

Energy & Natural Resources

Issue 2835, 10/3/2016

Versi Bahasa Indonesia

Enforcement Date

19 January 2016

Related ILB

- Application Procedures for Electrical-Power-Supply Business Areas
- Government Guarantees for the Development of Coal-Based Electrical Power
- The Heat is on Geothermal Energy
- Utilization of Electricity Network for Telecommunication Purposes

Accelerating the Development of Electrical Infrastructure

Presidential Regulation [No. 4 of 2016](#) ("2016 Regulation") on the Acceleration of Electrical Infrastructure Development has just been issued.

The aim of the 2016 Regulation is to support economic growth by accelerating the development of electrical-power infrastructure (*Pembangunan Infrastruktur Ketenagalistrikan* - "PIK") in order to produce some 35,000 MW of electricity. This electricity is to be delivered through a new transmission network which will hopefully stretch a full 46,000 KM in length. The use of renewable energy will also be prioritized over fossil fuels in these PIK projects.

The 2016 Regulation is of relevance to the State Electricity Company ("PLN") and its subsidiaries, as well as to Independent Power-Plant Developers ("PPL"), financial institutions and regional/central governments.

Delivery Mechanism

PLN is responsible for accelerating the development of PIK projects¹ via two delivery mechanisms:

1. Self management (*swakelola*); and
2. Cooperation agreements relating to the supply of electrical power to PLN subsidiaries or Independent Power-Plant Developers ("PPL").²

PIK self-management delivery mechanisms may be initiated by PLN if the following favorable conditions are met: a) PLN has the financial capacity and necessary access to cheap financing, b) the relevant PIK construction projects are considered low risk, c) there is a sufficient supply of fuel available in order to generate electrical power, and d) peaking power plants³ and/or isolated systems⁴ are available.

¹ Art. 3 (1), 2016 Regulation.

² Art. 4 (1), 2016 Regulation.

³ A power plant which operates only at peak hours in order to support the existing supply of electricity from base-load power plants.

⁴ Power plants erected specifically for use by isolated communities which are located in areas deemed too remote for the plant to be connected to the national grid.

Energy & Natural Resources

The financing of PIK projects via self-management delivery mechanisms can be facilitated by PLN through the following processes: state-capital participation, the channeling of foreign/domestic loans, tax exemptions, and other legal financing schemes.⁵

Cooperation

Cooperation agreements relating to the supply of electricity generating mechanisms ("Cooperation") can be undertaken by PLN in conjunction with PPLs, provided that PLN is being represented by one of its subsidiaries.⁶ A Cooperation mechanism can be employed instead of a self-management mechanism⁷ if the cooperation is deemed to be of strategic value to PLN in terms of its funding access and energy supply.⁸

In detail, Cooperation can be undertaken for the following reasons:

- a. The need for large amounts of funding;
- b. A given project involves a high-risk construction process, particularly scenarios involving new-site and land-relinquishment processes;
- c. The energy supply for the PIK is not stable
- d. Involves the generation of renewable energy
- e. Involves the expansion of existing PPLs
- f. Power plants are being developed by several PPLs across a certain area.

Licenses and Non-Licenses

A PIK project delivered by means of self-management or Cooperation must secure various licensing and non-licensing documents from a One-Stop Integrated Service ("PTSP") office⁹ at the central and/or regional level, including:¹⁰

- a. An electricity-supply business license (3 to 5 days to process);
- b. A location permit (3 to 5 days to process);
- c. An environmental license (60 days to process);
- d. A Borrow-to-Use forested-area license (30 days to process);
- e. A building permit (3 to 5 days to process);
- f. A location permit (3 to 5 days to process);
- g. A nuisance permit (3 to 5 days to process); and
- h. Taxation-facility documents (28 days to process).

Revision of Zoning Plans

In order to accelerate PIK projects, any approved location permits which are not in line with existing zoning or urban/spatial planning, and which are technically impossible to relocate, can be revised.

⁵ Art. 6 (1), 2016 Regulation.

⁶ PLN should directly/indirectly have a 51% stake in such a company. Art.9 (3), 2016 Regulation.

⁷ Art. 9 (1), 2016 Regulation.

⁸ Art. 9 (2), 2016 Regulation.

⁹ The One-Stop-Integrated-Services facility is supervised by the Indonesian Investment Coordinating Board ("BKPM")

¹⁰ Art. 19, 2016 Regulation.

Energy & Natural Resources

Any such revision requires that a PIK project owner (PLN/PLN's subsidiaries/PPL) make a request to the central and/or regional government asking that a revision be made to the existing zoning or spatial plans.¹¹

New and Renewable Energy

The 2016 Regulation prioritizes PIK projects involving new and renewable forms of energy. In order to support this mandate, the central and/or regional government may offer the following facilities to a PIK project owner (PLN, PLN subsidiary, PPL):

- a. Fiscal incentives
- b. Leniency as regards licensing and non-licensing processing
- c. Price benchmarks for the purchase of each type electricity of new and renewable energy
- d. Establishment of a separate legal entity that will sell electricity to PLN; and/or
- e. Subsidies

Domestic-Content Level Obligation¹²

The 2016 Regulation prioritized the use of domestic components in any PIK Projects, not only as regards goods, but also services. This obligation is to be implemented through the following mechanisms:¹³

- a. Use of an open-book system;
- b. Provision of price preferences; or
- c. Reverse engineering.

Land Procurement¹⁴

PIK are classified as public-interest projects. Once a Governor has issued a location permit for a PIK project, any land that falls within the location permit coverage area results in a land owner being unable transfer their land to any third party other than the National Land Agency.¹⁵

Aside from the restriction on sales to third parties, project owners may acquire land directly, provided that it is not larger than 5 ha in area.¹⁶ The methods set out for such transactions in the 2016 Regulation are: purchase, the offering of land replacements, lease, borrow to use, or other lawful methods.¹⁷

The 2016 Regulation has been in force since 19 January 2016.

¹¹ Art. 31 (3) and (4), 2016 Regulation.

¹² For further discussion on domestic content level obligation, consult with Minister of Industry Regulation [No. 54/M-IND/PER/3/2012](#) on Guidelines for the Use of Domestic Products for Construction of Electricity Infrastructures.

¹³ Art. 15, 2016 Regulation.

¹⁴ For further discussion on land procurement for public interest, consult with Law [No. 2 of 2012](#) on Land Acquisition for Public Interest and Presidential Regulation [No. 71 of 2012](#) on Facilitating Land Acquisition of Public Interest Purposes. See also ILD [No. 241](#) and ILD [No. 270](#)

¹⁵ Art. 33, 2016 Regulation

¹⁶ Art. 34, 2016 Regulation

¹⁷ Art. 35, 2016 Regulation

Energy & Natural Resources

RECENTLY PUBLISHED ILB

- New Regulation on Social Insurance for Self-Employed Individuals (Issue 2834 – 8/3/2016)
- New Multiple-Licensing Policy Introduced (Issue 2833 – 7/3/2016)
- New Procedures for Exporting Processed and Purified Mining Products (Issue 2832 – 4/3/2016)
- Govt. Updates Upper Thresholds for Domestic Economy-Class Flights (Issue 2831 – 3/3/2016)

RECENT REGULATION

- The Minister of Law and Human Rights Regulation [No. 3 of 2016](#) on Procedures for Submitting Applications for the Validation of Associated Legal Entities and Approval to Amend Associations' Constitutions
- The Minister of Finance Regulation [No. 10/PMK.02/2016](#) on Amendment to Minister of Finance Regulation No. 13/PMK.02/2013 on Operational Costs and Supporting Fees for Procuring Land in the Public Interest Sourced from the State Budget
- The Minister of Finance Regulation [No. 13/PMK.05/2016](#) on Optimization Procedures for Settling State Receivables Sourced from Subsidiary Foreign Loans and Mutual Investment Accounts in State-Owned Enterprises/Limited-Liability Companies/Other Types of Incorporated Entities

Indonesian Legal Brief is a service of PT Justika Siar Publika owner and operator of www.hukumonline.com, www.hukumpedia.com, and en.hukumonline.com
Puri Imperium Office Plaza G-7 Kuningan, Jakarta 12980
to subscribe, call 62-21-83701827 or fax to 62-21 83701826 or email layanan@hukumonline.com
for feedback email english@hukumonline.com

Editor-In-Chief: **Davidson Samosir** | Editors: **Simon Pitchforth**
Analyst: **Robert Sidauruk**; **Christina Desy Butarbutar** | Researcher: **Marcell Sihombing**
Librarian and Data Coordinator: **Dedi Rosyadi**

Disclaimer: All data and information contain in this service is compiled from various reliable sources. We have taken every effort to ensure the accuracy and completeness of data and information in these services; however, we are not responsible for any errors or omissions as well as translation mistakes from the source language. Hukumonline English may change, modify, add or remove any errors or omissions on Hukumonline English website without notification. These services are not intended and should not be taken as legal advice or opinion.
No action should be taken in reliance of information contained in these services without first seeking professional services.