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LAND AFFAIRS

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THE STATE MINISTER FOR AGRARIAN AFFAIRS/HEAD
OF THE NATIONAL LAND AFFAIRS AGENCY

**REGULATION OF THE STATE MINISTER FOR AGRARIAN AFFAIRS/
HEAD OF THE NATIONAL LAND AFFAIRS AGENCY
NUMBER : 2/1999 ; DATED : FEBRUARY 10, 1999**

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THE LOCATION LICENSE

THE STATE MINISTER FOR AGRARIAN AFFAIRS/
HEAD OF THE NATIONAL LAND AFFAIRS AGENCY,

- Considering :**
- a. that in the framework of regulating an investment there is already a provision on the obligation of the procurement of a location license before a company obtains the land necessary for implementation of its capital;
 - b. that the granting of the location license is basically a directive of investment location as the implementation of the space layout in the aspects of land affairs;
 - c. that the granting of the location license is already expanded so that it also covers a land procurement license for purposes irrelevant to (Capital) Investment ;
 - d. That to secure the implementation of the purpose of the location license as mentioned above it is necessary to redefine the location license function and to limit to the purpose of investment by stipulating general provisions on the Location License in a Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency.

- Bearing in mind :**
- 1. Act. No. 5 of 1960 on the Basic Regulation on the Principles of Agrarian Affairs;
 - 2. Act No. 1 of 1967 on Foreign Investment as already amended by Act No. 11/1970;
 - 3. Act No. 6 of 1968 on Domestic Investment as already amended by Act No. 12/1970;
 - 4. Act No. 5 of 1974 on the Basic Principles of the Regional Government;
 - 5. Act No. 24 of 1992 on the Space Layout;

6. Government Regulation No. 40 of 1996 on the Hak Guna Usaha (Right to Business Usage), Hak Guna Bangunan (Right to Building Erection), and Hak Pakai Atas Tanah (Right over Land Usage);
7. Government Regulation No. 24 of 1997 on the Registration of Land;
8. Presidential Decree No. 26 of 1988 on the National Land Affairs Agency;
9. Presidential Decree No. 97 of 1993 on the Procedure for Investment as already amended by Presidential Decree No. 115/1998;
10. Presidential Decree No. 101 of 1998 on the Status, Duties, Function, Organizational Structure and the Working System of the State Minister;
11. Presidential Decree No. 122/M/1998 on the Cabinet of Development Reform.

HAS DECIDED :

To stipulate : REGULATION OF THE STATE MINISTER FOR AGRARIAN AFFAIRS/ HEAD OF THE NATIONAL LAND AFFAIRS AGENCY ON THE LOCATION LICENSE.

**CHAPTER I
GENERAL PROVISIONS**

Article 1

In this Regulation :

1. Location license shall be the license granted to a company for procurement of the land needed in the framework of investment which is also valid as license for the transfer of rights and for using the land for the business purpose of its investment.
2. Company shall mean individual or legal body already having license for investment in Indonesia according to the provisions in force.
3. Company group shall mean two or more business companies whose shares are partly owned by the same individual(s) or legalbody(ies) either directly or indirectly through another legal body with such a total or characteristic of ownership that through the ownership of shares it/they can directly or indirectly determine the implementation or operation of the business companies.
4. Investment shall be the business of capital investment either using or not using the facilities as meant in Act No. 1/1967 on Foreign Investment as already amended by Act No. 11/1970 and Act No. 6/968 on Domestic Investment as already amended by Act No. 12/1970.
5. Rights to Land shall be the rights over land as meant in Article 16 of Act No. 5 of 1960.
6. Land Affairs Office shall be Regency's/Municipality's Land Affairs Office.

Article 2

- (1) Any company already receiving approval for investment shall have a Location License for procurement of the land needed for implementation of the investment plan of the company concerned, except in the case intended in paragraph (2).
- (2) A Location License shall not be required and shall be considered as having been owned by the company concerned in case :
 - a. the land to be procured is a take in asset (inbreng) of the shareholder(s).
 - b. the land to be procured is a land already controlled by another company in the framework of continuing the implementation of the other company's plan for investment either partially or in its entirety, and for this purpose there is already an approval from the competent authority.
 - c. the land to be procured is needed in the framework of implementing industrial businesses in an Industrial Zone.
 - d. the land to be procured comes from an authority or a development organizing board of a zone in compliance with space layout plan of the said development zone.
 - e. the land to be procured is needed for expansion of a business already operating and for this expansion there is already a license for business expansion in compliance with the provisions in force, while the location of the land borders on the business location concerned.
 - f. the land needed for implementation of the investment plan shall not exceed 25 Ha (twenty five hectares) for agribusiness, nor shall it exceed 10.000 m² (ten thousand squaremeters) for non-agribusiness, or
 - g. the land to be used for implementation of the investment plan shall be a land already owned by the company concerned, provided the land is situated in a location which according to the Regional Space Layout Plan in force is intended for use in accordance with the investment plan concerned.
- (3) In case what is meant in paragraph (2) applies, the company concerned shall inform its land procurement plan and/or land utilization plan to the Land Affairs Office.

CHAPTER II THE LAND THAT CAN BE DESIGNATED BY A LOCATION LICENSE

Article 3

A land that can be designated in a location license shall be a land which according to the Regional Space Layout Plan in force is intended for use in accordance with the investment plan to be carried out by the company under the investment agreement owned by it.

Article 4

- (1) The location license can be granted to a company already receiving approval for investment according to the provisions in force for procurement of land having a certain area so that

if the company succeeds to free the entire area designated, the vastness of the land controlled by the company and other companies constituting one group of companies, shall not exceed the following vastness :

a. For housing and residential development businesses :

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| 1) | housing and residential areas | : | |
| | 1 province | : | 400 Ha |
| | throughout Indonesia | : | 4,000 Ha |
| 2) | resort-hotel areas | : | |
| | 1 province | : | 200 Ha |
| | throughout Indonesia | : | 2,000 Ha |

b. For industrial zone businesses :

1 province	:	400 Ha
throughout Indonesia	:	4,000 Ha

c. For plantation businesses run in the form of big plantations with the granting of Hak Guna Usaha :

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| 1) | sugar cane commodity | : | |
| | 1 province | : | 60,000 Ha |
| | throughout Indonesia | : | 150,000 Ha |
| 2) | other commodities | : | |
| | 1 province | : | 20,000 Ha |
| | throughout Indonesia | : | 100,000 Ha |

d. For fishpond businesses :

- | | | | |
|----|----------------------|---|----------|
| 1) | on Java | : | |
| | 1 province | : | 100 Ha |
| | throughout Indonesia | : | 1,000 Ha |
| 2) | outside Java | : | |
| | 1 province | : | 200 Ha |
| | throughout Indonesia | : | 2,000 Ha |

(2) Particularly for Level I Regional Province Irian Jaya, the maximum area of land control shall be twice that of one province outside Java as meant in paragraph (1).

(3) To determine the area of land designated in the company's location license, the applicant shall submit a written statement on the area of land already controlled by him and by other companies belonging to his group.

(4) The provisions in this Article shall not apply to :

- a. State Corporations (BUMN) in the form of Public Corporations (PERUM), and Regional State Corporations (BUMD);

- b. Business Companies whose bigger part of or entire shares are owned by the State, either the Central or Regional Government;
- c. Business Companies whose entire or bigger part of shares are owned by the public in the framework of "go public."

CHAPTER III THE LOCATION LICENSE PERIOD

Article 5

- (1) The location license shall be granted for the following periods :
 - a. Location license for an area of up to 25 Ha : 1 (one) year;
 - b. Location license for an area of 25 Ha up to 50 Ha : 2 (two) years;
 - c. Location license for an area of up to 50 Ha : 3 (three) years;
- (2) The obtainment of land by the location license holder shall be finished within the location license period.
- (3) If during the location license period as meant in paragraph (1) the obtainment of land is not finished yet, the location license period can be prolonged for 1 (one) year if the land already obtained reaches more than 50% of the area of land designated in the location license.
- (4) If the achievement of land cannot be finished during the location license period including its prolongation, as meant in paragraphs (1) and (3), the procurement of land can no longer be sought by the location license holder, and the plots of land already obtained shall be subject to the following measures :
 - a. to be used for implementation of the investment plan with adjustments of the area of construction, on condition that if necessary the obtainment of land can still be carried out so that the plots of land constituting a unity of plots can be obtained.
 - b. to be released to a company or another party meeting the requirements.

CHAPTER IV THE PROCEDURE FOR GRANTING THE LOCATION LICENSE

Article 6

- (1) The location license shall be granted on the basis of considerations on the aspects of land and the technical land utilization system covering the condition of the rights and control of the land concerned, the regional physical assessment, the usage and capacity of land.
- (2) The decision on the granting of the location license by the Regent/Mayor or, for Jakarta Metropolitan Special Region by the Governor/Head of the Jakarta Metropolitan Special Region after a coordination meeting of inter institutions involved led by the Regent/Mayor or, for Jakarta Metropolitan Special Region, by the Governor/Head of the Jakarta Metropolitan Special Region or by an official permanently appointed by him.
- (3) The materials for considerations as meant in paragraph (1) and the coordination meeting as meant in paragraph (2) shall be prepared by Head of the Land Affairs Office.

- (4) The coordination meeting as meant in paragraph (2) shall be supported by consultations with the society holding the rights over the land in the location applied for.
- (5) The consultations as meant in paragraph (4) shall cover the following aspects :
 - a. the dissemination of information on the investment plan to be implemented, the scope of its impacts and the land procurement plan as well as the solution of problems resulting from the land procurement;
 - b. the exemption of the land right holder from obtaining information on the investment plan and seeking an alternative solution of the problems encountered;
 - c. the gathering of direct information from the public for obtaining social and environmental data needed;
 - d. public participation in the form of suggestions on the alternatives of the form and amount of indemnity in land procurement during implementation of the location license.

Article 7

- (1) Further provisions on the procedure for the granting of the location license shall be stipulated by the Regent/Mayor or for Jakarta Metropolitan Special Region, by the Governor/Head of the Jakarta Metropolitan Special Region.
- (2) Before the provisions as meant in paragraph (1) are stipulated, the granting of the location license shall be implemented according to Regulation of the State Minister for Agrarian Affairs/Head of the National Land Affairs Agency No. 2/1993 on the Procedure for Obtaining Location License and Rights Over Land in the Framework of Investment and its implementing provisions with the necessary adjustments to the provisions in this regulation.

CHAPTER V THE RIGHTS AND OBLIGATIONS OF THE LOCATION LICENSE HOLDER

Article 8

- (1) The location license holder shall be permitted to release the land in the location license area from the rights and interest of another party on the basis of agreement with the right holders or the party having the interests concerned by way of selling-buying transaction, indemnity offering, land consolidation or other means according to the provisions in force.
- (2) Before the land is freed by the location license holder as meant in paragraph (1), all the existing rights and interests of the other party over the land concerned shall not decrease and remain to be acknowledged including the competence which is legally owned by the holder of rights over land for the obtainment of evidence of rights (certificate), and the competence to use and utilize his land in his personal or commercial interest in accordance with the space layout plan in force, as well as the competence to transfer them to another party.
- (3) The location license holder shall respect the interests of other parties over the land not yet released as meant in paragraph (1), shall not close or reduce the accessibility owned by the public around the location, and shall protect public interests.

- (4) After the land concerned is freed from the right and interest of the other party, the location license holder can be granted the rights which give him the competence to use the land in compliance with the need for implementation of his investment plan.

Article 9

The location license holder shall submit periodical reports every 3 (three) to Head of the Land Affairs Office on the land obtainment already executed by virtue of the location license and on the implementation of the land usage.

**CHAPTER VI
CLOSING PROVISIONS**

Article 10

The location license already issued before the enforcement of this regulation shall remain valid until its validity period expires on condition that if the location license refers to an area exceeding a certain area as meant in Article 4, the location license can only be implemented after the enforcement of this regulation on an area which agrees with the provisions contained in Article 4.

Article 11

This Regulation shall come into force as from the date of stipulation.

Stipulated in : Jakarta

on : February 10, 1999

THE STATE MINISTER AGRARIAN AFFAIRS/
HEAD OF THE NATIONAL LAND AFFAIRS AGENCY
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