

Tinjauan terhadap kedudukan hukum pemegang perjanjian karya pengusaha pertambangan batubara (PKP2B) dalam pelaksanaan kegiatan pertambangan pasca diberlakukannya undang-undang No 4 tahun 2009 = Review of the legal standing of the holder of contract coal of work (CCOW) in the implementation of mining activities after the enactment of law no 4 of 2009

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Abstrak

[ABSTRAK

Di Indonesia, peraturan perundang-undangan dalam bidang pertambangan mineral dan batu bara diawali dengan diberlakukannya Undang-undang 11 tahun 1967 tentang Ketentuan Pokok Pertambangan dengan peraturan pelaksanaannya yang kemudian telah diubah seluruhnya dengan diberlakukannya Undang-undang No 40 tahun 2009 tentang Mineral dan Batubara (?UU Minerba?) beserta dengan peraturan pelaksanaannya sebagai hukum positif dalam melaksanakan kegiatan pertambangan dewasa ini. Dengan adanya suatu peralihan dasar hukum dalam melaksanakan kegiatan pertambangan, kemudian muncullah beberapa permasalahan yang terjadi antara lain mengenai permasalahan bagaimana kedudukan hukum PKP2B setelah diberlakukannya UU Minerba, dan bagaimana keberlakuan UU Minerba tersebut mempengaruhi hubungan kontraktual pemegang PKP2B dengan pihak ketiganya yang mayoritas merupakan pihak investor asing.

Dengan menggunakan metode analisis normative untuk menganalisa dan menjawab identifikasi masalah dalam penulisan hukum ini kemudian akan dipaparkan, dan dianalisa secara rinci bahwa UU Minerba pada dasarnya tetap mengakui keberlakuan PKP2B dengan memberikan kewajiban terkait dengan masa peralihan untuk melakukan penyesuaian terhadap seluruh ketentuan di dalam PKP2B maupun isi dan ketentuan kontraktual pemegang PKP2B dan pihak ketiganya yang ingin tetap melakukan kegiatan pertambangan di Indonesia.

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ABSTRACT

In Indonesia, the legislation in the field of mineral and coal mining began with the enactment of Law 11 of 1967 concerning the Basic Provisions of Mining and its implementing regulations, which was changed entirely with the enactment of Law No. 40 of 2009 on Mineral and Coal Mining ("Mining Law") and its implementing regulations as the positive law in carrying out mining activities. With the change of regulation in conducting mining activities, some problems occurred relating to the validity of PKP2B after the enactment of the Mining Law and how the enactment of the Mining Law affects the CCOW holder?s contractual

relationship with third parties, the majority of which are foreign investors. By using the normative methodology to analyze and answer the issue in this Thesis, it shall be explained and analyzed in details that the Mining Law still recognizes the validity of CCOW by providing the obligation during the transitional period to make adjustments to all the provisions in the CCOW including the contents and contractual provisions of CCOW holders and third parties who want to keep carrying out mining activities in Indonesia; In Indonesia, the legislation in the field of mineral and coal mining began with the enactment of Law 11 of 1967 concerning the Basic Provisions of Mining and its implementing regulations, which was changed entirely with the enactment of Law No. 40 of 2009 on Mineral and Coal Mining ("Mining Law") and its implementing regulations as the positive law in carrying out mining activities. With the change of regulation in conducting mining activities, some problems occurred relating to the validity of PKP2B after the enactment of the Mining Law and how the enactment of the Mining Law affects the CCOW holder's contractual relationship with third parties, the majority of which are foreign investors. By using the normative methodology to analyze and answer the issue in this Thesis, it shall be explained and analyzed in details that the Mining Law still recognizes the validity of CCOW by providing the obligation during the transitional period to make adjustments to all the provisions in the CCOW including the contents and contractual provisions of CCOW holders and third parties who want to keep carrying out mining activities in Indonesia, In Indonesia, the legislation in the field of mineral and coal mining began with the enactment of Law 11 of 1967 concerning the Basic Provisions of Mining and its implementing regulations, which was changed entirely with the enactment of Law No. 40 of 2009 on Mineral and Coal Mining ("Mining Law") and its implementing regulations as the positive law in carrying out mining activities. With the change of regulation in conducting mining activities, some problems occurred relating to the validity of PKP2B after the enactment of the Mining Law and how the enactment of the Mining Law affects the CCOW holder's contractual relationship with third parties, the majority of which are foreign investors. By using the normative methodology to analyze and answer the issue in this Thesis, it shall be explained and analyzed in details that the Mining Law still recognizes the validity of CCOW by providing the obligation during the transitional period to make adjustments to all the provisions in the CCOW including the contents and contractual provisions of CCOW holders and third parties who want to keep carrying out mining activities in Indonesia]