

REGULATION OF THE GOVERNMENT OF THE R.I.  
NUMBER: 77 YEAR 2014  
CONCERNING  
THE THIRD AMENDMENT TO GOVERNMENT REGULATION NUMBER 23  
YEAR 2010 CONCERNING THE REALIZATION OF MINERAL AND COAL  
MINING BUSINESS ACTIVITIES

BY THE GRACE OF THE ONE GOD ALMIGHTY

THE PRESIDENT OF THE R.I,

- Considering:
- a. that to ensure business certainty already given to the holder of Mining Business License and Special Mining Business License in the framework of domestic capital investment, it is deemed necessary to arrange the composition of share ownership at the stages of exploration and production operation;
  - b. that to re-arrange the participation of Indonesian participant in share ownership in the holder of Production Operation Mining Business License and Special Production Operation Mining Business License in the framework of foreign capital investment, it is necessary to re-arrange the obligation of share divestment for the holder of Production Operation Mining Business License and Special Production Operation Mining Business License;
  - c. that in the framework of providing optimal benefit to the state and assurance of business certainty to holders of contract of work and coal contract of work, it is necessary to revise the obligation of share divestment, area size, as well as continuation of operation after the end of the contract/agreement;

- d. that based on considerations as referred to in letter a, letter b, and letter c, it is necessary to establish the Government Regulation concerning the Third Amendment to Government Regulation No.23 Year 2010 concerning Mineral and Coal Mining Business Activities;

- In view of :
1. Article 5 sub-article (2) of the 1945 Constitution of the R.I;
  2. Law No.4 Year 2009 concerning Mineral and Coal Mining (State Bulletin of the R.I. of 2009 No.4, State Gazette Supplement of the R.I. No.4959);
  3. Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Business Activities (State Bulletin of the R.I. of 2010 No.29, State Gazette Supplement of the R.I. No.5111) as twice amended lastly with Government Regulation No.1 Year 2014 concerning the Second Amendment to Government Regulation No.23Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities (State Gazette of the RI of 2014 No.1, State Gazette Supplement of the R.I. No.5489);

HAS DECIDED,

To establish : THE GOVERNMENT REGULATION CONCERNING THE THIRD AMENDMENT TO GOVERNMENT REGULATION NUMBER 23 YEAR 2010 CONCERNING THE REALIZATION OF MINERAL AND COAL MINING BUSINESS ACTIVITIES.

#### Article 1

Several ministries in the Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities (State Gazette of the

R.I. of 2010 No.29, State Gazette Supplement of the R.I. No.5111) as twice amended lastly with Government Regulation No.1 Year 2014 concerning the Second Amendment to Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Activities (State Gazette of the R.I. of 2014 No.1, State Gazette Supplement of the R.I. No.5489), are amended as follows:

1. Between Article 7B and Article 8 1 (one) Article has been inserted namely Article 7C that reads:

#### **Article 7C**

Holder of IUP and IUPK that change the company's status from domestic capital investment to foreign capital investment, ownership of foreign shares is at the most:

- a. 75% (seventy-five percent) for Exploration IUP and Exploration IUPK;
  - b. 49% (forty-nine percent) for Production Operation IUP and Production Operation IUPK who does not carry out own processing and/or refining;
  - c. 60% (sixty percent) for Production Operation IUP and Production Operation IUPK who carries out own processing and/or refining;
  - d. 70% (seventy percent) for Production Operation IUP and Production Operation IUPK carrying out mining using the method of underground mining.
2. The provision of sub-article (3) Article 32 has been amended and Article 32 reads:

## **Article 32**

- (1) Business entity, cooperatives, or individual already obtained IUP map including border and coordinates as referred to in Article 31 should submit an application for Exploration IUP to the Minister, governor, or regent/mayor in accordance with his/her competence not later than 5 (five) working days after the issue of WIUP map of non-metallic mineral and/or rocks.
  - (2) The application as referred to in sub-article (1) should meet the requirements as referred to in Article 23.
  - (3) If business entity cooperatives or individual as referred to in sub-article (1) do not submit an application for IUP within 5 (five) working days, they are considered to have withdrawn and the money for reserving an area belongs to the State.
  - (4) In the case the business entity, cooperative or individual as referred to in sub-article (3) have been considered to have withdrawn the WIUP becomes an open area.
3. The provision of Article 36 has been amended to read:

## **Article 36**

- (1) In the case the holder of Production Operation IUP does not carry out transportation and sale, transportation and sale may be carried out by another party in possession of Production Operation IUP exclusive for transportation and sale.

- (2) In the case the holder of Production Operation IUP does not carry out processing and refining, processing and refining may be carried out by another party in possession of:
- a. other Production Operation IUP that has processing and refining facilities; or
  - b. Production Operation IUP exclusively for processing and refining.

4, The provision of sub-article (2) and sub-article (3) of Article 46 is deleted thereby Article 46 reads:

#### **Article 46**

(1) The holder of Production Operation IUP already obtained extension of Production Operation twice as referred to in Article 45 sub-article (6), should, within a period of 3 (three) years prior to the termination of the validity period of Production Operation IUP, report to the Minister, governor or regent/mayor in accordance with hi/her competence, concerning the potential and reserves of minerals or coal at his/her WIUP.

(2) Deleted

(3) Deleted

(4) The provision of sub-article (2) and sub-article (3) of Article 73 are deleted, thereby Article 73 reads:

### **Article 73**

(1) The holder of Production Operation IUPK already obtained extension of Production Operation IUPK twice as referred to in Article 72 sub-article (6), should, within a period of 3 (three) years prior to the termination of the validity period of the IUPK, report to the Minister, governor or regent/mayor in accordance with his/her competence concerning the potential and reserves of metallic mineral or coal in his/her WIUPK.

(2) Deleted

(3) Deleted

6.. CHAPTER V has been amended thereby it reads:

### **CHAPTER V**

#### **SHRINKAGE AND RELINQUISHMENT OF MINING BUSINESS LICENSE AREA AND SPECIAL MINING BUSINESS LICENSE AREA**

7. The provision of sub-article (4) of Article 74 has been amended, between sub-article (4) and sub-article (5) four sub-article have been inserted, namely sub-article (4a), sub-article (4b), sub-article (4c) and sub-article (4d), and sub-article (5) has been deleted, thereby Article 74 reads:

### **Article 74**

(1) The holder of IUP may at any time submit an application to the Minister, governor or regent/mayor in accordance with his/her competence to shrink a part or relinquish the entire WIUP.

(2) The holder of IUPK may at any time submit an application to the Minister to shrink or relinquish the entire WIUPK.

(3) The holder of IUP or IUPK in carrying out shrinkage and relinquishment of WIUP and WIUPK as referred to in sub-article (1) and sub-article (2) should submit:

- a. a report, data and information of shrinkage or relinquishment containing all technical and geological discoveries obtained in the area to be shrunk and the reason for shrinkage or relinquishment and field data the result of activities;
- b. map of shrinkage or relinquishment area and their coordinates;
- c. proof of payment of financial obligation;
- d. report on activities in accordance with the status of final stage; and
- e. report on the realization of reclamation of the shrunk and relinquished area.

(4) WIUP as referred to in sub-article (1) for:

- a. metallic mineral and coal may be reestablished into WIUP or WIUPK, and/or proposed as state reserved area based on evaluation of the Minister in compliance with the provision of the laws and regulations; and
- b. non-metallic mineral and rocks is relinquished to the Minister, governor or regent/mayor in accordance with his/her competence.

(4a) WIUPK as referred to in sub-article (2) may be reestablished into WIUPK and/or proposed as state reserved area based on

evaluation of the Minister in accordance with the provision in the laws and regulations;

(4b) WIUP as referred to in sub-article (4) letter a is reoffered by way of tender as referred to in Article 8 sub-article (3);

(4c) WIUP as referred to in sub-article (4) letter b is given back by way of submitting an application for an area as referred to in Article 8 sub-article (4);

(4d) WIUPK as referred to in sub-article (4a) is reoffered by way of priority or tender as referred to in Article 51 and Article 52.

(5) Deleted.

8. Between Article 75 and Article 76 3 (three) Articles have been inserted, namely Article 75A, Article 75B, and Article 75C that reads:

#### Article 75A

(1) Exploration IUP already revoked or that which is not geared to Production Operation IUP, the Exploration WIUP is relinquished to the Minister, governor or regent/mayor in accordance with his/her competence.

(2) Exploration IUPK already revoked and that which is not geared to Production Operation IUPK, the Exploration WIUPK is relinquished to the Minister.



- (3) Exploration WIUP as referred to in sub-article (1) for:
- a. metallic mineral and coal may be reestablished into Exploration WIUP or Exploration WIUPK and/or proposed as state reserves area based on evaluation of the Minister in compliance with the provision of the laws and regulations; and
  - b. non-metallic mineral and rocks is relinquished to the Minister, governor or regent/mayor in accordance with his/her competence.
- (4) Exploration WIUPK as referred to in sub-article (2) may be reestablished into Exploration WIUPK and/or proposed as state reserved area based on evaluation of the Minister in compliance with the provision of the laws and regulations.
- (5) Exploration WIUP as referred to in sub-article (3) letter a is reoffered by way of tender as referred to in Article 8 sub-article (3).
- (6) Exploration WIUP as referred to in sub-article (3) letter b is given back by way of submitting an application for an area as referred to in Article 9 sub-article (4).
- (7) Exploration WIUPK as referred to in sub-article (4) is reoffered by way of priority or tender as referred to in Article 51 and Article 52.

#### Article 75B

- (1) Production Operation IUP whose validity period has ended after obtaining extension twice as referred to in Article 46 sub-article (1), the Production Operation WIUP is relinquished to the Minister,

governor or regent/mayor in accordance with his/her competence after reporting the potential and reserves of mineral or coal in the WIUP as referred to in Article 46 sub-article (1).

- (2) Production Operation IUP already revoked or does not obtain extension, the Production Operation WIUP is relinquished to the Minister, governor or regent/mayor in accordance with his/her competence.
- (3) Production Operation WIUP as referred to in sub-article (1) and sub-article (2) for:
  - a. metallic mineral and coal may be reestablished into Production Operation WIUP or Production Operation WIUPK, and/or proposed as state reserved area based on evaluation of the Minister in compliance with the provision of the laws and regulations.
  - b. non-metallic mineral and rocks is relinquished to the Minister, governor or regent/mayor in accordance with his/her competence.
- (4) Production Operation WIUP as referred to in sub-article (3) letter a is reoffered by way of tender as referred to in Article 8 sub-article (3).
- (5) Production Operation WIUPK as referred to in sub-article (3) letter a is reoffered by way of priority or tender as referred to in Article 51 and Article 52.
- (6) In the realization of tender Production Operation WIUP or Production Operation WIUPK as referred to in sub-article (4) and sub-article (5),

the previous holder of Production Operation IUP as referred to in sub-article (1) have the right to match.

- (7) Production Operation WIUP as referred to in sub-article (3) letter b is given back by way of submitting an application for an area as referred to in Article 8 sub-article (4).

#### Article 75C

- (1) Production Operation IUPK whose validity period has ended after obtaining extension twice, the Production Operation WIUPK is relinquished to the Minister after reporting the potential and reserves of mineral or coal at the WIUPK.
- (2) Production Operation IUPK already revoked or does not obtain extension, the Production Operation WIUPK is relinquished to the Minister.
- (3) Production Operation WIUPK as referred to in sub-article (1) and sub-article (2) may be reestablished into Production Operation WIUPK and/or proposed as state reserved area based on evaluation of the Minister in compliance with the provision of the laws and regulations.
- (4) Production Operation WIUPK as referred to in sub-article (3) is reoffered by way of priority or tender as referred to in Article 51 and Article 52.
- (5) In the realization of tender of Production Operation WIUPK as referred to in sub-article (4), the previous holder of Production

Operation IUPK as referred to in sub-article (1) have the right to match.

9. Explanation on Article 94 sub-article (1) has been amended to read as included in the explanation of Article 94 sub-article (1).
10. The provision of sub-article (2) of Article 95 has been amended so that Article 95 reads:

#### Article 95

(1) Mine commodities whose added value can be increased comprised of:

- a. metallic mineral;
- b. non-metallic mineral;
- c. rocks; or
- d. coal.

(2) Increasing the added value of metallic mineral as referred to in sub-article (1) letter a is carried out through:

- a. metallic mineral processing; and
- b. metallic mineral refining.

(3) Increasing the added value of non-metallic mineral as referred to in sub-article (1) letter b is carried out through non-metallic mineral processing.

(4) Increasing the added value of rocks as referred to in sub-article (1) letter c is carried out through rock processing.

- (5) Increasing the added value of coal as referred to in sub-article (1) letter d is carried out through coal processing.

11. The provision of sub-article (1), sub-article (1a), sub-article (2), sub-article (6), sub-article (7), sub-article (8), and sub-article (11) of Article 97 have been amended, between sub-article (1a) and sub-article (2) four sub-articles, namely sub-article (1b), sub-article (1c), sub-article (1d) and sub-article (1e) have been inserted, between sub-article (2) and sub-article (3) one sub-article, namely sub-article (2a) has been inserted, the provision of sub-article (3), sub-article (4) and sub-article (5) has been deleted, between sub-article (7) and sub-article (8) two sub-articles, namely sub-article (7a) and sub-article (7b) have been inserted, between sub-article (8) and sub-article (9) two sub-articles, namely sub-article (8a) and sub-article (8b) have been inserted, and between sub-article (10) and sub-article (11) one sun-article, namely sub-article (10a) has been inserted, so that Article 97 reads:

#### Article 97

- (1) The holder of Production Operation IUP and Production Operation IUPK in the framework of foreign capital investment, after 5 (five) years in production should divest their shares gradually.
- (1a) The obligation to divest shares as referred to in sub-article (1) for holder of Production Operation and Production Operation IUPK who does not carry out own processing and/or refining, after the end of the fifth year since in production is at least as follows:
  - a. 20% (twenty percent) in the sixth year;
  - b. 30% (thirty percent) in the seventh year;
  - c. 37% (thirty-seven percent) in the eighth year;

- d. 44% (forty-four percent) in the ninth year; and
- e. 51% (fifty-one percent) of the total shares, in the tenth year.

(1b) The obligation to divest shares as referred to in sub-article (1) for the holder of Production Operation IUP and Production IUPK who carries out own processing and/or refining, after the end of the fifth year since in production is at least as follows:

- a. 20% (twenty percent) in the sixth year;
- b. 30% (thirty percent) in the tenth year;
- c. 40% (forty percent) of the total shares, in the fifteenth year,.

(1c) The obligation to divest shares as referred to in sub-article (1) for the holder of Production Operation IUP and Production Operation IUPK who carries out mining by using the method of underground mining, after the end of the fifth year since in production is at least as follows:

- a. 20% (twenty percent) in the sixth year;
- b. 25% (twenty-five) percent in the tenth year; and
- c. 30% (thirty percent) of the total shares, in the fifteenth year.

(1d) The obligation to divest as referred to in sub-article (1) for the holder of Production Operation IUP and Production Operation IUPK who carries out mining by using the method of underground mining and open pit mining, after the end of the fifth year since in production is at least as follows:

- a. 20% (twenty percent) in the sixth year;
- b. 25% (twenty-five percent) in the eighth year; and
- c. 30% (thirty percent) of the total shares, in the tenth year.

- (1c) The holder of Production Operation IUP exclusively for processing and/or refining in the framework of foreign capital investment is not obligated to divest their shares.
- (2) The holder of Production Operation IUP and Production Operation IUPK should make an offer of share divestment as referred to in sub-article (1), sub-article (1a) and sub-article (1b) to Indonesian participant in a gradual basis to:
- a. the Government, the provincial government and the local reGENCY/city government;
  - b. BUMN and BUMD; and
  - c. Private national business entity.
- (2a) The holder of Production Operation IUP and Production Operation IUPK whose shares are already listed at the stock exchange in Indonesia is acknowledged as Indonesian participant 20% (twenty percent) of the total shares at the most.
- (3) Deleted.
- (4) Deleted.
- (5) Deleted
- (6) The offer of share divestment to the Government, the provincial government and the local reGENCY/city government is effected within a period of 90 (ninety) calendar days at the latest after 5 (five) years since in production.
- (7) The Government, the provincial government and the reGENCY/city government should state their interest within a period of 60 (sixty) calendar days at the latest after the date of offer.

- (7a) In the case the Government, the provincial government, and the regency/city government states its interest in the offered share divestment, the Government is given priority to purchase the shares to be divested.
- (7b) In the case the Government is not interested in the offered share divestment or no reply from the Government within a period of 60 (sixty) calendar days as referred to in sub-article (7), and if the provincial government and the regency/city government state their interest, the Minister coordinates the determining of divestment composition to be purchased by the provincial government and the regency/city government.
- (8) In the case the Government, the provincial government, and the regency/city government are not interested in purchasing the shares to be divested a referred to in sub-article (7), the shares are offered to the BUMN and BUMD by way of tender.
- (8a) BUMN and BUMD should state their interest within a period of 60 (sixty) calendar days at the latest after the date of offer.
- (8b) In the case the BUMN and BUMD are not interested in purchasing the shares to be divested as referred to in sub-article (8a), the shares are offered to the private national business entity by way of tender.
- (9) The private national business entity should state its interest within a period of 30 (thirty) calendar days at the latest after the date of offer.
- (10) Payment and transfer of shares purchased by the Indonesian participant are effected within a period of 90 (ninety) calendar days at the latest



after the date of the statement of interest or the decision of the tender winner.

(10a) In the case after the period of 90 (ninety) calendar days as referred to in sub-article (1)), the Indonesian participant does not make any payment, the statement of interest or the decision of tender winner of the offered share divestment is declared to have failed, the share divestment is offered to another Indonesian participant as referred to in sub-article (2).

(10) If the divestment as referred to in sub-article (1a), sub-article (1b), sub-article (1c) and sub-article (1d) is not achieved, the offer of share divestment will be effected the following year.

12. The provision of Article 98 has been amended, thereby Article 98 reads:

#### Article 98

In the case an increase happens to the company's capital that causes the shares of the Indonesian participant to be diluted, the holder of Production Operation IUP and Production IUPK should offer the shares to the Indonesian participant as referred to in Article 97 sub-article (2) in compliance with the obligation to divest shares as referred to in Article 97 sub-article (1a), sub-article (1b), sub-article (1c) and sub-article (1d).

13. The provision of figure 2 Article 112 has been amended, between figure 1 and figure 2, one figure has been inserted, namely figure 1a, between figure 2 and figure 3, one figure has been inserted, namely figure 2a, and figure 7 and figure 8 have been deleted, thereby Article 112 reads:

## Article 112

At the time this Government Regulation becomes effective:

1. The contract of work and coal contract of work signed prior to the promulgation of Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities are declared to remain valid until their validity period ends.
- 1a. The holder of Contract of Work and Coal Contract of Work as referred to in figure 1 may own a contract/agreement area in accordance with the activity plan in the contract/agreement area approved by the Minister up to the end of the contract/agreement period as referred to in Article 171 Law No.4 Year 2009 concerning Mineral and Coal Mining, that comprised of:
  - a. potential and reserves/mining area; and
  - b. area outside mining to support the business of mining activities.
2. Contract of work and coal contract of work as referred to in figure 1:
  - a. that has not obtained extension may be extended into Production Operation IUPK first extension as a continuation of operation without going through tender after the contract of work or coal contract of work terminated and is realized in compliance with the provision of the Laws and Regulations in mineral and coal mining except concerning a more profitable state revenue; and
  - b. that has obtained first extension may be extended into Production Operation IUPK second extension as a continuation of operation without going through tender after the first extension of contract of work or coal contract of work ended and is realized in compliance with the provision of the Laws and Regulations.

3. Contract of work and coal contract of work as referred to in figure 1 that has carried out production operation stage should prioritize domestic interest in compliance with the provision of the laws and regulations.
4. Mining authorization, regional mining license, and people's mining license given based on the provision of the laws and regulations prior to the establishment of Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities remain applicable until the end of the validity period and should:
  - a. be adjusted into IUP or IPR in compliance with the provision of Government Regulation No.23 Year 2010 concerning The Realization of Mineral and Coal Mining Business Activities within a period of 3 (three) months at the latest since Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities becomes effective and specially BUMN and BUMD, for Production Operation IUP constitutes the first Production Operation IUP; and
  - b. submit the activity plan in the entire WIUP or WPR up to the period when the IUP or IPR ends, to the Minister, governor or regent/mayor in accordance with his/her competence.
  - c. Deleted
5. The application for mining authorization already received by the Minister, governor or regent/mayor prior to the issue of Law No.4 Year 2009 concerning Mineral and Coal Mining and had obtained Reserved Area from the Minister, governor or regent/mayor in accordance with his/her competence, licensing may be processed in the form of IUP without going

through tender within 3 (three) months at the latest since Government Regulation No,23 Year 201 concerning the Realization of Mineral and Coal Mining Business Activities becomes effective.

6. Mining authorization, contract of work, and coal contract of work that owns a processing unit, remains able to receive mine commodities from mining authorization, contract of work, and coal contract of work, holder of IUP and IPR.

7. Deleted

8. Deleted

14. The provision of Article 112A has been amended thereby it reads:

#### Article 112A

1. Contract/agreement area that does not obtain approval from the Minister as referred to in Article 171 Law No.4 Year 2009 concerning Mineral and Coal Mining may be:

a. established to become Production Operation WIUPK and or

b proposed to become WPN,

based on evaluation of the Minister in compliance with the provision of the laws and regulations

2. Contract/agreement area as a potential and reserves/mining area as referred to in Article 112 figure 1a letter a not accommodated in extended Production Operation IUPK as referred to in Article 112 figure 2a may be:

- a. established to become Production Operation WIUPK and/or
- b. proposed to become WPN.

15. The provision of figure 1, figure 2, figure 3, figure 8, figure 9, and figure 10 of Article 112B has been amended, thereby Article 112B reads:

#### Article 112B

1. The extension of contract of work and coal contract of work to become extended Production Operation IUPK as referred to in Article 112 figure 2 is given by the Minister after the area has been established to become Production Operation WIUPK by the Minister
2. To obtain extended Production Operation IUPK as referred to in figure 1, the holder of contract of work and coal contract of work should submit an application to the Minister within a period of 2 (two) years at the quickest and within 6 (six) months at the latest prior to the termination of the contract of work or coal contract of work.
  3. The application for extended Production Operation as referred to in figure 2 should at least meet the following requirements:
    - a. administrative;
    - b. technical;
    - c. environmental; and
    - d. financial.
  4. Administrative requirements as referred to in figure 3 letter a encompass:
    - a. application;
    - b. composition of executives and list of shareholders; and

- c. certificate of domicile.
5. Technical requirements as referred to in figure 3 letter b encompass:
- a. map and coordinate border of area;
  - b. final report on production operation;
  - c. report on the realization of environmental management;
  - d. work plan and budget;
  - e. balance of natural resources and reserves;
  - f. reclamation and postmining plan;
  - g. construction plan of production operation supporting means and infrastructure;
  - h. the availability of mining and/or geological experts with at least 3 (three) years experience.
6. Environmental requirements as referred to in figure 3 letter c encompass:
- a. statement of readiness to obey the provision of the laws and regulations in environmental protection and management;
  - b. approval of environmental document in compliance with the provision of the laws and regulations in environmental protection and management.
7. Financial requirements as referred to in figure 3 letter d encompass:
- a. financial report of the past 3 (three) years audited by a public accountant;
  - b. proof of paid off dead rent and production due of the past 3 (three) years.

8. The Minister, in giving the extended Production Operation IUPK should consider the reserve potential of mineral and coal of the Production Operation WIUPK concerned and by paying attention to national interest.
  9. The Minister may reject the application for extended Production Operation IUPK if based on the result of survey, the holder of contract of work and coal contract of work does not show a good performance in mining business undertaking.
  10. Rejection as referred to in figure 9 should be delivered to the holder of contract of work and coal contract of work who submit the application for extended Production Operation IUPK, prior to the termination of contract of work and coal contract of work, at the latest.
  11. The holder of contract of work and coal contract of work in applying for extended Production Operation IUPK may apply for an area other than the Production Operation IUPK to the Minister to support their mining business in compliance with this Government Regulation.
16. Between the provisions of Article 112C and Article 113 2 (two) Articles have been inserted, namely Article 112D and Article 112E that reads:

Article 112D

The holder of contract work and coal contract of work:

1. who had been in production for less than 5 (five) years prior to the promulgation of this Government Regulation should follow the provision

of share divestment in compliance with the provisions of this Government Regulation; and

2. Who had been in production for at least 5 (five) years prior to the promulgation of this Government Regulation should implement the provision of share divestment of:
  - a. 20% (twenty percent) in 1 (one) year at the latest since the promulgation of this Government Regulation.
  - b. as much as the percentage in the running year in compliance with provisions in this Government Regulation within 5 (five) years at the latest since the promulgation of this Government Regulation.

#### Article 112E

The governor or regent/mayor in accordance with his/her competence should submit the documents of Exploration IUP, Production Operation IUP, Production Operation IUP exclusively for transportation and sale, or Production Operation IUP exclusively for processing and/or refining in the framework of foreign capital investment prior to the application of this Government Regulation to the Minister within a period of 1 (one) year at the latest since this Government Regulation becomes effective for renewal of the IUP by the Minister under the provision of the laws and regulations.



Article II

This Government Regulation becomes effective on the date of its promulgation.

In order that it may be known to all, the promulgation of this Government Regulation is ordered to be published in the State Gazette of the R.I.

Established in Jakarta

On October 14, 2014

PRESIDENT OF THE R.I.

Signed

Dr. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

On October 14, 2014

MINISTER OF JUSTICE AND HUMAN RIGHTS OF THE R.I.

Signed

AMIR SYAMSUDIN

STATE GAZETTE OF THE R.I. YEAR 2014 NUMBER 263

For copy conform

MINISTRY STATE SECRETARIAT OF THE R.I.

Assistant Deputy of Laws and Regulations

Economic Division

signed

Lydia Silvanna Djaman

EXPLANATION  
ON  
GOVERNMENT REGULATION OF THE R.I.  
NUMBER 77 YEAR 2014

CONCERNING

THIRD AMENDMENT TO GOVERNMENT REGULATION NUMBER 23 YEAR  
2010 CONCERNING THE REALIZATION OF MINERAL AND COAL MINING  
BUSINESS ACTIVITIES

I GENERAL

In mining activities there is a possibility that a private business entity in the framework of domestic capital investment changes its status into foreign capital investment, however Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities as twice amended lastly with Government Regulation No.1 Year 2014 concerning the Second Amendment to Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities had not regulate it explicitly. Therefore the provision needs to be confirmed regarding share ownership for the holder of Mining Business License and Special Mining Business License in the framework of foreign capital investment or one that changes the status from domestic capital investment to foreign capital investment.

In the framework of national development particularly the development of the domestic processing and refining industry that requires huge investment, business players carrying out processing and refining need to be given ease in doing their business. One of the ease given is in the form of rearrangement of the composition of obligation to divest shares of the holder of Production Operation Mining Business License and Mining Business License exclusively for Production Operation in the framework of foreign capital investment who carries out own processing and refining in

the country and exempted from the obligation of share divestment for holder of Production Operation Mining Business License exclusively for processing and/or refining in the framework of foreign capital investment. Given the ease, it is hoped that the processing and refining industry in Indonesia will develop rapidly thereby providing the greatest benefit to the Indonesian nation through the increase in added value.

Subsequently to ensure business certainty given to the holder of Contract of Work and Coal Contract of Work, it is necessary to confirm the obligation of share divestment and rearrange the provision regarding the extension of mining business activities for the holder of Contract of Work and Coal Contract of Work.

Based on the above considerations, it is necessary to amend several provisions in Government Regulation No.23 Year 2010 concerning the Realization of Mineral and Coal Mining Business Activities as amended lastly with Government Regulation No.1 Year 2014.

## II. ARTICLE BY ARTICLE

### Article 1

#### Figure 1

### Article 7C

What is meant by “one who carries out mining by using the method of underground mining” as referred to in letter d is the one who carries out mining:

- a. by using the method of underground mining entirely; and
- b. by using the method of underground mining and open pit mining

#### Figure 2

Article 32

. Self explanatory.

Figure 3

Article 36

Self explanatory.

Figure 4

Article 46

Sub-article (1)

Self explanatory..

Sub-article (2)

Deleted.

Sub-article (3)

Deleted

Figure 5

Article 73

Sub-article (1)

Self explanatory.

Sub-article (2)

Deleted.

Sub-article (3)

Deleted.

Figure 6

Self explanatory

Figure 7

Article 74

Sub-article (1)

Self explanatory.

Sub-article (2)

Self explanatory

Sub-article (3)

Letter a

Self explanatory.

Letter b

Self explanatory

Letter c

What is meant by “with proof of payment of financial obligation”  
in this provision is dead rent, production due and tax

Letter d

Self explanatory.

Letter e

Self explanatory.

Sub-article (4)

Self explanatory.

Sub-article (4a)

Self explanatory.

Sub-article (4b)

Self explanatory.

Sub-article (4c)

Self explanatory.

Sub-article (5)

Deleted

Figure 8

Article 75A

Self explanatory.

Article 75B

Sub-article (1)

Self explanatory

Sub-article (2)

Self explanatory.

Sub-article (3)

Self explanatory.

Sub-article (4)

Self explanatory.

Sub-article (5)

Self explanatory.

Sub-article (6)

“The right to match” in its implementation the tender of Production Operation WIUP is given to the previous holder of Production Operation IUP.

“The right to match” in its implementation, the tender of Production Operation WIUPK is given to:

- a. the holder of Production Operation IUP owned by the previous BUMN or BUMD if more than 1 (one) BUMN or BUMD is interested;
- b. the holder of Production Operation IUP owned by the previous private business entity if no BUMN or BUMD is interested.

Sub-article (7)

Self explanatory.

Article 75C

Sub-article (1)

Self explanatory

Sub-article (2)

Self explanatory.

Sub-article (3)

Self explanatory.

Sub-article (4)

Self explanatory

Sub-article (5)

“The right to match” in its implementation, the tender of Production Operation WIUPK is given to”:

- a. the holder of Production Operation IUPK owned by the previous BUMN or BUMD if more than 1 (one) BUMN or BUMD is interested;
- b. the holder of Production Operation IUPK owned by the previous private business entity if no BUMN or BUMD is interested.

Figure 9

Article 94

Sub-article (1)

“Processing” by the holder of Production Operation IUP and IUPK Encompasses among others:

- a. coal upgrading;
- b. coal briquetting;
- c. cokes making;
- d. coal liquefaction;
- e. e. coal gasification including underground coal gasification;
- and
- f. coal slurry/coal water mixture

“Processing” by a company, encompasses among others:

- a. coal blending;
- b. coal upgrading;
- c. coal briquetting;
- d. cokes making;
- e. coal liquefaction;
- f. coal gasification; and
- g. coal slurry/coal water mixture.

Sub-article (2)

Self explanatory.

Sub-article (3)

Self explanatory.

Figure 10

Article 95

Sub-article (1)

Self explanatory

Sub-article (2)

Increasing added value is effected in the framework of increasing and optimizing mine value, availability of industrial raw material, absorption of workforce, and increasing state revenue.

Sub-article (3)

Self explanatory.

Sub-article (4)

Self explanatory.

Sub-article (5)

Self explanatory.



Figure 11

Article 97

Sub-article (1)

What is meant by “since in production” refers to a calculation since mining at the stage of production operation activities proven by the approval for production activities by the minister.

Sub-article (1a)

What is meant by “does not carry out own processing and/or refining” refers to processing and/or refining that can be carried out through cooperation with another Production Operation IUP holder, another Production Operation IUPK holder, or Production Operation IUP exclusively for processing and/or refining.

What is meant by “since in production” refers to a calculation since mining at the stage of production operation proven by the approval for production by the minister.

Sub-article (1b)

What is meant by “since in production” refers to a calculation since mining at the stage of production operation proven by the approval for production by the minister.

Sub-article (1c)

What is meant by “since in production” refers to a calculation since mining at the stage of production operation proven by the approval for production by the minister.

Sub-article (1d)

What is meant by “since in production” refers to a calculation since mining at the stage of production operation proven by the approval for production by the minister.

Sub-article (1e)

Self explanatory.

Sub-article (2)

Self explanatory.

Sub-article (2a)

Self explanatory

Sub-article (3)

Deleted.

Sub-article (4)

Deleted.

Sub-article (5)

Deleted.

Sub-article (6)

Self explanatory.

Sub-article (7)

Self explanatory.

Sub-article (7a)

Self explanatory.

Sub-article (7b)

Self explanatory.

Sub-article (8)

Self explanatory.

Sub-article (8a)

Self explanatory.

Sub-article (8b)

Self explanatory.

Sub-article (9)

Self explanatory.

Sub-article (10)

Self explanatory.

Sub-article (10a)

Self explanatory.

Sub-article (11)

Self explanatory.

Figure 12

Article 98

Self explanatory.

Figure 13

Article 112

Figure 1

Self explanatory

Figure 1a

Self explanatory.

Figure 2

“Extended Production Operation IUPK” is given with area size and time span in compliance with the provision regulated in Law No.4 Year 2009 concerning Mineral and Coal Mining..

Figure 3

Self explanatory.

Figure 4

Self explanatory.

Figure 4

Self explanatory.

Figure 5

Self explanatory.

Figure 6

Self explanatory.

Figure 7

Deleted.

Figure 8

Deleted

Figure 14

Article 112A

Self explanatory

Figure 15

Article 112B

Self explanatory.

Figure 16

Article 112D

Letter h

Self explanatory.

Letter b

Figure 1

Self explanatory.

Figure 2

For example:

1. Coal Contract of Work A that does not carry out own processing had been in operation for 13 (thirteen) years should carry out divestment of at least:
  - a. 20% (twenty percent) in the first year after the promulgation of this Government Regulation; and
  - b. 51% (fifty-one percent) of the total share in the fifth year after the promulgation of this Government Regulation.
2. Contract of Work B that carries out own processing and/or refining had been in operation for 16 (sixteen) years should carry out divestment of at least:
  - a. 20% (twenty percent) in the first year after the promulgation of this Government Regulation; and
  - b. 40% (forty percent) of the total shares in the fifth year after the promulgation of this Government Regulation.
3. Contract of Work C that carries out mining by using the method of underground mining had been in operation for 16 (sixteen) years should carry out divestment of at least:

- a. 20% (twenty percent) in the first year after the promulgation of this Government Regulation; and
  - b. 30% (thirty percent) of the total share in the fifth year after the promulgation of this Government Regulation.
4. Contract of Work D that carries out mining by using the method of underground mining and open pit mining had been in operation 11 (eleven) years should carry out divestment of at least:
  - a. 20% (twenty percent) in the first year after the promulgation of this Government Regulation.
  - b. 30% (thirty percent) of the total share in the fifth year after the promulgation of this Government Regulation.

Article 112E

Self explanatory.

Article II

Self explanatory.

STATE GAZETTE SUPPLEMENT OF THE R.I. NUMBER 5597