

ELECTRONIC INFORMATION AND TRANSACTION

(Law Number 11 Year 2008 dated April 21, 2008)

BY THE GRACE OF GOD ALMIGHTY
THE PRESIDENT OF REPUBLIC OF INDONESIA,

Considering:

- a. that the national development is a continuous process shall be perceptive to dynamics taking place in the society;
- b. that since information globalization has put Indonesia as a part of the global information society, it is necessary to enact regulation regarding the management on Information and Electronic Transaction in national level so that the development of Information Technology runs optimally, is distributed evenly, and spreads to the entire levels of society in order to brighten up the people's life;
- c. that the rapid advancement and development of Information Technology has caused changes in human activity in sectors, directly driving the establishment of new legal act;
- d. that the use and advantage of Information Technology has been improved to keep, maintain, and strengthen the national defense and unity according to Regulation and Law for national necessity;
- e. that the use of Information Technology plays important role in the trade and the growth of national economy to create a prosperous society;
- f. that the government needs to support the development of Information Technology through legal infrastructure and its regulation so that Information Technology may be used securely by paying attention to religious, cultural and social norms of the Indonesian people;

- g. that according to the considerations as referred in letter a, letter b, letter c, letter d, letter e, and letter f, it is necessary to enact a law regarding Information and Electronic Transaction;

In view of:

Article 5 sentence 1 and Article 20 of Constitution of 1945

(BN Number 7152 pages 14A-23A);

With the joint approval of
THE HOUSE OF REPRESENTATIVES OF
THE REPUBLIC OF INDONESIA
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDES:

To stipulate:

THE LAW REGARDING INFORMATION AND ELECTRONIC TRANSACTION

CHAPTER I GENERAL PROVISION

Article 1

In this Law which means with:

1. Electronic Information is one or group of electronic data, including but not limited to writings, voice, draw, map, design, photo, electronic data interchange (EDI), electronic mail, telegram, telex, telecopy or its typical, letter, sign, number, Access Code, symbol, or perforation already processed, which has a meaning or is understandable by a person who affords to understand it.

2. Electronic Transaction is legal action executed by using Computer, Computer Network, and/or other electronic media.
3. Information Technology is a kind of technology used to collect, prepare, storage, process; announce, analyze, and/or spread information.
4. Electronic Data is each Electronic Information made, followed up, sent, accepted, or kept in a analogical, digital, electromagnetic, optical form, or a form of the same kind, which is seen, shown, and/or heard through Computer or Electronic System, including but not limited to writing, voice, draw, map, design, photo or its typical, letter, sign, number, Access Code, symbol or perforation, which has a meaning or is understood by a person who affords to understand it.
5. Electronic System is a series of tools and electronic procedure that is functioning to prepare, collect, manage, analyze, store, show, announce, send, and/or spread the Electronic Information.
6. Improvement of Electronic System is the enhancement of Electronic System by the executor of state, Person, Business Board, and/or society.
7. Network of Electronic System is a connection of two Electronic Systems or more, having closed or opened characteristic.
8. Electronic Tool is an instrument of Electronic System installed to execute an action to a certain Electronic System, which is executed automatically by Person.
9. Electronic Certificate is a certificate having electronic characteristic, consisting of Electronic Signature and identity, which shows the legal status of parties in the Electronic Transaction, which issued by Electronic Certification Institution.
10. Electronic Certification Institution is a statutory body functioning as a trustworthy party, which issues and audits Electronic Certificate.
11. Reliable Certification Institution is an independent institute established by a professional, which is recognized, legalized, and monitored by the Government with the authority to audit and publish reliable certificate in Electronic Transaction.
12. Electronic Signature is a signature composed of Electronic Information, which is put, associated or related with other Electronic Information and used as verification and authentication tool.
13. Signatory is a legal subject associated or related with the Electronic Signature.
14. Computer is a instrument to process electronic, magnetic, optical data, or a system executing the logic, arithmetic, and maintenance function.
15. Access is an activity to execute interaction with Electronic System, which is self established or in a network.
16. Access Code is number, letter, symbol, another character or combination thereof, which functions as a key to access computer and/or other Electronic System.
17. Electronic Contract is an agreement between parties, which is made through Electronic System.
18. Sender is a legal subject sending Electronic Information and/or Electronic Document.
19. Receiver is a legal subject receiving Electronic Information and/or Electronic Document from a Sender.
20. Domain Name is an internet address of state administrator, person, business entity and/or society, which is used in communication through the internet, in the form of code or character chart having a unique character to show a certain location in the internet.

21. Person is a personal, either Indonesia citizen, foreigner, or legal board.
22. Business Entity is a personal business or partnership company, either in the form of statutory body or not.
23. Minister is the minister or other officer that was appointed by the President.

Article 2

This Law shall apply to each person taking a legal action as regulated in this law, either inside or outside the jurisdiction of Indonesia, having a legal consequence inside and outside the jurisdiction of Indonesia and influencing Indonesia's needs.

CHAPTER II

PRINCIPLE AND PURPOSE

Article 3

Information technology and electronic transaction shall be used in accordance with the principle of legal certainty, benefit, prudence, goodwill, and freedom to choose a technology or neutral technology.

Article 4

Information Technology and Electronic Transaction shall be executed with a view of:

- a. Enhancing the living standard of the people as a part of the global information society;
- b. Developing national trade and economy in order to improve the welfare of the people;
- c. Enhancing effectiveness and efficiency in public service;
- d. Opening up changes for each person to improve the thought and ability in the use of and enhancement of Information Technology optimally as it could be and in a responsible way; and

- e. Providing security, justice, and legal certainty for the users and executors of Information Technology.

CHAPTER III

ELECTRONIC INFORMATION, DOCUMENT AND SIGNATURE

Article 5

- (1) Electronic Information and/or Electronic Document and/or printout thereof shall be a valid legal evidence.
- (2) The electronic Information and/or Electronic Document and/or printout as referred to in sentence (1) shall be a broad form of the legal evidence according to the Code of Crime effective in Indonesia.
- (3) Electronic Information and/or Electronic Document shall be declared valid legitimate if it uses electronic system according to the provisions ruled in this law.
- (4) The provision regarding the Electronic Information and/or Electronic Document as referred to in sentence (1) shall not apply to:
 - a. Letter, which according to Law, must be made in writing; and
 - b. letter and document thereof, which according to Law, must be made in the form of notary deed or deed made by the officer in charge of making deed.

Article 6

If there is no other provision, besides the one governed in Article 5 sentence (4), which requires information to have a written or original form, Electronic Information and/or Electronic Document is legal as long the information mentioned inside it can be accessed, shown up, guaranteeing totality thereof and accountable so that the condition may be described.

Article 7

Each Person claiming a right, strengthening the existing right, or rejecting the right of other person according to Electronic Information and/or Electronic Document shall ensure that the existing Electronic Information and/or Electronic Document comes from an electronic system fulfilling the requirement as stipulated in legislation.

Article 8

- (1) Unless otherwise agreed, the delivery time of electronic information and/or electronic document shall be determined when the electronic information and/or electronic document has been sent with a correct address by a Sender to an electronic system appointed or used by the Receiver and has entered the electronic system outside control of the sender.
- (2) Unless otherwise agreed, time of an acceptance of an Electronic Information and/or Electronic Document shall be determined when the Electronic Information and/or Electronic Information comes into electronic system under control of the Receiver's right.
- (3) In even that the Receiver has appointed certain electronic system to accept the Electronic Information, the acceptance materializes when the Electronic Information and/or Electronic Document come into appointed Electronic System.
- (4) In event that two or more information systems are used in the delivery or the acceptance of electronic Information and/or Electronic Document:
 - a. the delivery time is the moment when the Electronic Information and/or Electronic Document comes into the first information system outside the Sender's control;

- b. the delivery time is the moment when the Electronic Information and/or Electronic Document come into the last information system under control of the Receiver.

Article 9

Business communities offering their products through a electronic system shall provide a complete and correct information related to the terms and conditions of contract, producer, and the offered products.

Article 10

- (1) Every business community undertaking electronic transaction shall be certified by a reliable certification institute.
- (2) Provision regarding the establishment of the reliable certification institution as referred to in sentence (1) shall be regulated in a government regulation.

Article 11

- (1) Electronic signature shall have valid legal power and consequence, if the following requirements are fulfilled:
 - a. data about electronic signature are only related to signatory;
 - b. data about electronic Signature are only under control of the signatory upon processing the electronic signature;
 - c. any change in electronic signature may be realized after the time of signature is known;
 - d. any change in electronic information related to electronic signature may be realized after the time of signature is known;

- e. there is a certain used to identify the Signatory;
and
- f. there is a certain way to show that the Signatory
has given approval to related Electronic Informa-
tion.

(2) Further provision regarding Electronic Signature as referred to in sentence (1) shall be regulated in a gov-
ernment regulation .

Article 12

- (1) Anybody involved in electronic signature is obliged to
give security to the electronic signature used by the
relevant.
- (2) The secure on the Electronic Signature as referred at
sentence 1 at least covered:
 - a. system can not be accessed by other person who
does not have the right;
 - b. Signatory shall follow the principle of prudence to
prevent illegal use to data related to the making of
Electronic Signature;
 - c. Signatory shall not postpone, use ways suggested
by the executor of Electronic Signature or improper
way and supposedly shall immediately notify to
someone by Signatory trusted by the Electronic Sig-
nature or to supported party of the service on Elec-
tronic Signature, if:
 - 1. Signatory knows that the data of Electronic Sig-
nature have been spoiled;
 - 2. an event known by the Signatory shall cause a
risk that may come because of the failure in the
making of data about Electronic Signature; and

- d. In case the Electronic Certificate is used to support
Electronic Signature, the Signatory shall ensure the
correctness and the totality of all information re-
lated to electronic certificate.

(3) Each Person violating the provision as referred to in
sentence (1) is responsible for loss and legal conse-
quence, which may arise.

CHAPTER IV

ELECTRONIC CERTIFICATION AND ELECTRONIC SYSTEM

Part One

Electronic Certification

Article 13

- (1) Anybody has a right to use service of electronic certifi-
cation institution in the making of electronic signature.
- (2) Electronic certification institution shall ensure relations
between electronic Signature and the owner.
- (3) Electronic certification institution consists of:
 - a. Indonesian electronic certification institution; and
 - b. Foreign electronic certification institution.
- (4) Indonesian electronic certification institution shall be
in the form of Indonesian statutory body and domiciled
in Indonesia.
- (5) Foreign electronic certification institution operating in
Indonesia shall be registered in Indonesia.
- (6) Further provision regarding the electronic certification
institution as referred to in sentence (3) shall be regu-
lated by a government regulation.

Article 14

The electronic certification institution as referred
to in Article 13 sentence (1) until sentence (5) shall pro-
vide accurate, clear, and certain information to each ser-
vice user, that is covering:

- a. method used to identify the Signatory;
- b. things, which may used to know data about the maker of Electronic Signature; and
- c. things, which may be used to show the effectiveness and security of Electronic Signature.

Part Two
Electronic System

Article 15

- (1) Each executor of electronic system shall execute a capable, secure and accountable electronic system to enable the system operating accordingly.
- (2) Executor of Electronic System shall be responsible for the execution of its Electronic System.
- (3) The provision as referred to in sentence (2) shall not apply in the case of force majeure, mistake, and/or carelessness of the user of Electronic System.

Article 16

- (1) Unless otherwise stipulated by a specific law, each executor of electronic system is obliged to operate electronic system fulfilling the following minimum requirements:
 - a. Showing that electronic information and/or electronic Document in a totality, according to retention period stipulated by legislation;
 - b. Protecting the availability, totality, authenticity, secrecy and access of electronic information in the execution of electronic system;
 - c. Operating in accordance with the procedures and guidance in the execution of electronic system;
 - d. Furnished with procedure or guidance in language, information, or symbol understandable by a party, related to the execution of electronic system; and

- e. having a continual mechanism to maintain the latest, clear, and accountable procedure and guidance.

- (2) Further provision regarding the execution of electronic system as referred to in sentence (1) shall be regulated by a government regulation.

CHAPTER V

ELECTRONIC TRANSACTION

Article 17

- (1) Electronic transaction shall be executed in the public or private scope.
- (2) The executor of electronic Transaction as referred to in sentence (1) shall be obliged to have goodwill in executing the interaction and/or exchange in the Electronic Information and/or Electronic Document during the transaction.
- (3) Further provision regarding the execution of electronic transaction as referred to in sentence (1) shall be regulated by a government regulation.

Article 18

- (1) Electronic transaction mentioned in electronic contract shall bind the parties.
- (2) Parties shall be authorized to choose the effective law on international electronic transaction.
- (3) Unless the parties make a legal choice in the international Electronic Transaction, the effective law shall be based on the principle of International Electronic Transaction.
- (4) Parties shall be authorized to stipulate the form of court, arbitrate, or other alternatives to settle dispute, which may arise the international electronic transaction.

- (5) Unless the parties choose the forum chosen as referred at sentence 4, the settlement of dispute which may arise from the transaction shall be based on the principles of the international civil law.

Article 19

Parties executing electronic transaction shall use the agreed electronic system.

Article 20

- (1) Unless otherwise stipulated by the parties, electronic transaction materializes when the offer on the transaction sent by the Sender has been received and approved by the Receiver.
- (2) The approval on the offering of Electronic Transaction as referred to in sentence (1) shall be executed in an electronic acceptance statement.

Article 21

- (1) Sender or Receiver shall execute electronic transaction, through the party authorized by the relevant or through electronic agency.
- (2) Party responsible for the entire legal consequences in the execution of electronic transaction as referred to in sentence (1) shall be regulated as follow:
- If the action is executed directly by the relevant, the entire legal consequences in the execution of Electronic Transaction become responsibility of the transacting party;
 - If the action is executed through a proxy, the entire legal consequences in the execution of electronic transaction becomes responsibility of the proxy; or

- If the action is executed through the Electronic Agent, the entire legal consequences in the execution of electronic transaction become responsibility of the electronic agency executor.

- (3) If the loss in the Electronic Transaction is attributable to the operational failure of electronic agency as a cause from a third party action directly to Electronic System, the entire legal consequences becomes responsibility of the executor of Electronic Agency.
- (4) If the loss in the Electronic Transaction is attributable to the operational failure of electronic agency as a mistake of service user, the entire legal consequences become responsibility of the service user.
- (5) Provision as referred to in sentence (2) shall not apply if the failure may be proven resulting from force majeure, mistake, and/or carelessness on the user party of Electronic System.

Article 22

- (1) Certain executor of Electronic Agency shall provide a feature in Electronic Agency operated by the relevant that may enable user to change information change in the course of transaction.
- (2) Further provision regarding certain executor of Electronic Agency as referred to in sentence (1) shall be regulated by a government regulation.

CHAPTER VI

DOMAIN NAME, INTELLECTUAL PROPERTY RIGHT AND PROTECTION OF PRIVACY RIGHT

Article 23

- (1) Each state administrator, personal, business entity and/or society has the right to have a domain name according to the principle of first registration.

- (2) Ownership and the usage of Domain Name as referred to in sentence (1) shall be accorded to goodwill, not violate the fair business competition principles and do not violate the right of other person.
- (3) Each state administrator, person, business entity and/or society suffering from unlawful use of domain name by another Person, has the right to propose the cancellation of domain name.

Article 24

- (1) Board of Domain Name shall be the government and/or society.
- (2) In case of the disagreement on the use of Domain Name by society, Government has the right to take over temporarily the management of the disagreed domain name.
- (3) Board of Domain Name outside of Indonesia area and registered Domain Name shall be recognized as long as it does not contravene the legislation.
- (4) Further provision regarding the management of Domain Name as referred to in sentence (1), sentence (2), and sentence (3) shall be regulated by a government regulation.

Article 25

Electronic Information and/or Electronic Document compiled to become intellectual work, internet sites, and intellectual work inside it shall be protected as intellectual property right according to the provision of legislation.

Article 26

- (1) Unless otherwise stipulated by legislation, the use of information through electronic media related to private data of someone shall be done with the approval of the said person.

- (2) Each Person having right violated as referred to in sentence (1) shall propose a claim on the loss that may arise, in accordance with the law.

CHAPTER VII

PROHIBITION

Article 27

- (1) Each Person shall be prohibited from distributing and/or transmitting and/or making intentionally and unlawfully Electronic Information and/or Electronic Document accessible, which have contents violating the norms.
- (2) Each Person shall be prohibited from distributing and/or transmitting and/or making intentionally and unlawfully Electronic Information and/or Electronic Document accessible, which have gamble contents.
- (3) Each Person shall be prohibited from distributing and/or transmitting and/or making intentionally and unlawfully Electronic Information and/or Electronic Document accessible, with the contents insulting and/or libeling reputation.
- (4) Each Person shall be prohibited from distributing and/or transmitting and/or making intentionally and unlawfully Electronic Information and/or Electronic Document accessible, with the content containing blackmail and/or threat.

Article 28

- (1) Each person shall be prohibited from spreading intentionally or unlawfully lie and misleading information that may cause a consumer to suffer from a loss in electronic transaction.

- (2) Each Person shall be prohibited from spreading intentionally or unlawfully information with a view of triggering the hate or hostility of certain individuals and/or groups of people by communalism, religion, race, and inter-group (SARA).

Article 29

Each Person shall be prohibited from sending intentionally and unlawfully electronic information and/or electronic document filled with threat of violence or intimidation for personal purpose.

Article 30

- (1) Each Person shall be prohibited from accessing intentionally and unlawfully computer and/or electronic System belonging to other person with any way.
- (2) Each Person shall be prohibited from accessing intentionally and unlawfully computer and/or electronic system with any way to obtain electronic information and/or electronic document.
- (3) Each Person shall be prohibited from accessing intentionally and unlawfully computer and/or electronic system with any way by violating, intruding, exceeding or penetrating the security system.

Article 31

- (1) Each Person shall be prohibited from intercepting or tapping intentionally and unlawfully electronic information and/or electronic document in one computer and/or certain electronic system belonging to other person.

- (2) Each Person shall be prohibited from intercepting or transmitting intentionally and unlawfully electronic information and/or electronic document not having public characteristic from, to, and inside a computer and/or certain electronic system belonging to other person, which may change, delete and/or stop electronic information and/or electronic document, which is transmitted.
- (3) Excluding from the interception as referred to in sentence (1) and sentence (2) shall be interception executed in the framework of legal confirmation on the request from the police, court and/or other law enforcement institution according to legislation.
- (4) Further provision regarding the interception procedure as referred to in sentence (3) shall be regulated by a government regulation.

Article 32

- (1) Each person shall be prohibited intentionally and unlawfully changing, adding, reducing, transmitting, destroying, disappearing, transferring and hiding in any way electronic information and/or electronic document belonging to other person or public.
- (2) Each person shall be prohibited intentionally and unlawfully moving or transferring electronic information and/or electronic document to other person.
- (3) Each person shall be prohibited intentionally or unlawfully from committing the action as referred to in sentence (1) that cause confidential electronic information and/or electronic document to become accessible by public with the data totality different from the actual ones.

Article 33. . . .

Article 33

Each Person shall be prohibited from committing intentionally and unlawfully any action that may disturb electronic system and/or cause electronic system not to operate accordingly.

Article 34

(1) Each person shall be prohibited from producing, selling, providing, importing, distributing, supplying or having intentionally and unlawfully:

- a. Computer hardware or software specifically designed or developed to facilitate the action as referred to Article 27 up to Article 33;
- b. code through computer, access Code, or things of the same kind to make electronic system accessible with a view of facilitating the action as referred in Article 27 up to Article 33.

(2) The action as referred to in sentence (1) shall not be crime if the action is intended to examine and test electronic system to protect the electronic system legally.

Article 35

Each Person shall be prohibited from manipulating, creating, changing, disappearing, destroying intentionally and unlawfully electronic information and/or electronic document so that the electronic information and/or electronic document seems authentic.

Article 36

Each person shall be prohibited from committing intentionally and unlawfully the action as referred to in Article 27 up to Article 34 that may inflict loss on other Person.

Article 37

Each person shall be prohibited from committing intentionally and unlawfully the action as referred to Article 27 up to with Article 36 from outside the Indonesia's territory to electronic system located in Indonesia's jurisdiction.

CHAPTER VIII

DISPUTE SETTLEMENT

Article 38

- (1) Each Person shall propose a claim to a party executing electronic system and/or using information technology, which causes loss.
- (2) Communities shall propose a claim through class action a party executing electronic system and/or using information technology, which inflicts loss on the community, according with the provision of legislation.

Article 39

- (1) Civil claim is filed in accordance with the provision of legislation.
- (2) Besides the civil settlement as referred to sentence (1), the parties may settle the claim through arbitration or other alternative institutions according to the provision of legislation.

CHAPTER IX

ROLE OF GOVERNMENT AND SOCIETY

Article 40

- (1) The government facilitates the use on Information Technology and Electronic Transaction according with the provision of legislation.

(2) The.....

- (2) The government protects the public needs from all kind of disturbance type as a result of the misuse of Electronic Information and Electronic Transaction, which disturbs public order, according with the provision of legislation.
- (3) The government stipulates institutes or institutions having strategic electronic data, which must be protected.
- (4) The institutions or institutes as referred to in sentence (3) shall make electronic document and backups as well as connect it to certain data center to secure the data.
- (5) Other institutions or institutes, besides the ones regulated at sentence 3, shall make electronic Document and electronic backup according with the need of data protection.
- (6) Further provision regarding the government's role as referred to in sentence (1), sentence (2), and sentence (3) shall be regulated by a government regulation.

Article 41

- (1) The public shall have a role in increasing the use of Information Technology through the use and execution of Electronic System and Electronic Transaction according the provision of legislation.
- (2) The public role as referred at sentence 1 shall be executed through institute established by the society.
- (3) The institute as referred at sentence 2 shall have the function of consultation and mediation.

CHAPTER X

INVESTIGATION

Article 42

Investigation into the crime as referred to in this Law, shall be done in accordance with the provision of criminal code and this law.

Article 43

- (1) Besides the Investigator of the Police Officer of the State of Republic of Indonesia, certain civil servants within the government institution in charge of information technology and electronic transaction shall be given a special authority as investigator as referred in Law regarding procedures for the investigation into crime in the field of Information Technology and Electronic Transaction.
- (2) Investigation in the sector of Information Technology and Electronic Transaction as referred at sentence 1 shall be executed by paying attention to the protection of privacy, secret, smoothness of public service, data integrity, or data totality according to the provisions of legislation.
- (3) Raid and/or seizure of electronic system related to the suspect in the crime shall be executed on the basis of a permit from the chairman of local district court.
- (4) In executing the raid and/or seizure as referred at sentence 3, the investigator shall be obliged to maintain the maintenance of the needs of public service.
- (5) The civil servant investigators as referred to in sentence (1) shall be authorized to:
 - a. receive the report or complaint from someone regarding the existence of the crime according to the provision of this Law;

b. summons....

- b. summons each person or other party for the need of testimony or examination as suspect or witness in relation with the existence on the suspect of the crimes in the related sector in accordance with the provision of this Law;
 - c. examine the correctness of report or explanation related with the crime in accordance with the provision of this Law;
 - d. interrogate person and/or business entity supposedly committing the crime in accordance with law;
 - e. check tool and/or tools related with the activity of Information Technology allegedly used to commit the crime in accordance with this law;
 - f. raid certain place supposedly used as a place to execute the crime in accordance with the provision of this Law;
 - g. seal and seize the tool and or tools for the supposedly misleading activity of Information Technology in accordance with the provision of Regulation and Law;
 - h. seek an assistance from the expert needed for the investigation into the crime in accordance with this law; and/or
 - i. discontinue investigation into crime according to this Law and the provision of the effective law of criminal procedure.
- (6) In case executing the arrest and detention, the investigator through public prosecutor shall be obliged to ask for a decision from the chairman of the local district court in one times twenty four hours.
- (7) The civil servant investigators as referred to in sentence (1) shall coordinate with the Investigator from the Police Officer of the State of Republic of Indonesia

in submitting the beginning of the investigation and submitted the result to general prosecutor.

- (8) In order to describe the crime action in the Electronic Information and Electronic Transaction, the investigator shall cooperate with other state investigator to share information and evidence.

Article 44

Evidence of investigation, charging and examination at the court session according to the provision of this Law were as follow:

- a. evidence as referred in the provision of legislation; and
- b. other evidence in the form of Electronic Information and/or Electronic Document as referred to in Article 1 number 1 and number 4 also Article 5 sentence 1, sentence 2, and sentence 3.

CHAPTER XI

PENAL PROVISION

Article 45

- (1) Each person fulfilling the substance as referred to in Article 27 sentence 1, sentence 2, sentence 3, or sentence 4 shall be imprisoned for 6 (six) years and/or subject to a fine of Rp 1,000,000,000,00 (one billion rupiah) at the maximum.
- (2) Each person fulfilling the substance as referred in Article 28 sentence 1 or sentence 2 shall be imprisoned for 6 (six) years and/or subject to a fine of Rp 1,000,000,000,00 (one billion rupiah) at the maximum.
- (3) Each Person fulfilling the substance as referred to in Article 29 shall be imprisoned for 12 (six) years and/or subject to a fine of Rp 2,000,000,000,00 (two billion rupiah) at the maximum.

Article 46

- (1) Each person fulfilling the substance as referred in Article 30 sentence 1 shall be imprisoned for 6 (six) years and/or subject to a fine of Rp 600,000,000,00 (six hundred million rupiah) at the maximum.
- (2) Each person fulfilling the substance as referred in Article 30 sentence 2 shall be imprisoned for 7 (seven) years and/or subject to a fine of Rp 700,000,000,00 (seven hundred million rupiah) at the maximum.
- (3) Each person fulfilling the substance as referred in Article 30 sentence 3 shall be imprisoned for 8 (eight) years and/or subject to a fine of Rp 800,000,000,00 (eight hundred million rupiah) at the maximum.

Article 47

Each Person fulfilling the substance as referred in Article 31 sentence 1 or sentence 2, sentence 3 shall be imprisoned for 10 (ten) years and/or subject to a fine of Rp 800,000,000,00 (eight hundred million rupiah) at the maximum.

Article 48

- (1) Each Person that is fulfilling the substance as referred in Article 32 sentence 1 3 shall be imprisoned for 8 (eight) years and/or subject to a fine of Rp 2,000,000,000,00 (two billion rupiah) at the maximum.
- (2) Each Person fulfilling the substance as referred in Article 32 sentence 2 was 3 shall be imprisoned for 9 (nine) years and/or subject to a fine of Rp 3,000,000,000,00 (three billion rupiah) at the maximum.

- (3) Each Person fulfilling the substance as referred in Article 32 sentence 3 3 shall be imprisoned for 10 (ten) years and/or subject to a fine of Rp 5,000,000,000,00 (five billion rupiah) at the maximum.

Article 49

Each person fulfilling the substance as referred in Article 33 3 shall be imprisoned for 10 (ten) years and/or subject to a fine of Rp 10,000,000,000,00 (ten billion rupiah) at the maximum.

Article 50

Each Person fulfilling the substance as referred in Article 34 sentence 1 or sentence 2 3 shall be imprisoned for 10 (ten) years and/or subject to a fine of Rp 10,000,000,000,00 (ten billion rupiah) at the maximum.

Article 51

- (1) Each person fulfilling the substance as referred in Article 35 3 shall be imprisoned for 12 (twelve) years and/or subject to a fine of Rp 12,000,000,000,00 (twelve billion rupiah) at the maximum.
- (2) Each person fulfilling the substance as referred in Article 36 3 shall be imprisoned for 12 (twelve) years and/or subject to a fine of Rp 12,000,000,000,00 (twelve billion rupiah) at the maximum.

Article 52

- (1) In case the criminal action as referred to in Article 27 sentence 1 being related with the norm or sexual exploitation to a child, the actor shall be subject to one thirds of the charge of the main crime.

(2) In case the action as referred in Article 30 until with Article 37 being conducted to Computer and/or Electronic System also Electronic Information and/or Electronic Document belonging to the government and/or for public serve, the actor shall be charged with the main penalty plus one thirds.

(3) In event that the action as referred in Article 30 until with Article 37 is addressed to a Computer and/or Electronic System also Electronic Information and/or Electronic Document belonging to the Government and/or strategic board including but not limited to defense institute, central bank, banking, finance, international institute, flight authority, the actor shall be subject to the maximum penalty for each Article plus one thirds.

(4) In case the criminal action as referred in Article 27 up to Article 37 being executed by a corporation, the corporation shall be subject to the main penalty plus two thirds.

CHAPTER XII

TRANSITIONAL PROVISION

Article 53

Following the enforcement of this law, all legislation related to the use of Information Technology, which contravenes this law shall be declared null and void.

CHAPTER XIII

CLOSING PROVISION

Article 54

- (1) This Law shall take effect on the promulgated date.
- (2) The government regulation shall be stipulated in not later than 2 (two) years after the promulgation of this law.

For public cognizance, this law shall be published by promulgating in it in Statute Book of Republic of Indonesia.

Ratified in Jakarta

On April 21, 2008

THE PRESIDENT OF REPUBLIC OF INDONESIA,

sgd.

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

On April 21, 2008

THE MINISTER OF JUSTICE AND HUMAN RIGHTS,

sgd.

ANDI MATTALATTA

STATUTE BOOK OF REPUBLIC OF INDONESIA

YEAR 2008 NUMBER 58

ELUCIDATION.....

(To be continued)

====(M)=====

(2) PKW as referred to in Article 11 sentence 1 is stipulated with criteria as follows:

- a. city area functioning or having potential as the secondary knot of export-import activity supporting PKN;
- b. city area functioning or having potential as the center of industrial activity and service which serves province scale or regencies; and/or
- c. city area functioning or having potential as transportation knot serving province scale or some regencies.

(3) PKL as referred to in Article 11 sentence 1 is stipulated with criteria as follows :

- a. city area functioning or having potential as the center of industrial activity and service serving regency scale or sub-districts; and/or
- b. city area functioning or having potential as transportation knot serving regencies or districts.

Article 14.....

(To be continued)

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ELECTRONIC INFORMATION AND TRANSACTION

(Law Number 11 Year 2008 dated April 21, 2008)

(Continued From Business News No. 7719 pages 2A-15A)

ELUCIDATION

ON

LAW NUMBER 11 YEAR 2008

REGARDING

INFORMATION AND ELECTRONIC

TRANSACTION

I. GENERAL

The use of information technology, media, and communication has changed either the behavior of society or human civilization globally. The advancement of information and communications technology also has caused world relations to become borderless and changes in social, economy, and culture significantly. The latest information technology becomes a double blade sword because it contributes to the enhancement

of prosperity, improvement, and human civilization but also an effective tool to commit unlawful action.

Now, a new regime of law known as cyber law or telecommunication and information (telematic) law has been born and used internationally for legal technical term related to the use information and communications technology. In addition, the telematic law results from a convergence of telecommunications law, media law, and information law. Another technical term also used is law on information technology, virtual world law. The technical terms are born given that activities used through the network of computer system and communication system in local or global scope by using the computer-based information technology, which constitutes an electronic system should be seen virtually.

The legal issue is frequently encountered with respect to the delivery of information, communications, and/or transactions electronically, particularly in the case of authentication and matters related to legal action, which is executed through a electronic system.

Electronic system means a computer system in a broad sense, covering not only computer hardware and software, but also telecommunication network and/or electronic communications system. Computer software program is a group of instructions realized in the form of language, code, scheme, or other form, and in the case of the instructions being joined with a media readable by computer, it shall enable the computer to execute a special function or to reach a special result, including preparation in designing the instruction.

Electronic system is also used to explain the existence of information system as a stipulation of information technology with basis of telecommunication network and electronic media having a function to design, process, analyze, show, and send or distribute electronic information. Information system technically and management is the realization and stipulation of product of information technology into a form of organization and management according to the need of the organization and its allocation purpose. On the other hand, the information system is technically and functionally a system unity between human and machine covering a component of hardware, software, procedure, human resource, and information substance, which in the operation covers the functions of input, process, output, storage, and communication.

In relation thereto, the law world has long spread explanation of principles and its norms upon encountering a material matter not materialized, for example in the case of electricity steal as a criminal action. In the reality, cyber activity is no longer simple because the activity is not bordered by a territory of a state so as to be easily accessible any time and from any where. The loss that may happen either at the transaction actor or at other person never executing the transaction, for example, is the steal of funds of credit card through expense in the Internet. Besides, the authentication is an important factor, given that electronic information is not only g accommodated in a comprehensive law of procedure of Indonesia, but also very sensitive for being changed, bugged, faked, and sent to whole world in a second. With that, the effect is complex and complicated.

The incident may happen widely in data sector because the electronic telecommunications for the trading activity through the electronic commerce has become a part of f national and international trading. This reality shows that the convergence at sector of information technology, media, and information continually develops along with the finding of new development in the sector of information technology, media, communications.

Activity through the media of electronic system is also called cyber space, even if it is also virtually categorized as an action or real law behavior. Legally, the activity at cyber law can not be closed by only a measurement and conventional law qualification because

the application of the law would make many matters escaping from the law coverage. Activity in the cyber space is a virtual activity having a real impact even its evidence tool electronically.

By that, the actor subject shall be qualified as well as person already executing a real legal action. In the e-commerce activity, there is known the existence of electronic document whose position is adjusted to a document made on a paper.

In view of the facts, it is necessary to pay attention to security aspect and legal certainty in the use of information technology, media, and communication so as to be developed optimally. In relation thereto, there are three kinds of reconciliation to maintain security at cyber space, namely reconciliation of legal aspect, technological aspect, social, cultural and ethical aspect. To handle security disturbance in the electronically operated system, the legal reconciliation is absolute because without a legal certainty, the use of information technology is not optimal.

II. ARTICLE TO ARTICLE

Article 1

Sufficiently clear

Article 2

This Law has jurisdiction scope for not only legal action effective in Indonesia and/or executed by Indonesia citizen, but also legal action executed outside the jurisdiction area of Indonesia either by Indonesia citizen or foreigner or Indonesia statutory body or foreign

statutory body having a legal consequence in Indonesia, given that the use of Information Technology for Electronic Information and Electronic Transaction shall be territorial or universal.

"Loosing Indonesia need is covering but not limited to the loss of national economy, strategic data protection, standard and status of the people, defense and security of the state, state authority, citizen, as well as statutory body in.

Article 3

"Basis of legal certainty" means the legal basis for the use of Information Technology and Electronic Transaction as well as everything supporting the execution obtaining law conviction inside and outside the court.

"Basis of benefit" means basis for the usage of Information Technology and Electronic Transaction, which constitutes effort to support the information process so as to increase the people's prosperity.

"Basis of prudence" means basis for related party that shall to be paid attention to the entire aspect that is potential to encounter loss, either for himself or for other party in the usage of Information Technology and Electronic Transaction.

"Basis of good will" means basis used for the parties in executing the Electronic Transaction with no purpose incidentally and without right or against the law that shall cause loss to another party without knowledge of the other party.

"Basis of objection in choosing a technology or neutral technology" means the usage of a basis for Information Technology and Electronic Transaction is focused on the usage of certain technology so as to follow the development in the future.

Article 4

Sufficiently clear

Article 5

Sentence 1 up to | Sentence 3

Sufficiently clear

Sentence 4

Letter a

Letter according to law shall be made in written, covering but not limited to securities, letter used in the conformity process of law of legal and civil procedure and state administration.

Letter b

Sufficiently clear

Article 6

The written form is identical with information and/or document broken down into a paper only, but the truth of the information and/or document shall be poured into any media, including electronic media. In the scope of Electronic System, the original information with its copy is no longer relevant to be differentiated because the Electronic System is basically operated in a double way so that the original information could no longer differentiated from its copy.

Article 7

This provision means Electronic Information and/or Electronic Document shall be used as a reason for executing a right.

Article 8

Sufficiently clear

Article 9

"Complete and correct information" means:

- a. information consists of identity as well as status of law subject and its competency, either as a producer, supplier, distributor or mediator;
- b. other information explaining certain matter that became a requirement for the legitimacy of agreement as well as the offered goods and/or service, like name, address, and description of goods/service.

Article 10

Sentence 1

Certification reliability is intended to become a proof that the business communities conducting trade electronically are proper to try after passing judgment and audit from the authorized board. The proof already executed through certification reliability is allocated with the existed of certification sign in the form of trust mark at home page of the business entity.

Sentence 2

Sufficiently clear

Article 11

Sentence 1

This Law is giving a confirm conviction that even if only as a code, Electronic Signature is having an equal position with common manual signature that is having a legal power and legal consequence.

The requirement as referred in this Article is a minimum requirement that shall be fulfilled in each Electronic Signature. This provision opens ample opportunity for anyone to develop method, technique or process of Electronic Signature.

Sentence 2

The government regulation rules technique, tools method, and process of Electronic Signature.

Article 12 and Article 13

Sufficiently clear

Article 14

The information as referred to in this article is minimum information, which must be fulfilled by each executor of electronic signature.

Article 15

Sentence 1

"Rely on" means Electronic System has ability adjusted with the needs of its usage.

"Safe" means electronic system protected physically and non physically.

"Operating accordingly" means Electronic System has ability adjusted to its specification.

Sentence 2

"Responsibility" means there is a law subject responsible legally for the execution of the electronic system.

Sentence 3

Sufficiently clear

Article 16

Sufficiently clear

Article 17

Sentence 1

This Law opens opportunity for the usage of information technology by state administrator, person, business entity and/or society

The usage of Information Technology shall be executed in a good, wise, responsible, effective, and efficient way in order to contribute optimal benefit to society.

Sentence 2 and Sentence 3

Sufficiently clear

Article 18

Sentence 1

Sufficiently clear

Sentence 2

The law choice executed by the parties in the international contract including the law electronically executed is known as choice of law. This law is tightened as an effective law for the contract.

Choice of law in the Electronic Transaction is only executed if in its contract there is a strange substance and its stipulation shall along with the principle of international civil law (HPI).

Sentence 3

In case there is no other choice, the law stipulation effective according to the principle or basis of international civil law shall be stipulated as an effective law in the contract.

Sentence 4

Forum authorized to judge the claim of international contract, including the claim electronically executed, is a forum chosen by the parties. The forum shall be in the form of court, arbitration or claim settlement institute of other alternative.

Sentence 5

In case the parties do not choose the forum, the effective authority forum is according to the principle or basis of international civil law. The basis is known as the basis of presence and affectivity pushed at the effectiveness principle.

Article 19

"Agreed" in this article also means agreeing on the procedure consisting of the related electronic system.

Article 20

Sentence 1

Electronic Transaction materialize when the agreement between the parties shall be in the form, there are checking on data, identity, personal identification number/PIN or password.

Sentence 2

Sufficiently clear

Article 21

Sentence 1

"Authorized" means it should better stated in the power of attorney.

Sentence 2 until Sentence 5

Sufficiently clear

Article 22

Sentence 1

Feature means a facility giving chance to the user of Electronic Agent to execute the change in information submitted by it, for example cancellation facility, edit, and re confirmation.

Sentence 2

Sufficiently clear

Article 23

Sentence 1

Domain name in the form of address or private data of the executor of the state, Person, Business board, and/or society is based the first come first serve. First come first serve is different from the provision in the Domain Name and in the sector of intellectual property right because it does not need substantial checking, like checking in the registration of trademark and patent.

Sentence 2

"Violate other Person's right" is for example, violating the registered trademark, name of register of statutory body, name of famous Person, and typical name.

Sentence 3

"The usage of Domain Name without right" is a registration and the usage of Domain Name to hamper

or block another Person to use the name intuitive with the existence of own name or its product name, or to double up Person's reputation already famous or well known, or to inflict loss on consumer.

Article 24

Sufficiently clear

Article 25

Electronic Information and/or Electronic Document compiled and registered as a intellectual property, copyright, patent, trademark, trade secret, industrial design, and typical must be protected by this Law by paying attention to the provision of Regulation and Law.

Article 26

Sentence 1

In the usage of Information Technology, protection of private data is a part of the privacy rights. Privacy right consists of the following definitions:

- a. Private right is a right to enjoy the private life and free from disturbance.
- b. Private right is a right to be able to communicate with other Person without spying in action.
- c. Private right is a right to watch access to information about private life and someone's data.

Sentence 2

Sufficiently clear

Article 27 up to Article 29

Sufficiently clear

Article 30

Sentence 1

Sufficiently clear

Sentence 2

The technically prohibited action as referred to in this sentence shall be:

- a. executing communications, sending, distributing or incidentally trying to materialize matters to anyone not having right to accept it; and
- b. incidentally hampering so that information does not able or fail to be accepted by the authorized person at the environment of government and/or regional government.

Sentence 3

Security system is a system restricting computer access or prohibiting access to the computer on the basis of categorization or classification of users as well as authority level determined.

Article 31

Sentence 1

"Interception or tapping" means an activity to listen, record, diverted, change, block, and/or note the transmission of Electronic Information and/or Electronic Document not having a public character, either using the cable network of communications or wireless network, like electromagnetic or radio frequency.

Sentence 2 up to Sentence 4

Sufficiently clear

Article 32 and Article 33

Sufficiently clear

Article 34

Sentence 1

Sufficiently clear

Sentence 2

"Research activity means research executed by licensed research institute.

Article 35 up to Article 40

Sufficiently clear

Article 41

Sentence 1

Sufficiently clear

Sentence 2

"Institute established by society" means an institute operating in the sector of information technology and electronic transaction.

Sentence 3

Sufficiently clear

Article 42

Sufficiently clear

Article 43

Sentence 1 up to Sentence 4

Sufficiently clear

Sentence 5

Letter a until with Letter g

Sufficiently clear

Letter h

"Expert" means having a special skill in the sector of Information Technology that is academically or practically responsible for the knowledge.

Letter i

Sufficiently clear

Sentence 6 up to Sentence 8

Sufficiently clear

Article 44 up to Article 51

Sufficiently clear

Article 52

Sentence 1 up to Sentence 3

Sufficiently clear

Sentence 4

This provision is intended to judge each activity against the law that was fulfilled the substance as referred in Article 27 until with Article 37 committed by a corporate and/or board and/or staff having capability of:

- a. representing the corporation;
- b. making decision in the corporation;
- c. monitoring and controlling the corporation;
- d. undertaking activity for the corporation benefit.

Article 53 up to Article 54

Sufficiently clear

SUPPLEMENT TO STATUTE BOOK OF
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