

Client Alert

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Location Permit: A Must Have For Every Business Actor Acquiring Land

Under a new regulation, all business actors who acquire land will have to have a location permit. Previously, the permit was only required for plots of land above a certain size and only for corporate purchasers of land. This regulation is part of the sectoral regulations issued due to the introduction of the online single submission ("**OSS**") regulation.

Key Changes

Ministry of Agrarian Affairs and Spatial Planning/National Land Office Regulation No. 14 of 2018 on Location Permits ("**Regulation 14**") was issued on 13 July, but it only became effective on 2 August. This regulation revokes the previous regulation issued in 2015 (as amended).

The following are key changes of Regulation 14:

- *Applicable to all business actors*

Previously, a location permit *was only* required for corporations that wished to acquire a plot of land that *exceeded a certain area*. A location permit application was submitted to the relevant regional government institution where the land that was to be acquired was located.

Regulation 14 now requires all business actors (whether individuals or non-individuals (e.g., legal entities)) to have a location permit to acquire land *regardless* of the size of the land area. An application for a location permit is made through the OSS system, and it will only be issued after the business actor has been registered in the OSS system.

For all location permit applications that were made before Regulation 14 became effective, the applicant must resubmit its application through the OSS system.

- *Effectiveness of a location permit*

Under the previous regulation, once a corporation had obtained a location permit, the corporation could directly start the land acquisition process. There were also certain exemptions under which a corporation did not need to obtain a location permit (e.g., if the land was to be utilized in accordance with the current land zoning designation as approved in the previous location permit).

There are now two types of location permits under Regulation 14: a conditional location permit and an unconditional location permit. For the conditional location permit, a location permit will only be effective once the





necessary commitments have been fulfilled. Land can only be acquired if the relevant location permit has become effective. The commitments can be seen in the regulation.

An unconditional location permit will be deemed effective as of the date of the permit issuance. Regulation 14 sets out conditions in which an unconditional location permit will be issued. One of them is when the land that will be acquired has been possessed by another business actor that had previously obtained a location permit.

- *Disclosure of amount of land owned by group companies*

Regulation 14 now requires an applicant to submit a statement letter stating the total land area that is owned by its group companies (previously it was not required). This requirement may affect companies (especially real estate developers) that often do land banking for the purpose of their future business expansion.

Deadline to Fulfil Commitments

The business actor is given 10 working days to fulfil all of the commitments, which will be listed in the OSS system. If the commitments are not fulfilled within that time, the location permit will be annulled.

The regional land office will issue a technical advice to the regional government within 10 working days after the commitments fulfilment documents are submitted by the applicant. By referring to the technical advice, the regional government will within two working days issue a confirmation on whether the application is approved or rejected. The confirmation from the regional government will be notified to the business actor through the OSS system.

Even though Regulation 14 stipulates a timeline for the commitments fulfilment review for the purpose of certainty, Regulation 14 also provides a possibility for the regional land office (or regional government) to issue a delayed confirmation due to force majeure conditions. It is not clear what it meant by "force majeure conditions". As such, uncertainty may still exist.

Deadline to Register Land

After the land acquisition process is completed, Regulation 14 requires the land to be registered with the land office where the land is located, at the latest one year after the end of the location permit validity period. The previous regulation did not provide any deadline.

Cautious Action

Regulation 14 has big impacts for companies that require conditional location permits, and group companies that have real estate business or own significant amount of land.



In light of the timing to fulfil the necessary commitments and the consequence of failing to fulfil within the deadline, it is imperative for clients that require conditional location permits to do the necessary preparation (e.g., start preparing the necessary documents for land technical advice application from the beginning) before applying for a location permit through the OSS system.

Clients with group companies with real estate business or own significant amount of land need to bear in mind that the OSS system requires a self-assessment, which has much focus on post-compliance audits. Any statement letters submitted need to be carefully considered.

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