



# Evaluation of the Application of Mining Business License (Iup) Regulations - After the Enactment of Law Number 3 of 2020

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**Abstract.** Mining business activities have a significant role in making a real contribution to increasing national income and regional development. Local governments' ability to participate in mining business licensing activities is governed by Law Number 4 of 2009. However, the ability of local governments to grant mining permits was eliminated with the amendment of the Mining Regulation to Law Number 3 of 2020. Due to this modification, community complaints regarding mining issues that arise in the neighborhood will have restricted access. Purpose This study wants to evaluate the application of mining business license (IUP) regulations after the enactment of Mining Law Number 3 of 2020. This research is based on perceptive research with a descriptive design using a normative juridical approach. Based on the most recent Mining Law, the research study's findings aim to clarify the assessment of the efficacy of the application of the present mining business license (IUP) regulations. Due to the fact that all mining authorities and authorities are now governed by the central government, local communities have less room to report conflicts that mining companies cause. The investigator suggests carrying out additional research on the assessment of mining business license regulations subsequent to the implementation of Law Number 3 of 2020.

**Keywords:** Evaluation, Mining Business License, Local Government, Central Government

## 1 Introduction

In general, the mining and mineral industry has a significant role in making a real contribution to increasing national income and regional development. Following the enactment of Law Number 3 of 2020 concerning Amendments to the Mineral and Coal Law, Indonesia's policy regarding mining of minerals and coal underwent sever-

al significant changes. This change in law was intended to improve the mining sector, but instead caused controversy and serious problems. One of the serious issues currently the focus of changes to the Mining Law is regarding mining licensing or Mining Business Permits (IUP). After changes were made to Law Number 4 of 2009 concerning Mineral and Coal Mining with the current Law, one indication of the removal of local government authority is the disharmony in the arrangement of the distribution of duties between the central and regional governments.

The latest Mining Law passed in 2020 attracted controversy in the community when it was boosted by the covid pandemic, the debate about licensing aspects taken over by the central government made mineral and coal tenure rights into mining management authority centralized under the auspices of the central government authority. In accordance with the principles of autonomy and assistance duties, local governments (PEMDA) are granted the authority to control and manage their own government affairs under Article 18 paragraph (2) and paragraph (5) of the 1945 Constitution. In addition, local governments are granted the greatest degree of autonomy to raise the standard of community welfare through services, empowerment, and community participation.

Generally, the word authority is interpreted as power. The Big Indonesian Dictionary (KBBI) explains that power is the ability of a person or group to rule over another person or group based on authority, toughness, charisma, and strength. Utrecht argues that the definition of permission is the making of a regulation that generally prohibits an action or deed, but still allows it as long as it is done based on the provisions determined by each concrete thing, then the act of state administration that allows the act is permitted (*vergunning*).

For the past three years, the new Mineral and Coal legislation has been in effect, transferring the authority to license mining businesses from the central government to regional or local governments. Evaluation of the effectiveness of the application of mining business permit (IUP) regulations needs to be the subject matter in this paper to assess the sustainability of the policies of these laws and regulations effectively and efficiently to be applied or vice versa the previous laws and regulations were even more effective and efficient in implementing the authority of mining business permits (IUP)

## **2 Research Method**

The research methodology used in this study is normative in nature. This study focuses on the examination of Legislation Number 3 of 2020, which pertains to modifications in mining and coal laws.

## **3 Discussion**

Mineral and Coal Mining is one of the business fields that has great benefits for entrepreneurs if its implementation is carried out correctly in accordance with existing

legal provisions. The implementation of opening a mining business is mostly carried out by foreign investors and domestic investors who in this case need to have a license on the land that will become a mining business in accordance with the provisions of the applicable law.

The law that controls mining is a very meaningful instrument for the central or regional government in implementing acceleration in the mining sector. Law Number 3 of 2020 concerning Mineral and Coal Mining contains regulations pertaining to mining. It was passed as a mining and mineral law and is thought to have greater policy capacity than earlier laws.

Following the adoption of Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining, this law has been dubbed a "polemical law" because different groups within the community and government have expressed differing views on its merits and drawbacks. The application of current mining regulations must pay attention to the sustainability of mining energy, it must also be in line with the points contained in the SDGs (Sustainable Development Goals) which must protect, maintain and support existing terrestrial ecosystems.[10] But in actuality, a number of important articles have the potential to negatively impact the environment and the community, as well as to end the role that local governments play in issues related to mining company licensing.

A mining business license is the granting of a permit to carry out a mining business to individuals or entities granted by the Regional Government. Mining business licenses (IUP) are given in the form of mining business license decision messages. The revision of the Mineral and Coal Law provides ineffective authority with the enactment of the revocation of regional government authority, in terms of taking over the authority of local governments to the central government regarding the IUP clearly violating the principle of regional autonomy. Regional autonomy in this case is a manifestation of the State's partiality to the people because it is considered that no one knows better than the local community, about how to prosper and prosper the local community's area.[12]

Effectiveness is a method to achieve the expected results or the achievement of goals by an action or action. When public policy has been implemented and is unable to influence the resolution of cases in the community, it can be said that public policy has failed. Talking about effectiveness will always be associated with an activity called evaluation. Evaluation is an important part of a process for implementing regulations or policies because with the evaluation it will get feedback on the implementation of regulations or policies.

Evaluation of the effectiveness of the implementation of mining business license (IUP) regulations from legislation number 3 of 2020 concerning mineral and coal mining can be said to cause an assessment that this actually leads to conflicts of interest. This conflict of interest ends with fears that it will damage the implementation of existing mining business investments in Indonesia and also harm the social life of local communities in mining areas.

Mining conflicts faced by mining companies with local communities are small such as polluted air quality due to mining activities disrupting the health of local communities, pollution of water sources mixed with acid mine water (AMDAL activi-

ties that are not in accordance with applicable regulations), and other mining activities that damage community building structures. In dealing with these mining conflicts, it requires the role of local governments to be a connector for public complaints to mining companies.

When the mining conflicts mentioned above arise, local governments take on the role of mediators. Therefore, in the event that mining companies are found to have violated local regulations, the local government has the power to temporarily suspend or even cancel the aquaculture business license. (IUP). Since the new Mining Law was passed, residents of Daerhanya who wish to protest mining-related activities are now required to notify the provincial government or the federal government.

This situation even makes it difficult for people whose lives are in remote mining areas and far from the central government area so that the protest action is not easily channeled. Another issue with the current Mining Law regulation is that it runs directly counter to good governance because residents of mining areas are powerless to stop mining companies from harming their environment.

## 4 Conclusion

Evaluation of the effectiveness of the implementation of mining business license (IUP) regulations from legislation Number 3 of 2020 concerning mineral and coal mining still cannot be said to be more effective, efficient, and aimed at the welfare of the community. Because changes in current mining regulations reduce the opportunity for people to express aspirations aimed at achieving the welfare they expect.

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