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# The Legal 500 Country Comparative Guides

## Indonesia

# RENEWABLE ENERGY

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This country-specific Q&A provides an overview of renewable energy laws and regulations applicable in Indonesia.

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## INDONESIA

# RENEWABLE ENERGY



### 1. Does your jurisdiction have an established renewable energy industry? What are the current production levels?

Yes, Indonesia generally has an established renewable energy industry. The production level in 2021 is around 11,152 MW.

### 2. Who are the key regulators for renewables industry in your jurisdiction? How do they impact the industry?

Ministry of Energy and Mineral Resources (MEMR) is the key regulator for renewable energy industry in Indonesia. The development of renewable energy in Indonesia depends on the regulations and policy issued by the MEMR to increase and support the production of renewable energy and achieve the energy mix target sets by the government.

### 3. How are rights to explore/set up renewable energy projects, such as solar or wind farms, granted? How do these differ based on the source of energy, i.e. solar, hydropower, wind, geothermal and biomass?

Rights to explore renewable energy projects with solar, hydropower, wind, and biomass as the source of energy are granted to developers through a direct selection process if the off-taker is PT Perusahaan Listrik Negara (Persero) (PLN), a state-owned enterprise that provides electricity for the public interest. However, developers of the foregoing renewable energy projects can also sell the electricity produced directly to end consumers (such as industrial customers or households) by way of obtaining a (specific) business area from the MEMR and integrated electricity supply business license.

Geothermal has a different regime from other renewable energy sources where the rights to explore geothermal are granted by MEMR through a tender of a geothermal

working area. PLN is assigned by the government to purchase the electricity produced from the development of the geothermal working area.

### 4. What does the energy split look like in your jurisdiction and how is this changing as a result of the green energy transition?

The government has set up a long-term target to achieve higher use of renewable energy as part of its green energy transition process. The energy split in the energy-mix target up to the year 2025 is divided into the following: 23% of new and renewable energy, 25% of crude oil (less than), 30% of coal, and 22% of natural gas. Renewable energy will not take up the majority of energy split in Indonesia until 2050 when the energy split is going to be as follows: 31% of new and renewable energy, 20% of crude oil (less than), 24% of natural gas, and 25% of coal.

### 5. Is the government directly involved with the renewables industry? Is there a government-owned renewables company?

The government acts as a regulator in the renewables industry. However, there are state-owned companies and their subsidiaries that are directly involved in the renewables industry such as PT Indonesia Power, PT Pembangkitan Jawa Bali, PT Pertamina Geothermal Energi and PT Pertamina Power Indonesia.

### 6. What are the government's plans and strategies in terms of the renewables industry? Please also provide a brief overview of key legislation in the renewable energy sector?

The government always stated that it is committed to supporting the renewable energy industry. The government (through MEMR) has set a target of achieving 15.7% of renewable energy in the energy mix

and will continue to increase the installed capacity of renewable energy-based power plants. MEMR also stated that it is planning to complete the regulations on renewable energy that has been delayed in particular the new energy and renewable energy bill and presidential regulation draft on the purchase price of electricity produced by renewable energy.

Under the current key legislation, the electricity purchase price from renewable energy-based power plants is not set on an exact price or feed-in tariff, instead, MEMR in its regulation provides a benchmark price for PLN to purchase electricity from the various renewable energy-based power plant. The benchmark price is based on the primary cost of power generation of PLN (*Biaya Pokok Penyediaan Pembangkitan* or BPP) in the local and national electricity systems. PLN determines the BPP annually to be approved and published by MEMR. The BPP used to determine electricity purchase price is the BPP approved and published by MEMR in the previous year. The final electricity purchase price between PLN and the developer or project company must be approved by MEMR before the signing of the Power Purchase Agreement.

### **7. Are there any government incentive schemes promoting renewable energy? For example, are there any special tax deductions or incentives offered?**

To promote and increase investment in renewable energy, the government provides the following fiscal facilities:

- income tax facilities in the form of a 30% reduction of net income for six years, escalated depreciation and amortization, and compensation for any loss that occurred for more than 5 years but not more than 10 years tax holiday.
- Tax holiday in the form of exemption from tax from 5-10 years as of the commercial operation of the power plant and 50% reduction of tax from outstanding income tax for 2 years).
- VAT exemption and exemption of import duty for capital goods.

### **8. How have private companies outside of the renewable energy sector responded to the renewables industry? Have you seen more companies set net-zero and/or**

### **science-based targets?**

Certain sponsors of non-renewable energy (power plants) opted out of their investments in non-renewable energy to focus more on renewable energy. We also have seen more companies searching for green energy and plan to set up their factories close to the green energy resource or obtain electricity from renewable energy power plants.

### **9. What are the key contracts you typically expect to see in a new-build renewable energy contract?**

Typically, the key contracts in renewable energy projects are the EPC contract, drilling contract for the geothermal project, offtake contract (power purchase agreement), and operation and maintenance contract. Recently, renewable projects that have achieved commercial operation also started to enter into Emission Reduction Purchase Agreement (ERPA).

### **10. Are there any restrictions on the export of renewable energy, local content obligations or domestic supply obligations?**

There are no restrictions on the export of renewable energy. However, it requires certain approval or licenses to export renewable energy. For example, the export of electricity (including that generated from a renewable energy-based power plant) requires approval and permit from MEMR. The permit to export renewable energy is valid for 5 years and can be renewed. The relatively short-term permit may not be practical for a long-term export power purchase agreement. Renewable energy projects are also subject to local content obligations and each type and capacity of renewable energy is subject to different levels of local content under the regulations.

### **11. Does the regulatory regime include any specific decommissioning obligations? How do these obligations differ across solar, hydropower, wind, geothermal and biomass?**

The regulatory regime in Indonesia does not have specific regulations or provisions on decommissioning obligations. However, in general, decommissioning activities must comply with environmental regulations in Indonesia. The activities of decommissioning should be included in the environmental impact analysis document for solar, hydropower, wind, geothermal, and biomass that must be submitted and approved by the

government authority.

## 12. Could you provide a brief overview of the major projects that are currently happening in your jurisdiction?

Ongoing renewable energy projects in Indonesia is dominated by geothermal and hydropower plants and followed by solar PV (with small to medium capacity spread over several regions). PLN was expected to start procurement of renewable energy projects listed in its Electricity Supply Business Plan (2021-2030) last year. Hopefully, in 2022, PLN will start the procurement process for new renewable energy projects, which major projects seem to be from hydro and solar PV in addition to entering into power purchase agreements for geothermal projects.

## 13. Who are the key players that are driving the green renewable energy transition in your jurisdiction?

MEMR and PLN are key players that drive the green renewable energy transition in Indonesia. Participation of private investors in renewable energy projects depends on the active role of MEMR and PLN in implementing the government's policy and regulation in the energy transition.

## 14. Please can you give a summary of the key renewable projects in the pipeline in your jurisdiction?

MEMR and PLN in their press release stated that in 2022 there will be 21 renewable projects to be procured and developed. These projects consist of hydropower projects (Kumbih-3 with a capacity of 45MW, Bakaru-II with a capacity of 140MW, and several projects in Sumatera with a total capacity of 200MW), solar PV (several projects spread in Sumbawa and Bima with a total capacity of 10 MW), geothermal (Hululais 1 and 2 with capacity of 110 MW, Tulehu 1 and 2 with a total capacity of 20MW, Songa Wayua with capacity of 2x5MW, Atadei with capacity of 2x5 MW) and biomass (Halmahera with a capacity of 10 MW). PLN is also planning to kick start the project to convert 500 MW of its diesel power plant into solar PV with a battery energy storage system (BESS). We would expect that the Solar PV project with BESS is going to be developed in Indonesia by a private investor in the near future given that PLN is also taking interest in the technology.

## 15. What are the key issues facing the renewables industry in your jurisdiction across solar, hydropower, wind, geothermal and biomass?

The price for electricity from the renewable energy power plant is one of the major or key issues in the development of solar, hydropower, wind, geothermal, and biomass. From the off-taker point of view (PLN), the electricity purchase price from this renewable energy power plant is quite high compared to the fossil power plant. Other key issues that we believe are worth mentioning are access to the site and land acquisition. Access to the site especially for geothermal, solar, hydro, and wind is often quite difficult, and developers need to build such access. Land acquisition is also a key issue in the development of renewable projects where land acquisition usually takes time to complete due to various reasons. The issues related to access to the site and land acquisition may result in a high amount of capex for the development of the renewable project in Indonesia.

## 16. How has the consequences of the Covid-19 pandemic particularly impacted the renewables industry?

Covid-19 pandemic seems to cause some delay in the procurement of renewable energy in Indonesia although there is no formal statement from PLN that the lack of new procurement is due to Covid-19. We understand that generally Covid-19 cause delay in development of other sector such as industry and restriction on the operation of existing industry. Consequently, the demand of electricity including from renewable energy power plant is also decreased during this situation and there is an oversupply which cause PLN to delay development of new renewable energy.

## 17. How do you think the impact of foreign investment and changes in regulation will affect investment in the renewables industry?

With the current investment regulation, investment in the renewable energy industry is more open to foreign investment given that the restriction of a maximum of 49% foreign shareholding for projects below 10 MW and 95% foreign shareholding for above project above 10 MW are no longer applicable. Foreign investor can now invest 100% in project above 1 MW. With respect of licensing, in theory with the Job Creation Law (Law No. 11 of 2020) along with its implementing regulations,

establishing company and obtaining the necessary licenses should be easier and faster through online single submission (OSS) system. Unfortunately, it is currently the online system that creates the uncertainty and delay as it is not yet integrated or updated to accommodate the new regulations.

### 18. How has your jurisdiction performed against its commitments as part of the Paris Agreement?

The government starting to issue regulations to implement its commitment as a party to the Paris Agreement. Recently, the government issued Presidential Regulation 98 of 2021 on the Implementation of Carbon Economic Value to Achieve Nationally Determined Contribution Targets and Control over Green House Gas Emissions in relation to National Development (PR 98/2021), which regulates the implementation of carbon pricing which serves as the basis for the development of Indonesian carbon market. In combination with Law No. 7 of the Harmonization of Taxation Regulations PR 98/2021 provides for a roadmap for Indonesia's carbon reduction.

PR 98/2021 establishes a three-pronged approach toward achieving Indonesia's Nationally Determined Contributions ("NDC") commitment to combat climate change pursuant to the Paris Agreement. Indonesia ratified the Paris Agreement in 2016 and re-affirmed the commitment in November 2021 at the UN Climate Change Conference in Glasgow (COP26). The commitment is to achieve net-zero carbon emissions by the year 2060.

### 19. How has the government used COP26 as an opportunity to drive the green energy transition?

Yes, although further implementing regulations of PR 98/2021 need to be issued to further drive the green energy transition and reduce Greenhouse Gas (GHG) emissions. The PR 98/2021 is issued as the basis for the implementation of carbon pricing and as a guideline for reducing GHG emissions through policies, steps, and activities to achieve NDC targets and control GHG emissions. The three conceptual elements of PR98/2021 which further set out in Carbon Road Map are: (i) Carbon Emission Reduction Strategy, providing for a reduction of 29% - 41% by 2030; (ii) priority Sectors Determination, which together will account for 97% of the NDC; and (iii) Renewable Energy Development, combined with the phasing out of coal, gas and biogas power generation. A key element of the Carbon Road map is the introduction of a Carbon Tax, that will be applied to the sale of goods that contain carbon and the engagement in carbon-producing activities.

### 20. How is the government stepping up its commitment as a part of the COP26 agreement?

The government in 2022 is planning to issue further implementing regulations of PR 98/2021 at the ministerial level. The ministerial-level regulations will provide more clarity and detailed implementation of the carbon pricing, carbon trading and carbon tax, which framework has been set out in PR 98/2021.

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