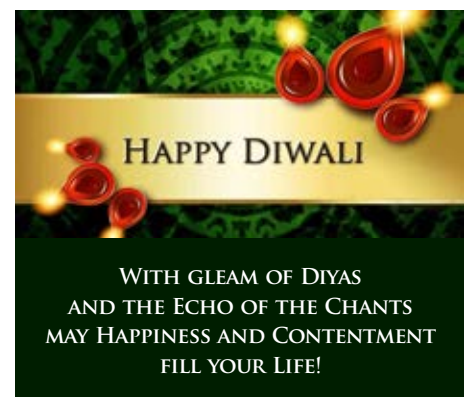
Moreover, Article 13 of Regulation No. 27 sets out the circumstances in which a Forest Licence can be granted for the development of electricity, communications, mining and developments relating to geothermal activity. According to the provision, an applicant must apply for a Forest Licence through the Online Single Submission system (the **OSS**). For non-commercial developments, the relevant area governor has jurisdiction. In addition, Article 16 of Regulation No. 27 sets out different application requirements for different types of applicants for Forest Licences including individuals, corporate entities and government institutions.

A Forest Licence is needed in order for entrepreneurs to develop forested areas. For those who successfully apply for the

Forest Licence, a number of obligations are attached including complying with certain technical requirements, obligations in relation to environmental conservation and reporting obligations. The use of mercury is prohibited for mining activities. The holder of a Forest Licence cannot transfer the licence to another individual or entity without the prior approval of the Minister. Forest Licences can be invalidated or rendered void, if the holder does not comply with the requirements attached to the licence.

The Minister monitors and evaluates the Forest Licence scheme. If a Forest Licence holder does not comply with the obligations attached to the licence, then the Minister will revoke the licence.

*\*The Regulations of the Minister for the Environment and Forests No. P.27/Menlhk/Setjen/Kum.1/7/2018 concerning Guidelines for the Leasing and Use of Forested Areas.*



## New Regulations Update the Location Permit System

by Galih Adi Prasetya



In July 2018, the Ministry for Agrarian Affairs and Spatial Planning/National Land Agency enacted Regulation No. 14 of 2018 relating to the Location Permit system (**Regulation No. 14**). Regulation No. 14 brings the Location Permit system in line with recent legislation to ensure that business licensing is carried out through the Online Single Submission system (the **OSS**).

Any entity or individual that plans to acquire land for the purposes of their business must have a Location Permit. Regulation No. 14 improves on the current in system in a number of different ways including:

- that a Location Permit is now required for every entity (whether individuals or corporations) regardless of the size of the land area. Prior to Regulation No. 14, a Location Permit was only required for corporations and only if the plot of land exceeded a certain area;
- that an application for a Location Permit must be submitted through the OSS. Prior to Regulation No. 14, a Location Permit application had to be sub-

mitted to the relevant regional government body in which the land was located;

- the removal of certain exemptions. Regulation No. 14 requires every individual or entity to obtain a Location Permit if they acquire land for the purposes of their business; and
- the introduction of a new conditional permit. In the previous system, a corporation or individual was able to acquire land as soon as they had been granted a Location Permit. Regulation No. 14 introduces a Conditional Location Permit. Entities or individual that are granted a Location Permit with conditions attached must fulfill those

conditions at least 10 days after it has been granted.

An entity or individual with a Location Permit that acquires land must register that acquisition with the local land office within one year after the expiry of the Location Permit. Location Permits that have been issued under the old system, prior to the enactment of Regulation No. 14, will remain valid until they expire.



## New Regulations Update Importer Identity Numbers

by Yohannes Halim

On 21 June 2018, the Indonesian government enacted Regulation Number 24, Year 2018 setting out a new scheme for the application of licences and permits electronically, called the Online Submission System (the **OSS**) and states that all licence and permit applications must now be made through the OSS.



The Minister for Trade passed Regulation Number 75 of 2018 relating to Importer Identification Numbers (**Permendag**). **Permendag** was needed to ensure that all documents relating to an application for a licence or permit could easily be located and collated. The Business Identification Number (**NIB**) is used as a General Importer Identification Number (**API**). Those with **Permendag** and **APIs** are subject to a number of obligations, including:

- the prohibition on the importation of restricted goods;
- that imported goods must be new, unless imported in accordance with certain statutory exemptions; and
- certain obligations relating to importation outside the customs area.

The Minister for Trade has stated that the Director General may issue General Importer Identification Number (**API-U**) for importers who import Foreign Bank-

notes in accordance with the rules and regulations set out by the Bank of Indonesia. Similarly, the Minister for Trade states that the Director General may issue Producer Importer Identification Number (**API-P**) for activities carried out in cooperation with the Government of Indonesia including those relating to energy, oil, natural gas, minerals and other natural resource management.

**API-U** and **API-P** are issued by the Minister.

The Director General of the Ministry for Commerce will provide an applicant for an **API** with either an **API** or a rejection letter no later than 5 (five) working days after an application has been received. If an application is invalid because it is incomplete or incorrect, the rejection letter will set out the reasons for the rejection.

Holders of an **API** have reporting obligations. They must report their activities or lack of every quarter to the Director General of the Ministry for Commerce. These reports must also be submitted online at <http://api.kemendag.go.id>.

## Presidential Instructions on the Licensing of Palm Oil Plantations

by Yohannes Halim

On 19 September 2018, President Joko Widodo issued a moratorium on Palm Oil Plantation licences through Presidential Instruction Number 8 of 2018 regarding the Suspension and Evaluation of Palm Oil Plantation Licenses and the Improvement of Palm Oil Plantation Productivity (**Instruction No. 8**). Instruction No. 8 was enacted to improve the governance of sustainable palm oil plantations, provide legal certainty, and maintain environmental sustainability.



There are six government institutions that are most affected by this regulation, they are: the Ministry for Economic Affairs; the Ministry for the Environment and Forestry; the Ministry for Agriculture; the Ministry for Agrarian Affairs and Spatial Planning/Head of the National

Land Agency; the Investment Coordination Board; and the regional governors.

Instruction No. 8, directs the Minister for the Environment and Forestry and the regional governors to postpone the issuance of oil palm plantation business permits and the permits for new oil palm

plantations located in forest areas. Instruction No. 8 directs Regents / Mayors to delay the issuance of permits for the opening of new oil palm plantations located in forest areas.

The Investment Coordination Board will suspend any new investment applications relating to palm oil plantations with the exception of applications being processed in accordance with article 51 of Government Regulation Number 104 of 2015 (**the Government Regulation**).

The moratorium applies to applications still in the process of being assessed.

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