

NEW REGULATION ON LOCATION PERMIT

Overview

Over the past years, the Minister of Agrarian Affairs and Spatial Planning/ Head of the National Land Agency (“**Minister**”) has issued several regulations on location permits due to the progressive system established by the government for the efficiency of investments and licensing. After the Online Single Submission (“**OSS**”) system became applicable, the Minister issued Regulation No. 14 of 2018 on Location Permits (“**Regulation 14/2018**”), as the first regulation on location permits accommodating the OSS system.

As the OSS system is continuously being developed, which is the OSS version 1.1 has been introduced since 11 November 2019, and in order to improve efficiency in the Location Permit procedure, the Minister recently issued Regulation No. 17 of 2019 on Location Permits (“**Regulation 17/2019**”/“**New Location Permit Regulation**”), replacing Regulation 14/2018.

Regulation 17/2019 still recognizes the two types of Location Permit: (i) Location Permits with Commitments; and (ii) Location Permits without Commitments. The New Location Permit Regulation emphasizes the difference between these two types of Location Permits. Although in general, a lot of provisions remain the same, several adjustments in the new regulation are noteworthy.

Key Provisions of the New Location Permit Regulation

I. The Scope of Regulation 17/2019

According to Article 3 of Regulation 17/2019 the new regulation covers:

- (i) the objects and subjects of Location permits;
- (ii) the licensing procedures and term of a permit;
- (iii) the rights and obligations of Location Permit holders; and
- (iv) monitoring and evaluation.

Regulation 17/2019 has removed the ‘layout of the location permit’ from the scope of work.

II. Subjects of Location Permits under the New Location Permit Regulation

Regulation 17/2019 clarifies the subjects of location permits, who are now defined as business actors who need to use land for their business or activities but do not yet own or possess the land and include:

- (i) legally capable individuals;

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(ii) non-individual business actors, specifically:

- a. limited liability companies;
- b. public companies;
- c. region-owned public companies;
- d. other state-owned legal entities;
- e. broadcasting agencies;
- f. enterprises established by foundations;
- g. cooperatives;
- h. limited partnerships;
- i. firm partnerships;
- j. civil partnerships.

As a note, previously, limited partnerships, firm partnerships and civil partnerships were not included as subjects of Location Permits.

III. Location Permits with Commitments

Regulation 17/2019 clarifies the subjects of location permits, who are now defined as business actors who need to use land for their business or activities but do not yet own or possess the land and include:

(i) Licensing Procedure

Similar to the licensing procedure under the previous regulation, under Regulation 17/2019, the licensing procedure for a Location Permit with Commitments is the following:

No.	Procedure	Remarks
1.	Registration in the OSS system	
2.	Submission of the Location Permit application	<p>Under the New Location Permit Regulation, the requirements for a Location Permit with commitments are slightly different:</p> <ol style="list-style-type: none"> (i) the Business Identification Number (<i>Nomor Induk Berusaha – NIB</i>); (ii) a written statement of and application for completion of the commitments for a Location Permit; (iii) a map/sketch with the coordinates of the location; (iv) the the planned business activities proposal; (v) a written statement of the total area in the possession of the business actor and other business actors in 1 (one) group. <p>Regulation 17/2019 no longer requires valid payment receipts for service fees to be submitted with the Location Permit application through the OSS system. However, these receipts are required by the Land Office for its technical considerations.</p>

No.	Procedure	Remarks
3.	Issuance of the Location Permit by the OSS Agency along with the required maps	Until the business actor has completed the commitments, the Location Permit issued by the OSS Agency remains ineffective.
4.	Completion of the commitments by the business actor	The business actor should submit proof of completion of the commitments required within 10 (ten) days of the issuance of the Location Permit by the OSS Agency.
5.	Technical Considerations	<p>The relevant Land Office will attest to the completion of the commitments under a technical consideration.</p> <p>The technical consideration will be issued within 10 (ten) days of the submission of the completed Location Permit application along with the valid receipts for payment for the services.</p> <p>If the Land Office does not issue its technical consideration within the above timeframe, the application will automatically be deemed approved.</p> <p>The technical consideration consists of the testament to/ denial of the completion of the commitments which will be forwarded to the local government for it to follow-up on.</p>
6.	Issuance of the Approval of the Location Permit	<p>The technical consideration will be the basis for the local government to approve the completion of the commitments for the Location Permit.</p> <p>The approval will be issued within 2 (two) days of receipt of the technical consideration.</p> <p>If the Land Office does not issue the technical consideration within 10 (ten) days, the local government will issue the Location Permit.</p> <p>If the local government does not issue its approval or rejection within the timeframe, the Location Permit will automatically be approved.</p> <p>The OSS Agency will then notify the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency through the OSS system of the approval of the Location Permit.</p>

Under Article 15 of Regulation 17/2019, the holder of a Location Permit with Commitments can only acquire the land acquisition after the Location Permit becomes effective. The land to be acquired is limited to that approved under the Location Permit.

(ii) Validity and Expansion

The validity of the Location Permit remains the same, ie 3 (three) years as of its effective date extendable for another 1 (one) year if the land acquisition has reached at least 50% of the initial acquisition target.

If the business actor wishes to acquire land that it has not yet acquired during the term of the Location Permit, it can apply for a new Location Permit within 1 (one) year of the expiry date of the Location Permit at the earliest, under 2 (two) conditions:

1. the business actor has used the acquired land for its approved business activities;
2. no other party is qualified to engage in business activities on that land.

IV. Location Permits with Commitments

(i) **Licensing Procedure**

The criteria for a business actor be able to apply for a Location Permit without Commitments remain the same under Article 7 (2) of Regulation 17/2019. A Location Permit without Commitments is deemed effective upon its issuance by the OSS Agency and therefore its holder can acquire the land in accordance with the Location Permit.

(ii) **The Utilization of the Land by the Holder of a Location Permit without Commitments**

One of the most significant changes in Regulation 17/2019 is regarding the utilization of the land by the holder of the Location Permit without Commitments. Under Article 15 (2) of Regulation 17/2019 in utilizing the land, the holder of the Location Permit without Commitments must comply with the spatial plan.

Previously, under Article 11 (3) of Regulation 14/2018, if the holder of a Location Permit without Commitments wished to utilize the land, it still needed to apply for a technical consideration to the Land Office. Now, the New Location Permit Regulation no longer requires the holder of a Location Permit without Commitments to apply for a technical consideration before it can use the land.

(iii) **Validity and Expansion**

The validity and expansion of the Location Permit without Commitments is the same as in III (ii) above.

Regulation 17/2019 has been in force since 20 September 2019. Any plot of land acquired before Regulation 17/2019 came into effect must be registered within 1 (one) year of the expiry of the current Location Permit or Extended Location Permit.

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