

Miscellaneous

Versi Bahasa Indonesia

Enforcement Date

21 March 2016

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New Settlement Procedures for Land Disputes

The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency ("Minister") has issued Regulation [No. 11 of 2016](#) on Land-Dispute Resolutions ("2016 Regulation").

The 2016 Regulation aims to accelerate the process for settlement of land-dispute cases by the central/regional land office ("Land Office"). Prior to the 2016 Regulation, the same matter was regulated under two separate regulations, namely:

1. Head of National Land Agency Regulation [No. 3 of 2011](#) on the Assessment, Management and Resolution of Land Cases ("2011 Regulation"); and
2. Head of National Land Agency Regulation [No. 12 of 2013](#) on Land Examinations ("2013 Regulation") (collectively known as "Previous Regulations").

The 2016 Regulation is of relevance to the public in general, as possessors of land rights.

Types of Land-Dispute Cases

The 2016 Regulation classifies land-dispute cases into three categories, namely:¹

- a. Land disagreements (*Sengketa Tanah*), which refer to land cases which arise between individuals or entities which do not have a broad impact upon society at large;
- b. Land conflicts (*Konflik Tanah*), which refer to land cases that arise between individuals or entities which are impacting upon, or which have the potential to impact upon society more broadly; and
- c. Land disputes (*Kasus Tanah*), which refer to land cases which are to be adjudicated upon before the courts.

In general, the majority of the provisions set out under the 2016 Regulation involve procedures for the settlement of land-disagreements [as described in part (a) above] and land-conflicts [as described in part (b) above] by the Land Office. Meanwhile, the procedures for the resolution of land disputes through the courts reference normal civil proceedings.

The 2016 Regulation does not incorporate any significantly different provisions relating to the various types of land-dispute cases than those set out under the 2011 Regulation.

¹ Art. 1 (1) – (4), 2016 Regulation.

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Settlement of Land-Dispute Cases

There are two mechanisms by which the Land Office can identify ongoing land disagreements and land conflicts, namely: a) through a process of self-monitoring conducted by the Land Office - **active monitoring**; or b) reports filed by the public with the Land Office - **passive monitoring**.²

Any member of the general public may submit a written report to the Land Office via the office's report drop box, via the Minister's website, or via a regional land office located within the same area as the disputed land is. Any such report must be supported by a brief outline of the case concerned, a copy of the complainant's resident's identity card, a letter of authorization (if any), and related evidence.³ Upon taking receipt of a completed report, the Land Office will then issue a submission receipt to the complainant. The report in question will then subsequently be recorded in the Land Office's Report Registration Log.⁴

The relevant officer at the Land Office ("**Officer**") must then start to gather data and information relating to the land in question. This should include information on its location, size, and legal status; as well as any related court decisions or documents issued by law-enforcement agencies; information supplied by related authorities; witnesses; and/or other supporting data.⁵

Based on this data and information, the Officer will then determine whether the land case in question falls under the Minister's authority or that of another institution.⁶ The Officer will only take certain measures if a given land-dispute case arises as a result of one of the 11 factors listed in Article 11 (3), of the 2016 Regulation, including:

- a. Error in measuring or mapping the land in question;
- b. Error in registering or acknowledging former indigenous land;
- c. Error in registering land-right titles;
- d. Overlapping land-right statuses;
- e. Misuse of a spatial utilization;
- f. Error in maintaining data relating to land registration; and so forth.

If a land-dispute case did not arise as a result of any of the above factors, then the Officer will notify the complainant that the case does not fall under the authority of the Minister.⁷ However, if the case in question did indeed arise due to any of the above factors, then the following authorities will be informed:⁸

- a. The Head of the Regional Land Office in the area in which the land is located, if the land status was granted by the head of the land office; or
- b. The Minister, if the following criteria are met:
 - The land status was granted by the head of the regional land office; and/or

² Art. 4, 2016 Regulation.

³ Art. 6 (4) (5), 2016 Regulation.

⁴ Art. 7 (3) and 8 (1), 2016 Regulation.

⁵ Art. 10 (1) (2), 2016 Regulation.

⁶ Art. 11 (1) (2), 2016 Regulation.

⁷ Art. 11 (4) and 12 (2), 2016 Regulation.

⁸ Art. 13, 2016 Regulation.

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- The land-disagreement or land-conflict has come to the attention of the public; involves many parties; relates to social, cultural, economic, or public interests, security or safety; and/or involves a governmental institution or law-enforcement agency.

Upon receiving any relevant information from the Officer, the head of the regional land office or the Minister will instruct an officer in charge (“**Officer in Charge**”) to settle the land-dispute case. Alternatively, the head of the regional land office or the Minister may also establish a Land Dispute and Conflict Resolution Team (“**Team**”) within seven days of taking receipt of the information.⁹

The Officer in Charge or Team must then draft a report outlining detailed information relating to the land-disagreement or land-conflict in question. This report should encompass: the initial report from the public, relevant supporting data and information, a case analysis, results of a field inspection, and interview results (if any). This report must then be submitted to the Head of Regional Land Office or to the Minister.¹⁰

Upon receiving the report, the Head of the Regional Land Office or the Minister will settle the land-disagreement or land-conflict by issuing a decree which states one of the following:¹¹

- a. Annulment of the existing land-right title;
- b. Annulment of the land-right certificate;
- c. The changes to be made to the data contained within the land-right certificate, measuring certificate and/or other documents; or
- d. An announcement that all of the administrative processes relating to the land have complied with the prevailing procedures.

Note that this decree must be issued within 14 days of the Minister taking receipt of the report, or within seven days of the Head of the Regional Land Office taking receipt of the report.¹²

Previously, the 2011 Regulation did not stipulate any active-monitoring measures when identifying land-dispute cases. Moreover, the 2011 Regulation required that the Land Office arrange case-examination (*gelar kasus*) proceedings in order to settle land-dispute cases.¹³ Unfortunately, this stage is no longer incorporated under the 2016 Regulation.

The 2016 Regulation repeals and replaces the Previous Regulation.

The 2016 Regulation was issued on 21 March 2016.

⁹Art. 14 (1) (2), 2016 Regulation.

¹⁰Art. 23, 2016 Regulation.

¹¹Art. 24 (1), 2016 Regulation.

¹²Art. 24 (5), 2016 Regulation.

¹³Art. 27 (1), 2011 Regulation.

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