**THE POLEMIC OF MINERAL AND COAL MINING LAW REVISION AMID THE PANDEMIC**

**Overview**

DPR RI* approved the revision of Law No. 4/2009 on Mineral and Coal Mining. The revised law aims to address mining management challenges, provide legal certainty for industry players, stimulate downstream value-added industries, and provide benefits for the community. However, civil groups criticized the revised law over concerns of fairness and its impact on the environment and society.

**Chronology**

- **2014:** DPR RI* decided that the draft of the revised law would be submitted to the public.
- **April 2018:** The draft of the revised law No. 4/2009 by Indonesia’s government was spread to the public.
- **27 September 2019:** DPR RI* decided that the draft of the revision of Law No. 4/2009 would be carried over to the next period.
- **18 February 2020:** Indonesia’s government and DPR RI* held a kick-off meeting.
- **11 March 2020:** Indonesia’s government and DPR RI* settled on the proposed articles’ revision.
- **12 May 2020:** DPR RI* approved the revision of Law No. 4/2009.
- **6 May 2020:** Indonesia’s government and DPR RI* agreed to adjust the revision draft of the Omnibus Law regarding several substances; mining operation authority and licensing nomenclature.
- **6 May 2020:** DPR RI* agreed to the public.
- **18 February 2020:** Indonesia’s government, and DPR RI* held a kick-off meeting.
- **16 January 2020:** On the plenary meeting, DPR RI* listed the revision of Law No. 4/2009 in the 2020-2024 Prioritized National Legislation Program.
- **11 March 2020:** DPR RI* settled on the proposed articles’ revision.
- **12 May 2020:** DPR RI* approved the revision of Law No. 4/2009.
- **2017:** KESDM* initiated the discussion.
- **27 September 2019:** DPR RI* decided that the draft of the revision of Law No. 4/2009 would be carried over to the next period.
- **18 February 2020:** Indonesia’s government, and DPR RI* held a kick-off meeting.

**Several Changes in the Revised Law No. 4/2009**

- **Indonesia’s central government takes the policy, regulation, management, and supervision functions in the mining business.**
- **The WPA’s* maximum area and depth are expanded and deepened.**
- **Foreign mining companies are required to divest 51% of the shares to Indonesia’s government, regional governments, BUMN*, BUMD*, and/or national private business entities.**
- **IUP* and IUPK* holders are required to:**
  a) Use mining roads in mining business activity. It should be made by themselves or in a collaboration.
  b) Allocate social funds of which the minimum amount is determined by the Minister of Energy and Mineral Resources.
  c) Carry out reclamation and post-mining activities.
  d) Provide mineral and coal reserve resilience funds used for new reserve discovery activities.
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  f) Ensure not to make changes to the use of space and land and guarantee the issuance of supporting permits.
- **Increased the share of mining profits to provinces from 7% to 15%.**
- **Mining activities without a permit are punishable by imprisonment for a maximum of 5 years and a maximum fine of IDR 100 billion (USD 6.74 million).**
- **The central and regional governments have authority to issue mining permits is now centralized under the KESDM*.**
- **The enactment in the middle of the COVID-19 pandemic was deemed unethical.**
- **Lack of public participation.**
- **Contract renewal guarantee (maximum of 20 years) without a tender process for state mining companies (Art. 36A).**
- **The removal of the tender process limits BUMN’s* chance to take over the mining asset and neglects evaluation of the environment, mental impact.**
- **Compensation of Law No. 33/2004 on Regional Autonomy as the authority to issue mining permits is now centralized under the KESDM*.**
- **Higher deforestation risk due to potential massive exploration expansion.**
- **Lack of consideration on the significance of the mining industry to the people in the mining area, indigenous people and women.**

**The Positive vs Negative Views**

**Positive Views**

1. Legal certainty for business investment and simpler bureaucracy process.
2. An obligation for a mining company to explore new reserves every year (Article 36A).
3. Stricter punishment for illegal miners (up to IDR 100 billion/USD 6.74 million fine, of 5 years of imprisonment).
4. The requirement for foreign companies to divest 51% ownership to either Indonesia or locally-owned private companies.
5. Incentives to develop downstream facilities to generate multiplier effects.
6. Increased impact on provincial share of mining profits from 1% to 1.5%.
7. The implementation of the mineral ore benchmark price is expected to bring justice to nickel miners.

**Negative Views**

- **The enactment in the middle of the COVID-19 pandemic was deemed unethical.**
- **Lack of public participation.**
- **Contract renewal guarantee (maximum of 20 years) without a tender process for state mining companies (Art. 36A).**
- **The removal of the tender process limits BUMN’s* chance to take over the mining asset and neglects evaluation of the environment, mental impact.**
- **Compensation of Law No. 33/2004 on Regional Autonomy as the authority to issue mining permits is now centralized under the KESDM*.**
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**Abbreviations**

- BUMD: Regional-owned Enterprises
- BUMN: State-owned Enterprises
- DPR RI: Indonesia’s House of Representatives
- WPR: Traditional Mining Zone
- KESDM: Ministry of Energy and Mineral Resources
- IUPK: Special Mining Permit
- IUP: Mining Permit

**Source**

The data has been compiled by PYC research team from various sources.