

NEW HEAD OF BPN REGULATION ON THE SETTLEMENT OF LAND DISPUTES

On 21 March 2016, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency issued Regulation No. 11 of 2016 on The Settlement of Land Disputes (“**Head of BPN Regulation 11/2016**”). Under this regulation, a land dispute may involve one of the following:

1. a land dispute (*Sengketa Pertanahan*), being a dispute between individuals, legal entities, or institutions which does not have a broad impact;
2. a land conflict (*Konflik Pertanahan*), being a dispute between individuals, groups, organizations, legal entities, or institutions which could potentially have a broad impact;
or
3. a dispute (*Kasus Tanah*) which will be settled before the courts.

Under Head of BPN Regulation 11/2016, the settlement of a land dispute may be at the initiative of a ministry or because of a complaint from the public. The land office officials will collect the data and/or information and determine whether the dispute is under the authority of the ministry or another institution. Disputes and conflicts which are under the authority of the ministry include the following:

1. errors in measuring or mapping the land in question;
2. errors in registering or acknowledging former indigenous land;
3. errors in registering land-right titles;
4. overlapping land-rights;
5. misusing a spatial utilization;
6. errors in maintaining data relating to land registration;
7. errors in the procedure for issuing substitute certificates;
8. errors in providing land data;
9. errors in the licensing procedure;
10. misuse of the spatial plan (zoning);
11. other mistakes in the implementation of laws and regulations.

Any other disputes are under the authority of a different institution that is yet to be determined.

In brief, if the settlement of a dispute is under the authority of the ministry, the minister or the head of the regional land office may instruct one of the officials to settle the dispute.

Otherwise, the next steps will be to:

1. establish the land dispute or conflict settlement team;
2. conduct an assessment and site inspection;
3. hold exposures/presentations;
4. prepare and deliver a report on the settlement of the land dispute.

Upon receiving the report on the settlement of the land dispute or conflict, the minister and/or head of the regional land office will issue:

1. a decision annulling the existing land right title;
2. a decision annulling the land right certificate;
3. a decree on the changes to be made to the certificate, measurement letter, and/or other relevant document;
4. a written notice stating that there has been no administrative error under the prevailing procedures.

The decision on the settlement of the land dispute or conflict will be signed by the head of the local land office. Any land dispute or conflict which is not under the authority of the ministry will be settled through mediation.