

# Presidential Regulation No. 169 Year 2024: The Ministry of Energy and Mineral Resources Law Enforcement Transformation

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On 5 November 2024, the Indonesian Government issued Presidential Regulation Number 169 Year 2024 on the Ministry of Energy and Mineral Resources (“PR 169/2024”), which aims to regulate the organization of the Ministry of Energy and Mineral Resources under the new presidential regime. PR 169/2024 introduces a new Directorate General of Energy and Mineral Resources Law Enforcement under the Ministry of Energy and Mineral Resources, which poses its own challenges.

## Highlighted Provisions and Challenges

As stated in Article 24 of PR 169/2024, the newly established directorate general is set out to formulate and implement policies in the field of energy and mineral resources law.<sup>1</sup> What exactly does this entail? What is the scope of enforcement under the Directorate General of Law Enforcement?

Article 25 of PR 169/2024 sets out the functions of the Directorate General of Law Enforcement in conducting the task of formulating and implementing policies in the field of energy and mineral resources law. One highlighted role amongst the functions of this new Directorate General of Law Enforcement is its role in “monitoring of legal compliance, investigation, imposition of administrative sanctions, and the application of criminal law, as well as support for energy and mineral resources law enforcement operations” in addition to formulation and supervision of implementation of policies in the field of energy and mineral resources law. Since the investigation and implementation of criminal law in relation to energy and mineral resources did not use to be a function under the Ministry of Energy and Mineral Resources), the authority responsible for conducting criminal investigations lay with the Indonesian National Police.

The Ministry of Energy and Mineral Resources of the Republic of Indonesia issued a statement at the 2024 Mineral Expo, announcing that the Director General of the newly established Directorate General will be appointed from officials of the National Police, the Indonesian National Armed Forces (*Tentara Nasional Indonesia* or “TNI”), or the Attorney General’s Office (*Kejaksaan Agung Republik Indonesia*).<sup>2</sup> This raises concerns about potential overlapping of authority, as it remains unclear when the authority to conduct criminal investigations and enforce criminal law will fall under the jurisdiction of the National Police, and to what extent criminal matters will fall within the scope and authority of the Directorate General of Law Enforcement under the Ministry of Energy and Mineral Resources.

In addition to the above, from a policy formulation perspective, one of the functions of the Directorate General of Law Enforcement mandated by PR 169/2024 includes the formulation of policies in the areas of prevention, handling, complaints, legal compliance monitoring, investigation, imposition of administrative sanctions, and the implementation of criminal law, as well as support for energy and mineral resources law enforcement operations. It is to be noted that there are already several existing regulatory bodies in the Energy and Mineral Resources sector, such as the Special Task Force

<sup>1</sup> Article 24, Presidential Regulation No. 169/2024

<sup>2</sup> “Langkah Bahlil Lawan Tambang Ilegal: Bentuk Ditjen Gakkum yang Dipimpin TNI,” *Kompas.com*, November 26, 2024, <https://money.kompas.com/read/2024/11/26/073000726/langkah-bahlil-lawan-tambang-ilegal-bentuk-ditjen-gakkum-yang-dipimpin-tni>.

for Upstream Oil and Gas (*Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi – SKK Migas*) and the Downstream Oil and Gas Regulatory Agency (*Badan Pengatur Hilir Minyak dan Gas Bumi – BPH Migas*), which may be interpreted as having similar authority to that of the new Directorate General of Law Enforcement. Further development on the division of tasks and authorities may be required in providing a clear role for each of these authorities, which business actors in the Energy and Mineral Resources sector may need to understand and accordingly adapt to.

### **Existing Directorate General of Law Enforcement**

Prior to the establishment of the Directorate General of Law Enforcement under the Ministry of Energy and Mineral Resources, there have been precedents of similar entities responsible for law oversight and enforcement within other Indonesian ministries. Notably, the Directorate General of Law Enforcement under the Ministry of Environment and Forestry serves as a key example of such implementation. The Directorate General of Law Enforcement under the Ministry of Environment and Forestry has been actively engaged in various enforcement measures, including the imposition of administrative fines, the application of strict liability in civil lawsuits for environmental damages, and

the investigation of additional criminal offenses and money laundering. While further development remains for the Ministry of Energy and Mineral Resources, this can be seen as a successful implementation model which the new Directorate General of Law Enforcement under the Ministry of Energy and Mineral Resources may need to adopt.

### **What to Expect**

Although still subject to further development regarding its scope and authority, reflecting on past practices and existing information gathered from PR 169/2024, the establishment of the Directorate General of Law Enforcement under the Ministry of Energy and Mineral Resources provides an indication that stricter regulatory enforcement may be forthcoming. Drawing parallels to the Directorate General of Law Enforcement under the Ministry of Environment and Forestry, business actors might anticipate the implementation of administrative fines, strict liability in civil cases, and potential criminal investigations, including those related to financial crimes. This signals a more robust approach to law enforcement in the energy and mineral sectors, underscoring the need for enhanced compliance measures.

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*The article above was prepared by Dentons HPRP's lawyers*

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