

### **THE MANDATORY RELINQUISHMENT AND ANNULMENT OF LAND CULTIVATION RIGHT AND RIGHT TO USE OVER AREAS OF BURNED LAND**

The Minister of Agrarian Affairs and Spatial Planning/Head of National Land Affairs Agency has issued regulation No. 15 of 2016 concerning The Procedures of Relinquishment and Annulment of Land Cultivation Right (*Hak Guna Usaha/HGU*) and Right to Use (*Hak Pakai*) Over Areas of Burned Land ("**Regulation No. 15**").

Pursuant to Regulation No. 15, if holders of Land Cultivation Right and Right to Use fail to protect their lands from fire, the government may impose sanctions in the form of mandatory relinquishment or annulment of such rights, with further stipulations of the application of sanctions as below:

- a. Postponement of granting land-rights (if the applications are being processed by the Land Office);
- b. Relinquishment or annulment of land-rights, with the following classifications:
  - i. If the burned area is less than 50% or maximum 50% of the total area, land-rights holders must relinquish such burned area to the state or the government will annul such land-rights on burned area; or
  - ii. If the burned area is more than 50% of total area, the government will annul all of the land-rights granted to the relevant holders or the land-rights holders shall pay a fine in the amount of IDR 1 billion per each hectare of the burned land.

Before rendering a decision and applying sanctions, the Head of Land Office has to form an investigation team to identify the incident of burned land within seven working days. The team will submit a report to the Head of Land Office and the Head of Land Office will stop the investigation (if there is no violation has been committed) or declare that the land-rights holders have to relinquish some areas or all land areas to the state (if there is violation has been committed).

Further, if the land-rights holders refuse to relinquish their land to the state, then the Head of Land Office may submit a recommendation letter to the Minister to annul the said land-rights.

In addition, the Regulation No. 15 also requires a number of obligations to be fulfilled by holders of Land Cultivation Right and Right to Use in relation to protect their lands from fire.

This Regulation No. 15 came into force as from 14 April 2016 (on the date it was promulgated).