

Presidential Regulation Implements Land Acquisition Law

Indra A Pambudy

The President ("President") has issued [Regulation No. 71 of 2012](#) on "Facilitating Land Acquisition for Public Project Purposes" ("Perpres 2012").

Perpres 2012 was issued to implement [Law No. 2 of 2012](#) on "Land Acquisition for Public Interests," which came into force on 14 January 2012. It governs the micro details of the procedure to which a state institution must follow in acquiring lands for public infrastructure projects, as well as the procedural rights of affected parties.

Previously, land acquisition for public infrastructure projects was governed by [Presidential Regulation No. 36 of 2005](#) (Perpres 2005) as amended by [Presidential Regulation No. 65 of 2006](#). In comparison to Perpres 2005, Perpres 2012 is more comprehensive (Perpres consists of 126 articles, Perpres 2005 consist of 24 articles), it detailed and specifies the timeframe of each acquisition stages.

Applicability

The Regulation applies to *State Institutions (Institution)* who need to acquire lands, and *Entitled Parties* who either own rights over the target land (see Art. 1(1) on State Institutions and Art. Art. 1(3) and 17) on Entitled Parties).

The acquisition procedure under Perpres 2012 only applies to certain infrastructure projects listed in Article 10 of the 2012 law. It includes among others: public roads, power-plants, ports, and housing for low-income population.

Indonesian Version

❖ Document(s)

- [The Presidential Regulation No. 71 of 2012](#) (PERPRES_N0_71_2012 - 145Kb)

❖ Recently Published ILBs

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Perpres 2012 makes no provision for private developers. The 2012 Law only permits the Government and State Owned Corporations (BUMN) to acquire and own the target land (Art. 11). Consistent with Article 11 of 2012 Law, this means that private developers' participation is limited to building and owning the infrastructure, but not the land.

Stages of Land Acquisition

The land acquisition process is divided into four stages: Planning, Preparation, Implementation and Transfer or Land Rights.



At the *Planning Stage*, the Institution produces an acquisition plan (Art. 3). The plan must be based on a feasibility study (Art. 6) and include specific documents (Art. 5). The plan and the accompanying documents are submitted to the provincial Governor.

At the *Preparation Stage*, the Governor will then form a Preparation Team, tasked with engaging the affected community (Art. 8(2)). The Preparation Team will inform the affected communities (Arts. 11-15), collect preliminary data on the target land and the Entitled Parties (Art. 16-28); and consult the Entitled Parties regarding the infrastructure project (Art. 29-40).

The consultation stage is the one chance for the Entitled Parties to object their land being developed (with the consequence that they must relocate). Objections at further stages only concern the amount, form, and recipients of compensation.

At the consultation stage, an Entitled Party may object to the proposal (i.e. wishing not to relocate). In such case, the Preparation Team must hold a second consultation (Art. 34).

If the Entitled Parties reject the proposal after the second consultation, they may file objection with the Governor (Art. 35(1)). If the Governor rejects the objection, the project proceeds (Art. 41). Acceptance means that the land cannot be acquired and the project must relocate (Art. 40).

At the *Implementation Stage*, the Head of the National Land Registry (BPN) at provincial level is responsible for implementing the land acquisition. He may delegate this authority to a regency/ municipal-level BPN (Art. 49). The official in charge is titled "Acquisition Official."

The Implementation Stage is divided into eight further sub-stages. These are:

1. Preparation (Arts. 52-54)
2. Inventorying and Identification (Arts. 55-62)

3. Choosing the Land Value Appraiser and Land Appraisal (Arts. 63-67)
4. Public Dialogue regarding Compensation (Arts. 68-73)
5. Compensation (Arts. 74-85)
6. Compensation Deposit (Arts. 86-95)
7. Land rights relinquishment (Arts. 96-99)
8. Severing Legal Relationship with the Land (Arts. 100-111)

After compensation is granted and legal relationship between the land and the Entitled Parties are severed, the Acquisition Official hands over the land rights to the Institution at the *Transfer of Rights Stage* (Art. 112-114).

Forms of Compensation

Compensation for acquire land takes the form of: cash, substitute land, resettlement, shares in the infrastructure projects, and/or other forms agreed by the Institution and the Entitled Parties. The compensation may be given in combination of one or more of the forms listed above (Art. 74).

It must be noted that substitute lands need not be available when the Entitled Parties give up their lands. It is sufficient for the State Institution to deposit cash at a bank. The substitute land must, however, be ready within six months of the compensation being determined (Art. 77 (4-7)).

It must also be noted that substitute settlement (resettlement) needs not have been built by the time the Entitled Parties give up their lands. The State Institution may deposit cash at a bank. However, the resettlement must be ready within one year of the compensation being determined (Art. 78 (3-6)).



Transition From Perpres 2005 to Perpres 2012

The 2012 Regulation revokes and replaces the previous Presidential Regulation No. 36 of 2005 on "Land Procurement for Development for Public Purposes" as amended by Presidential Regulation No. 65 of 2006 (2005 Regulation) (Art. 125).

All current land procurement projects will be completed in accordance to the 2005 Regulation. However, this grandfathering only lasts until 31 December 2014. After that date all outstanding land acquisition will be completed in accordance to the 2012 Regulations (see Art. 123).

The 2012 Regulation came into force on 8 August 2012.

❖ About this ILB

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Puri Imperium Office Plaza UG 15
Kuningan, Jakarta 12319
to subscribe, call 62-21-83701827
or fax to 62-21 83701826
or email layanan@hukumonline.com*

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