

Miscellaneous

Versi Bahasa Indonesia

Enforcement Date

28 December 2015

Related ILB

- Amendment to Provisions on Land Procurement in the Public Interest
- Second Amendment to Land Procurement in the Public Interest Regulation
- Law on Land Procurement in the Public Interest
- New Presidential Regulation Expedites Land Acquisition Process

Land-Procurement Processing Times Accelerated

Presidential Regulation [No. 148 of 2015](#) ("Fourth Amendment") has just been issued and amends Presidential Regulation [No. 71 of 2012](#) on Organizing Land Procurement in the Public Interest ("Regulation").¹ The Fourth Amendment aims to accelerate processing for land procurement in the public interest by redefining the provision that covers the following matters:²

- a. Organizing authority for land procurement;
- b. Period for preparation and execution of land-procurement plans;
- c. Small-scale land procurement; and
- d. Land procurement by private entities in the public interest.

Prior to the Fourth Amendment, the Regulation was previously amended by the following:

- a. Presidential Regulation [No. 40 of 2014](#) ("First Amendment");
- b. Presidential Regulation [No. 99 of 2014](#) ("Second Amendment");³ and
- c. Presidential Regulation [No. 30 of 2015](#) ("Third Amendment").⁴

The Fourth Amendment is of relevance to: (i) governmental institutions and/or private business entities intending to acquire land in the public interest, such as ministerial and non-ministerial bodies, provincial and regency/municipal governments, and state-owned enterprises; (ii) businesses authorized by governmental institutions to procure land; and (iii) holders of land-ownership rights.

Organizing Authority

The Fourth Amendment changes the interpretation of the following terms:⁵

- a. National Land Agency (*Badan Pertanahan Nasional* - "BPN") to Ministry of Agrarian and Spatial Affairs/National Land Agency; and
- b. Head of BPN to Minister of Agrarian and Spatial Affairs/Head of National Land Agency ("Minister").

In this regard, the Fourth Amendment clarifies that land procurement in the public interest is to be organized by the Minister, an authority which was previously the domain of the Head of BPN.⁶

¹ For more information on this regulation, see ILB [No. 1982](#), and ILD [No. 270](#).

² Recital part (a), Fourth Amendment.

³ For more information see ILB [No. 2495](#).

⁴ For more information on this regulation, see ILB [No. 2622](#).

⁵ Section II points (1) and (2) and Art. 1 (16) and (17), Fourth Amendment.

⁶ Art. 49 (1), Fourth Amendment and Regulation.

Miscellaneous

Issue 2799, 18/1/2016

Land-Procurement Periods

In order to speed up the whole land-procurement process, the Fourth Amendment sets out shorter periods for the carrying out of the various activities involved in the procuring of land in the public interest, and is compared with the original Regulation in the table below:

Stage		Period (Days)	
		Fourth Amendment	Regulation
Preparation ⁷	Establishment of a preparation team, after a governor has first received a land-procurement plan.	2	10
	Announcement of the development plan for the targeted land, after the preparation team has been established.	3	20
	Distribution of a notification letter making the aforementioned announcement, after the letter has first been signed.	3	20
	Processing of objections submitted by various parties who do not agree with the land-procurement plan to a governor via the preparation team, as set out during the public-negotiation stage.	3	14
	Stipulation of the development location by the governor, after a consensus has been reached via public negotiation or objections have been dismissed by the governor. ⁸	7	Not regulated
	Announcement of the development location, after the aforementioned stipulation has been issued. ⁹	2	3
	Delegation of a governor's authority regarding land-procurement preparations to a mayor/regent, after receipt of a land-procurement plan.	5	Not regulated
	Establishment of a preparation team by the mayor/regent, in the wake of the above delegation.	5	
Execution ¹⁰	Appointment of a Head of Land Procurement Execution by the Head of the BPN Regional Office, after a procurement plan has been accepted.	2	Not regulated

⁷ Art. 8 (2), 11 (2), 14 (2), 39, 41, 46 (2), 47 (1) and (2), Fourth Amendment and Regulation.

⁸ The Fourth Amendment clarifies that a governor only has seven days in which to stipulate a development location. If a governor remains silent on this issue until this time period expires, then this constitutes an affirmation by the government regarding the development location. (Art. 41, Fourth Amendment and the Regulation).

⁹ The Fourth Amendment mandates that the stipulation be announced over seven days (minimum), while the Regulation required 14 days (minimum) for this announcement. [Art. 46 (3), Fourth Amendment and the Regulation].

¹⁰ Art. 50, 51 (3), 54 (1), 60, 69 (2), 76 (2a), Fourth Amendment.

Miscellaneous

Issue 2799, 18/1/2016

	Establishment of a land-procurement execution team by the Head of Land Procurement Execution, after the above appointment has been made.	2	
	Establishment of a working unit which will identify and list relevant data relating to the targeted land and the owner/possessor of the land, after the land-procurement execution team has been established.	2	
	Announcement of the working unit's identification results (land-mapping and nominative data regarding land compensation).	14 (maximum)	14 (minimum)
	Circulation of an invitation to the owner/possessor of the land in question regarding discussion about the compensation amount, prior to said discussion being held.	2	5
	Validation of the amount of compensation to be paid by the Head of Land Procurement Execution to the relevant institution which requires the land, after the form of the relevant indemnity has been determined.	3	Not regulated
Result ¹¹	Submission of the land-procurement results from the Head of Land Procurement Execution to the relevant institution, after the land rights have been relinquished by the owner/possessor of the land.	3	7

Small-Scale Land Procurement

The Regulation allows for governmental institutions or private entities which have been authorized by a governmental institution to directly approach and acquire land from owners/possessors of land. Such a procurement process, however, may only be undertaken if the required plot of land is less than five hectares in overall size.¹² This process is known as small-scale land procurement.

The Fourth Amendment incorporates the following additional provisions regarding this matter:¹³

- Such procurement must comply with the relevant spatial plan;
- Such procurement does not require a location stipulation, as explained above; and
- The requesting institution must first secure a land-value assessment provided by an independent assessor who has already secured a license from the Minister of Finance.

Land Procurement by Private Business Entities

The Fourth Amendment incorporates new provisions on land procurement by private business entities, as encouraged under the Third Amendment. Regarding this matter, the Fourth Amendment regulates that land

¹¹ Art. 112 (1), Fourth Amendment and the Regulation.

¹² Art. 121, First Amendment.

¹³ Art. 121 (2) to (4), Fourth Amendment.

Miscellaneous

procurement in the public interest initiated by business entities may be conducted through processes of sale and purchase, exchange, or other method agreed between the entity and the owner/possessor of the land in question.¹⁴

Note that this procurement is limited to the development of certain items of infrastructure, as specified under Article 10, parts (b) to (r) of Law [No. 2 of 2012](#) on Land Procurement in the Public Interest,¹⁵ including:

- a. Hospitals;
- b. Transportation infrastructure (e.g. railways, toll roads, airports);
- c. Education facilities;
- d. Telecommunications and information-technology networks; and
- e. Infrastructure for the energy sector (e.g. oil and gas, geothermal, electricity).

The Fourth Amendment has been in force since 28 December 2015.

¹⁴ Art. 121A, Fourth Amendment.

¹⁵ For more information on this regulation, see ILB [No. 1817](#) and ILD [No. 241](#).

RECENTLY PUBLISHED ILB

- Drinking Water Supply Systems (Issue 2798 – 15/1/2016)
- New Provisions on Property Ownership by Foreign Citizens (Issue 2797 – 14/1/2015)
- New Procedures for Claiming Tax Overpayment Refunds (Issue 2796 – 13/1/2016)
- Updates on Bonded Storage-Area Provisions (Issue 2795 – 12/1/2016)

RECENT REGULATION

- [Draft Bill](#) on Trademarks
- Governor of Jakarta Regulation [No. 244 of 2015](#) on Guidance for the Organizing of Advertisements
- Head of Commodity Futures Trading Supervisory Agency (BAPPEBTI) Regulation [No. 126/BAPPEBTI/PER/12/2015](#) on Second Amendment to Head of Commodities Futures Trading Supervisory Agency Regulation No. 62/BAPPEBTI/PER/3/2008 on Future Trading Registration Certificates
- Financial Services Authority (OJK) Circular Letter [No. 32/SEOJK.04/2015](#) on Governance Guidance for Publicly Listed Companies