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By: THE PRESIDENT OF THE REPUBLIC OF INDONESIA

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Reference: LN 2008/58; TLN NO 4843

Title: ELECTRONIC INFORMATION AND TRANSACTIONS

BY THE GRACE OF THE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

a. whereas national development is a continuous process that must always be responsive to various dynamics occurring in the public;

b. whereas the globalization of information has placed Indonesia as part of the world's information community hence regulations regarding Electronic Information and Transaction management at national level must be established so that it can be conducted optimally, equally, and widely throughout the social stratum in order to improve the life of the nation;

c. whereas the fast development and progress of Information Technology have caused change of human's life in various sectors which directly have affected the creation of new legal actions;

d. whereas the use and utilization of Information Technology must continuously be developed to keep, maintain, and strengthen national unity and integrity based on Laws and Regulations for national interest;

e. whereas the utilization of Information Technology has an important role for the trade and growth of national economy for realizing social prosperity;

f. whereas the government needs to support the development of Information Technology through legal infrastructures and regulations so that the Information Technology can be utilized safely to avoid any misuse with due observance of religious, social and cultural values of the Indonesian people;

g. whereas based on the considerations as intended in letters a, b, c, d, e, and f, there is a need to draft a Law regarding Electronic Information and Transactions;

In view of: Article 5 paragraph (1) and Article 20 of the 1945 Constitution of the Republic of Indonesia;

With Joint Approval of
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA
and

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THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To stipulate: THE LAW REGARDING ELECTRONIC INFORMATION AND TRANSACTIONS.

CHAPTER I
GENERAL PROVISIONS

Article 1

Referred to herein as:

1. Electronic Information shall be one or groups of electronic data, including but not limited to writings, sound, picture, map, design, photo, *electronic data interchange* (*EDI*), *electronic mail*, telegram, telex, *telecopy* or similar type, letters, signs, numbers, Access Code, symbol, or perforation that have been processed and have a meaning or can be understood by a person capable to understand the same.

2. Electronic Transactions shall be a legal action done by using a Computer, Computer network, and/or other electronic media.

3. Information Technology shall be a technique for collecting, preparing, saving, processing, announcing, analyzing, and/or distributing information.

4. Electronic Document shall be any Electronic Information made, forwarded, sent, received, or saved in the analog, digital, electromagnetic, optical formats, or similar type, which can be seen, presented, and/or heard through Computer or Electronic System, including but not limited to the writings, sound, picture, map, design, photo or similar type, letters, signs, numbers, Access Code, symbol or perforation that have a meaning or sense or can be understood by a person capable to understand the same.

5. Electronic System shall be a series of electronic devices and procedures having function to prepare, collect, process, analyze, save, present, announce, send, and/or distribute Electronic Information.

6. Implementation of Electronic System shall be the utilization of Electronic System by a state administrator, a Person, Business Entity, and/or public.

7. Electronic System Network shall be a connection of two or more Electronic Systems having closed or open nature.

8. Electronic Agent shall be a device of an Electronic System constructed to take any automatic action to a certain Electronic Information performed by a Person.

9. Electronic Certificate shall be the certificate that is electronic in nature containing Electronic Signature and identity indicating the status of a legal subject in an Electronic Transaction that is issued by an Electronic Certificate Administrator.

10. Electronic Certificate Administrator shall be a legal entity having a function as a credible party giving and auditing Electronic Certificate.

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11. Reliable Certification Institution shall be an independent institution established by professionals that is acknowledged, legalized, and supervised by the Government with authorities to audit and issue a reliable certificate in the Electronic Transaction.

12. Electronic Signature shall be the signature consisting of Electronic Information attached, associated or related to other Electronic Information used as a verifying and authentication instrument.

13. Signor shall be a legal subject that is associated or related to the Electronic Signature.

14. Computer shall be an instrument for processing electronic, magnetic, optical data, or a system performing logical, arithmetic, and saving functions.

15. Access shall be an activity for conducting interaction with an Electronic System individually or in a network.

16. Access Code shall be the numbers, letters, symbol, other characters or combination thereof constituting a key for accessing a Computer and/or other Electronic Systems.

17. Electronic Contract shall be an agreement between the parties that is made through an Electronic System.

18. Sender shall be a legal subject that sends Electronic Information and/or Electronic Document.

19. Recipient shall be a legal subject that receives Electronic Information and/or Electronic Document from the Sender.

20. Domain Name shall be internet address of the state administrator, Person, Business Entity, and/or public, which can be used in communicating through the internet, in the form of code or composition of characters having unique nature for indicating certain location in the internet.

21. Person shall be a person, both Indonesian citizen and foreign citizen, and legal entity.

22. Business Entity shall be an individual company or partnership company, both in the form of legal entity and non-legal entity.

23. Government shall be the Minister or other officials appointed by the President.

Article 2

This Law shall apply for any Person conducting legal actions as regulated herein, both in the territorial jurisdiction of Indonesia and outside the territorial jurisdiction of Indonesia, which has legal consequences in the territorial jurisdiction of Indonesia and/or outside the territorial jurisdiction of Indonesia and that can harm the interest of Indonesia.

CHAPTER II
PRINCIPLES AND OBJECTIVES

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Article 3

Utilization of Information Technology and Electronic Transactions shall be based on the principles of legal certainty, benefit, prudence, goodwill, and freedom to choose technology or neutral to technology.

Article 4

The Information Technology and Electronic Transactions shall be utilized with the following objectives:

a. improving social's life as part of the world's information community;

b. developing trade and national economy in the context of advancing social prosperity;

c. enhancing effectiveness and efficiency of public service;

d. opening the widest opportunity to any Person for improving the thinking and capability in the field of the use and utilization of Information Technology as optimum and accountable as possible; and

e. giving security, fair sense, and legal certainty for users and administrators of Information Technology.

CHAPTER III
ELECTRONIC INFORMATION, DOCUMENT, AND SIGNATURE

Article 5

(1) Electronic Information and/or Electronic Document and/or printings thereof shall constitute a valid legal proof.

(2) The Electronic Information and/or Electronic Document and/or printings thereof as intended in paragraph (1) shall constitute the expanded valid legal proof pursuant to Procedural Law applicable in Indonesia.

(3) The Electronic Information and/or Electronic Document shall be valid if it uses Electronic System in accordance with the provisions as provided for in this Law.

(4) Provisions regarding Electronic Information and/or Electronic Document as intended in paragraph (1) shall not apply for the following:

a. letters which according to Law must be made in writing; and
b. letters as well as document which according to Law must be made in the form of notary deed or deed made by a deed making official.

Article 6

In case there are provisions other than those provided for in Article 5 paragraph (4) that require information to be made in writing or original, any Electronic Information and/or Electronic Document shall be deemed valid as long as the information set forth therein

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is accessible, reflected, its intactness is guaranteed, and accountable that explains an event.

Article 7

Every Person that states the right, confirms the existing right, or rejects other Person's right based on Electronic Information and/or Electronic Document must ensure that the Electronic Information and/or Electronic Document on him/her originates from the Electronic System that fulfills the requirements based on Laws and Regulations.

Article 8

(1) Except otherwise agreed, the time of sending an Electronic Information and/or Electronic Document shall be the time when the Electronic Information and/or Electronic Document is sent to the correct address by the Sender to an Electronic System appointed or used by a Recipient and has entered any Electronic System that is out of control of the Sender.

(2) Except otherwise agreed, the time of receiving an Electronic Information and/or Electronic Document shall be the time when the Electronic Information and/or Electronic Document enters into the Electronic System under control of the eligible Recipient.

(3) In the event that the Recipient has appointed a certain Electronic System for receiving Electronic Information, the receipt shall be the time when the Electronic Information and or Electronic Document enters into the appointed Electronic System.

(4) In case two or more information systems are used in sending or receiving Electronic Information and/or Electronic Document, hence:

a. the time of sending shall be time when the Electronic Information and/or Electronic Document enters into the first information system outside the control of the Sender;

b. the time of receipt shall be the time when the Electronic Information and/or Electronic Document enters into the last information system outside the control of the Recipient.

Article 9

Business players offering products through an Electronic System must provide complete and correct information related to the requirements of contract, producers and offered products.

Article 10

(1) Any business player applying Electronic Transactions can be certified by a Reliable Certification Institution.

(2) Provisions regarding the establishment of the Reliable Certification Institution as intended in paragraph (1) shall be provided for in a Government Regulation.

Article 11

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(1) Electronic Signature shall have valid legal power and legal consequences as long as it fulfills the following requirements:

a. the data on making the Electronic Signature only relates to the Signor;

b. the data on making the Electronic Signature at the time of electronic signing is only under the proxy of the Signor;

c. all changes to the Electronic Signature after the signing can be known;

d. any changes to Electronic Information related to the relevant Electronic Signature after the signing can be known;

e. there is certain method to be used for identifying the Signors; and

f. there is certain method to indicate that Signors have approved the relevant Electronic Information.

(2) Subsequent provisions regarding the Electronic Signature as intended in paragraph (1) shall be provided for in a Government Regulation.

Article 12

(1) Any Person involving in the Electronic Signature must ensure the security of the Electronic Signature being used.

(2) Security of Electronic Signature as intended in paragraph (1) should at least include the following:

a. a system not accessible by other Person not eligible to;

b. Signors must apply prudential principle for reducing illegal use of data related to the making of Electronic Signature;

c. Signors should automatically use a method advised by the Electronic Signature administrator or use other proper and reasonable methods and must immediately inform to any body who the Signors trusted the Electronic Signature or to any party supporting the Electronic Signature services, if:

1. Signors find out that data of the making of Electronic Signature has been defrauded; or

2. an event find out by Signors can arise meaningful risk, due to possible defraud of data of the making of Electronic Signature; and

d. In the event that the Electronic Certificate is used for supporting Electronic Signature, the Signors must ensure the correctness and intactness of all information related to the relevant Electronic Certificate.

(3) Any Person who violates the provision, as intended in paragraph (1), shall be responsible for all the losses and legal consequences that may arise.

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CHAPTER IV
IMPLEMENTATION OF ELECTRONIC CERTIFICATION AND ELECTRONIC SYSTEM

Part One
Implementation of Electronic Certification

Article 13

(1) Every Person shall be entitled to use the services of Electronic Certification Administrator for making Electronic Signature.

(2) The Electronic Certification Administrator must ensure the relationship between the Electronic Signature and its owner.

(3) The Electronic Certification Administrator shall consist of the following:

a. Indonesian Electronic Certification Administrator; and
b. Foreign Electronic Certification Administrator.

(4) The Indonesian Electronic Certification Administrator shall be an Indonesian legal entity that domiciled in Indonesia.

(5) The foreign Electronic Certification Administrator operating in Indonesia must be registered in Indonesia.

(6) Subsequent provisions regarding the Electronic Certification Administrator as intended in paragraph (3) shall be provided for in a Government Regulation.

Article 14

The Electronic Certification Administrator as intended in Article 13 paragraph (1) up to paragraph (5) must provide accurate, clear, and definite information to every user, including as follows:

a. method used for identifying Signors;

b. matters usable for finding out the personal data of the Electronic Signature maker; and

c. matters usable for indicating the applicability and security of Electronic Signature.

Part Two
Implementation of Electronic System

Article 15

(1) Every Electronic System Administrator must perform a reliable and secure Electronic System as well as responsible to the operation of the Electronic System as it should be.

(2) The Electronic System Administrator shall be responsible towards the Implementation of its Electronic System.

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(3) The provisions as intended in paragraph (2) shall not apply in the event of force majeure, mistake and/or failure of user of the Electronic System.

Article 16

(1) As long as otherwise determined in a separate law, each Electronic System Administrator must operate an Electronic System that fulfills the minimum requirements as follows:

a. able to represent the entire Electronic Information and/or Electronic Document in accordance with the retention period as stipulated by Laws and Regulations;

b. able to protect the availability, intactness, authenticity, confidentiality, and accessibility of Electronic Information in the Implementation of such Electronic System;

c. can be operated pursuant to the procedures or instructions in the Implementation of such Electronic System;

d. equipped with procedures or instructions announced in the language, information, or symbol that can be understood by the party related to the Implementation of such Electronic System; and

e. having a continual mechanism for maintaining the newness, clarify, and accountability of the procedures or instructions.

(2) Subsequent provisions regarding the Implementation of the Electronic System as intended in paragraph (1) shall be provided for in a Government Regulation.

CHAPTER V
ELECTRONIC TRANSACTION

Article 17

(1) Electronic Transactions can be conducted in a public or private scope.

(2) The parties conducting Electronic Transactions as intended in paragraph (1) must have goodwill in conducting interaction and/or exchange of Electronic Information and/or Electronic Document during the transaction.

(3) Subsequent provisions regarding the implementation of Electronic Transactions as intended in paragraph (1) shall be provided for in a Government Regulation.

Article 18

(1) Electronic Transactions set forth in an Electronic Contract shall bind parties.

(2) The parties shall have authority to choose the governing law for international Electronic Transactions entered into by them.

(3) If the parties do not decide the legal choice in an international Electronic Transaction, the governing law shall be based on the principles of International Civil Law.

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(4) The parties shall have authority to stipulate court forum, arbitration, or other alternative dispute settlement institutions authorized to handle any disputes that may arise from the international Electronic Transactions entered into by them.

(5) If the parties do not choose the forum as intended in paragraph (4), the stipulation of authorities of the court, arbitration, or other alternative dispute settlement institutions authorized to handle any disputes that may arise from such transactions shall be based on International Civil Law.

Article 19

The parties that entered into Electronic Transactions must use the agreed Electronic System.

Article 20

(1) Except otherwise determined by the parties, an Electronic Transaction shall occur at the time the offering of transaction sent by a Sender has been received and approved by the Recipient.

(2) Approval to the offering of Electronic Transaction as intended in paragraph (1) must be made by giving an electronic statement on the acceptance.

Article 21

(1) The Sender or Recipient may conduct Electronic Transaction by himself/herself, through the party authorized by him/her, or through an Electronic Agent.

(2) The parties responsible for all legal consequences in the implementation of Electronic Transactions as intended in paragraph (1) shall be provided for as follows:

a. if it is conducted alone, all legal consequences in the implementation of Electronic Transactions shall become responsibility of the transacting parties;

b. if it is conducted through granting of power of attorney, all legal consequences in the implementation of Electronic Transaction shall become responsibility of the grantor of power of attorney; or

c. if it is conducted through an Electronic Agent, all legal consequences in the implementation of Electronic Transactions shall become responsibility of the Electronic Agent administrator.

(3) If the loss of Electronic Transaction is caused by the failure of the Electronic Agent to operate due to direct act of a third party, all legal consequences shall become responsibility of the Electronic Agent administrator.

(4) If the loss of Electronic Transaction is caused by the failure of the Electronic Agent to operate due to failure of the service user, all legal consequences shall become responsibility of the service user.

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(5) The provisions as intended in paragraph (2) shall not apply in the event that it can be proven with any force majeure, mistake, and/or failure of the Electronic System user.

Article 22

(1) Certain Electronic Agent Administrator must provide feature in the Electronic Agent operated by it that enable the users to change information in the transaction process.

(2) Subsequent provisions regarding certain Electronic Agent administrator as intended in paragraph (1) shall be provided for in a Government Regulation.

CHAPTER VI
DOMAIN NAME, INTELLECTUAL PROPERTY RIGHTS,
AND PROTECTION OF PRIVACY RIGHT

Article 23

(1) Every state administrator, Person, Legal Entity, and/or public shall be entitled to have Domain Name based on the principle of first registration.

(2) The ownership and the use of the Domain Name as intended in paragraph (1) must be based on goodwill, not contradictory to the principle of fair business competition, and does not violate rights of other Person.

(3) Every state administrator, Person, Legal Entity, and/or public that suffers lost due to illegal use of Domain Name by another Person shall be entitled to file a suit to cancel such Domain Name.

Article 24

(1) The manager of the Domain Name shall be the Government and/or public.

(2) In case of dispute over the management of the Domain Name by the public, the Government shall be entitled to temporarily take over the management of the disputed Domain Name.

(3) The existence of a Manager of a Domain Name outside the territory of Indonesia and the Domain Name registered by it shall be acknowledged as long as it is not contradictory to Laws and Regulations.

(4) Subsequent provisions regarding the management of Domain Name as intended in paragraphs (1), (2), and (3) shall be provided for in a Government Regulation.

Article 25

Electronic Information and/or Electronic Document prepared to be intellectual property, internet website and intellectual property therein shall be protected as Intellectual Property Rights based on the provisions of Laws and Regulations.

Article 26

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(1) Except otherwise determined by Laws and Regulations, the use of any information through electronic media related to personal data of a person must be conducted upon approval of the concerned Person.

(2) Any Person whose rights are violated as intended in paragraph (1) may file a suit to any loss arising from this Law.

CHAPTER VII
PROHIBITED ACTS

Article 27

(1) Intentional and illegal distribution and/or transmission and/or making it the access to any Electronic Information and/or Electronic Document having amoral materials committed by a person.

(2) Intentional and illegal distribution and/or transmission and/or making it possible the access to any Electronic Information and/or Electronic Document having gambling materials committed by a person.

(3) Intentional and illegal distribution and/or transmission and/or making it possible the access to any Electronic Information and/or Electronic Document having contempt and/or defamation materials committed by a person.

(4) Intentional and illegal distribution and/or transmission and/or making it possible the access to any Electronic Information and/or Electronic Document having extortion and/or threatening materials committed by a person.

Article 28

(1) Intentional and illegal distribution of false and misleading news causing loss on consumers in Electronic Transactions committed by a person.

(2) Intentional and illegal distribution of information aimed at arising hatred or hostility of a person and/or certain group of persons based on tribal affiliations, religion, race and societal grouping (SARA) committed by a person.

Article 29

Intentional and illegal transmission of Electronic Information and/or Electronic Document containing violence or intimidation aimed to a person committed by a person.

Article 30

(1) Intentional and illegal or against the law access to a Computer and/or Electronic System owned by another Person in any way whatsoever committed by a person.

(2) Intentional and illegally or against the law access to a Computer and/or Electronic System in any way whatsoever for the purpose of obtaining Electronic Information and/or Electronic Document committed by a person.

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(3) Intentional and illegal or against the law access to a Computer and/or Electronic System in any way whatsoever by violating, penetrating, transgressing, or breaking through a security system committed by a person.

Article 31

(1) Intentional and illegal or against the law interception of an Electronic Information and/or Electronic Document in certain Computer and/or Electronic System owned by other Person committed by a person.

(2) Intentional and illegal or against the law interception of transmission of an Electronic Information and/or Electronic Document which is not for public from, to, and in certain Computer and/or Electronic System owned by other Person, both those not causing any changes whatsoever and those causing any changes, deletion, and/or termination of Electronic Information and/or Electronic Document being transmitted committed by a person.

(3) Except for the interception as intended in paragraphs (1) and (2), the interception conducted in the context of law enforcement is upon request of the police, public prosecutor's office, and/or other law enforcing institutions as stipulated by virtue of law.

(4) Subsequent provisions regarding the procedures for the interception as intended in paragraph (3) shall be provided for in a Government Regulation.

Article 32

(1) Intentional and illegal or against the law in any way whatsoever change, addition, reduction, transmission, damage, deletion, removal, hiding an Electronic Information and/or Electronic Document owned by other Person or owned by the public committed by a person.

(2) Intentional and illegal or against the law by any whatsoever way removal or transfer of an Electronic Information and/or Electronic Document to the Electronic System of other non-eligible Person committed by a person.

(3) The acts as intended in paragraph (1) that cause the openness of a confidential Electronic Information and/or Electronic Document that can be accessed by the public with the intactness of the data not as it should be.

Article 33

Intentional and illegal or against the law doing any acts whatsoever that cause disturbance to the Electronic System and/or causing malfunction to the Electronic System committed by a person.

Article 34

(1) Intentional and illegal or against the law production, selling, making to be used, importing, distribution, supply, or owning the following:

a. Computer hardware or software designed or specifically constructed to facilitate the acts as intended in Article 27 up to Article 33;

b. code thru Computer, Access Code, or similar matters aimed at an Electronic System to be accessible for facilitating the acts as intended in Article 27 up to Article 33.

(2) The acts as intended in paragraph (1) are not criminal acts if aimed at research, testing of Electronic System, for protecting such Electronic System legally and not against the law.

Article 35

Intentional and illegal or against the law committing manipulation, creation, change, deletion, damage to Electronic Information and/or Electronic Document so that such Electronic Information and/or Electronic Document is considered an authentic data committed by a person.

Article 36

Intentional and illegal or against the law committing the acts as intended in Article 27 up to Article 34 that cause loss to other Person.

Article 37

Intentional committing the acts as intended in Article 27 up to Article 34 outside the territory of Indonesia to an Electronic System within the jurisdiction of Indonesia committed by a person.

CHAPTER VIII
DISPUTE SETTLEMENT

Article 38

(1) Any Person may file a suit to the party administering an Electronic System and/or using Information Technology that causes loss.

(2) The public may file a suit through a representative against the party administering an Electronic System and/or using Information Technology that causes public loss, pursuant to the provisions of Laws and Regulations.

Article 39

(1) Civil suit shall be filed pursuant to the provisions of Laws and Regulations.

(2) In addition to the settlement of civil suit as intended in paragraph (1), the parties may settle the disputes through arbitration, or other alternative dispute settlement institutions pursuant to the provisions of Laws and Regulations.

CHAPTER IX
GOVERNMENT ROLE AND PUBLIC ROLE

Article 40

(1) The Government shall facilitate the utilization of Information Technology and Electronic Transactions pursuant to the provisions of Laws and Regulations.

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(2) The Government shall protect public interest from any type of disturbances as a consequence of misuse of Electronic Information and Electronic Transactions that disturbs public order, pursuant to the provisions of Laws and Regulations.

(3) The Government shall stipulate agencies or institutions having strategic electronic data which must be protected.

(4) The agencies or institutions as intended in paragraph (3) must make Electronic Document and its electronic backup as well as connect the same to certain data center for data security purpose.

(5) Agencies or institutions other than as provided for in paragraph (3) shall make Electronic Document and its electronic backup should be in accordance with the need for protecting the data they own.

(6) Subsequent provisions regarding the Government roles as intended in paragraphs (1), (2), and (3) shall be provided for in a Government Regulation.

Article 41

(1) The public may participate to enhance the utilization of Information Technology through the use and Administration of Electronic System and Electronic Transactions pursuant to the provisions of this Law.

(2) The public role as intended in paragraph (1) can be done through an institution established by the public.

(3) The institution as intended in paragraph (2) may have consultation and mediation functions.

CHAPTER X
INVESTIGATION

Article 42

Investigation towards the criminal acts as intended in this Law shall be conducted based on the provisions in the Criminal Procedural Law and provisions in this Law.

Article 43

(1) In addition to the Investigators of the National Police of the Republic of Indonesia, certain Civil Servant Investigators within the Government that have duties and responsibilities in the field of Information Technology and Electronic Transactions shall be granted special authorities as investigators as intended in the Law regarding Criminal Procedural Law for investigating criminal acts in the field of Information Technology and Electronic Transactions.

(2) The investigation in the field of Information Technology and Electronic Transactions as intended in paragraph (1) shall be conducted with due observance of protections to privacy, confidentiality, smooth public services, data integrity, or data intactness pursuant to the provisions of Laws and Regulations.

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(3) Ransacking and/or confiscation towards electronic system related to a criminal act must be conducted upon a permit of chief of local district court.

(4) In ransacking and/or confiscation as intended in paragraph (3), the investigator must maintain continuity of public services.

(5) The Civil Servant Investigators as intended in paragraph (1) shall have the following authorities:

a. receive reports or claim from someone regarding any criminal acts based on the provisions of this Law;

b. summon someone or other parties to be heard and/or examined as a suspect or witness with regard to any criminal acts in the field related to the provisions of this Law;

c. verify the veracity of a report or information with regard to the criminal acts based on the provisions of this Law;

d. investigate a Person and/or Legal Entity allegedly committing criminal acts based on this Law;

e. examine any devices and/or instruments related to Information Technology allegedly used for committing criminal acts based on this Law;

f. ransack certain place allegedly used as a place for committing criminal acts based on the provisions of this Law;

g. seal and confiscate any devices and or instruments of Information Technology allegedly used to violate the provisions of Laws and Regulations;

h. request assistance of an expert needed for the investigation of criminal acts based on this Law; and/or

i. terminate the investigation of criminal acts based on this Law pursuant to the applicable provisions of criminal procedural law.

(6) In conducting arrest and detention, the Investigator through public prosecutor must request the determination of chief of a local district court within one times twenty-four hours.

(7) The Civil Servant Investigators as intended in paragraph (1) shall coordinate with the Investigators of the National Police of the Republic of Indonesia to notify the commencement of investigation and submit the results thereof to the public prosecutor.

(8) In disclosing the criminal acts of Electronic Information and Electronic Transactions, the Investigator may cooperate with investigators from other countries for sharing information and evidences.

Article 44

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Evidences for investigation, prosecution and hearing in the court session pursuant to the provisions of this Law shall be as follows:

a. the evidences as intended in the provisions of Laws and Regulations; and

b. other evidences in the form of Electronic Information and/or Electronic Document as intended in Article 1 numbers 1 and 4 as well as Article 5 paragraphs (1), (2), and (3).

CHAPTER XI
PENAL PROVISIONS

Article 45

(1) Any Person fulfilling the indications as intended in Article 27 paragraphs (1), (2), (3), or (4) shall be sentenced with imprisonment for a maximum of 6 (six) years and/or a maximum penalty amounting to Rp.1,000,000,000.00 (one billion rupiah).

(2) Any Person fulfilling the indications as intended in Article 28 paragraphs (1) or (2) shall be sentenced with imprisonment for a maximum of 6 (six) years and/or a maximum penalty amounting to Rp.1,000,000,000.00 (one billion rupiah).

(3) Any Person fulfilling the indications as intended in Article 29 shall be sentenced with imprisonment for a maximum of 12 (twelve) years and/or a maximum penalty amounting to Rp.2,000,000,000.00 (two billion rupiah).

Article 46

(1) Any Person fulfilling the indications as intended in Article 30 paragraph (1) shall be sentenced with imprisonment for a maximum of 6 (six) years and/or a maximum penalty amounting to Rp.600,000,000.00 (six hundred million rupiah).

(2) Any Person fulfilling the indications as intended in Article 30 paragraph (2) shall be sentenced with imprisonment for a maximum of 7 (seven) years and/or a maximum penalty amounting to Rp.700,000,000.00 (seven hundred million rupiah).

(3) Any Person fulfilling the indications as intended in Article 30 paragraph (3) shall be sentenced with imprisonment for a maximum of 8 (eight) years and/or a maximum penalty amounting to Rp.800,000,000.00 (eight hundred million rupiah).

Article 47

Any Person fulfilling the indications as intended in Article 31 paragraphs (1) or (2) shall be sentenced with imprisonment for a maximum of 10 (ten) years and/or a maximum penalty amounting to Rp.800,000,000.00 (eight hundred million rupiah).

Article 48

(1) Any Person fulfilling the indications as intended in Article 32 paragraph (1) shall be sentenced with imprisonment for a maximum of 8 (eight) years and/or a maximum penalty amounting to Rp.2,000,000,000.00 (two billion rupiah).

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(2) Any Person fulfilling the indications as intended in Article 32 paragraph (2) shall be sentenced with imprisonment for a maximum of 9 (nine) years and/or a maximum penalty amounting to Rp.3,000,000,000.00 (three billion rupiah).

(3) Any Person fulfilling the indications as intended in Article 32 paragraph (3) shall be sentenced with imprisonment for a maximum of 10 (ten) years and/or a maximum penalty amounting to Rp.5,000,000,000.00 (five billion rupiah).

Article 49

Any Person fulfilling the indications as intended in Article 33 shall be sentenced with imprisonment for a maximum of 10 (ten) years and/or a maximum penalty amounting to Rp.10,000,000,000.00 (ten billion rupiah).

Article 50

Any Person fulfilling the indications as intended in Article 34 paragraph (1) shall be sentenced with imprisonment for a maximum of 10 (ten) years and/or a maximum penalty amounting to Rp.10,000,000,000.00 (ten billion rupiah).

Article 51

(1) Any Person fulfilling the indications as intended in Article 35 shall be sentenced with imprisonment for a maximum of 12 (twelve) years and/or a maximum penalty amounting to Rp.12,000,000,000.00 (twelve billion rupiah).

(2) Any Person fulfilling the indications as intended in Article 36 shall be sentenced with imprisonment for a maximum of 12 (twelve) years and/or a maximum penalty amounting to Rp.12,000,000,000.00 (twelve billion rupiah).

Article 52

(1) In the event that the criminal acts as intended in Article 27 paragraph (1) relate to morality or sexual exploitation towards children, it shall be subject to one third of the main penalty.

(2) In the event that the acts as intended in Article 30 up to Article 37 are aimed at a Computer and/or Electronic System as well as Electronic Information and/or Electronic Document owned by the Government and/or those used for public services, they shall be subject to the main penalty plus one third.

(3) In the event that the acts as intended in Article 30 up to Article 37 are aimed at a Computer and/or Electronic System as well as Electronic Information and/or Electronic Document owned by the Government and/or strategic agencies including but not limited to defense institution, central bank, banks, finance, international institutions, aviation authority, they shall be subject to maximum penalty as provided in the relevant Article plus two third.

(4) In the event that the criminal acts as intended in Article 27 up to Article 37 are committed by a corporation, they shall be subject to the main penalty plus two third.

CHAPTER XII
TRANSITIONAL PROVISION

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Article 53

At the time this Law comes into effect, all Laws and Regulations and institutions related to the utilization of Information Technology not contradictory to this Law shall remain valid.

CHAPTER XIII
CLOSING PROVISIONS

Article 54

(1) This Law shall come into force as from the date of its promulgation.

(2) Government Regulation must be stipulated by no later than 2 (two) years following the promulgation of this Law.

For public cognizance, hereby ordering the promulgation of this Law by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
On April 21, 2008

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed
DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
On April 21, 2008

THE MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

signed
ANDI MATTALATA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2008 NUMBER 58

Issued as a true copy
THE DEPUTY MINISTER OF THE STATE SECRETARY
FOR REGULATIONS DIVISION,

signed and stamped
MUHAMMAD SAPTA MURTI

ELUCIDATION ON THE
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 11 YEAR 2008
REGARDING
ELECTRONIC INFORMATION AND TRANSACTIONS

I. GENERAL

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The utilization of Information Technology, media, and communication has globally changed both the social behavior and human civilization.

The development of information and communication technologies has also created a *borderless* world relationship and has caused significant social, economic and cultural changes to be fast. Presently Information Technology becomes a two-sided sword because in addition to giving contribution for improving human prosperity, progress, and civilization, it also becomes an effective instrument for committing acts against the law.

Presently, a new legal regime known as cyber law or **tele-mathematics** law has been born. The cyber law is internationally used as a legal term to relate to the utilization of information and communication technologies. Likewise, **tele-mathematics** law constitutes a realization of convergence of telecommunication law, media law, and informatics law. Other terms which are also used are *law of information technology*, *virtual world law*, and **mayantara** law.

The above terms were born considering the activities conducted through computer system and communication system network both in local scope and global one (Internet) by utilizing computer system based on information technology constitute electronic system that can be seen virtually. Legal problems often faced are at the sending of information, communication, and/or electronic transactions, specifically in case of authentication and matters related to legal acts conducted through electronic system.

Referred to as electronic system is the computer system in the wide sense, not only includes computer hardware and software, but also includes telecommunication network and/or electronic communication system. Software or computer program is a group of instructions realized in the form of language, code, scheme, or other forms, which if combined to a media can be read by a computer, and can instruct the computer to conduct specific function or to achieve specific results, including preparation in designing such instructions.

Electronic system is also used for explaining the existence of an information system that constitutes an application of information technology based on telecommunication network and electronic media, having functions for designing, processing, analyzing, presenting, and sending or distributing electronic information. Information system, in a technical and management manner, is the realization of application of information technology product into a form of organization and management in accordance with the characteristics of the needs in the relevant organization and in accordance with its allotment purpose. In another side, information system technically and functionally is a harmonization of system between human being and machine including hardware and software components, procedures, human resources, and information substances which utilization includes *input*, *process*, *output*, *storage,* and *communication* functions*.*

With regard to the above matters, for a long time, the legal community actually has widened the interpretation of its principles and norms when faced with intangible problems, for example electricity theft as a crime. In fact, cyber activity is no longer simple because its activity is no longer limited to the territory of a country, which can be accessed at any time and from everywhere. Any loss can occur both on the transacting actors and on other person not conducting the transaction, for example credit card fund theft through shopping at the Internet. In addition, authentication constitutes a very important factor, considering that electronic media is not only accommodated comprehensively in the Indonesian procedural law system, but also it is very vulnerable

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to be changed, intercepted**,** falsified, and sent throughout the world in seconds. Thus, the impacts thereof are so complex and complicated.

A wider problem occurs in the field of civil law because electronic transactions for commercial activities through electronic system (*electronic commerce)* have become part of the national and international commerce. This fact indicates that convergence in the field of information technology, media, and informatics **(tele-mathematics**) has continuously developed unavoidable**,** along with new inventions in the field of information technology, media, and communication.

Activities through the media of electronic system, which is also referred to as *cyber space*, although virtual in nature, can be categorized as real legal acts or actions. In legal aspect, the activities in the cyber space cannot be reached with the size and qualification of conventional law only, because if this method will be used, there will be so many difficulties and matters free from the law. Activities in cyber space are virtual activities having a very real impact although its evidence is electronic in nature.

Thus, the subject of actors must also be qualified as a Person committing real legal act. In *e-commerce* activities there are other things known as electronic document that has an equal position as a document made on a piece of paper.

With regard to above matters, there is a need to consider security and legal certainty aspects in utilizing information, media and communication technologies in order to optimally be developed. Therefore, there are three approaches for maintaining security in *cyber space,* namely legal, technological, social, cultural and ethical approaches. For avoiding any security disturbances in the implementation of an electronic system, legal approach is absolute because without legal certainty, problems in utilizing information technology will not be optimum.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

This Law has a jurisdiction scope not only for legal acts applicable in Indonesia and/or committed by Indonesian citizen, but also applicable for any legal acts committed outside jurisdiction of Indonesia both those committed by Indonesian citizen and foreign citizen or Indonesian legal entity having legal consequences in Indonesia, considering that the utilization of Information Technology for Electronic Information and Electronic Transactions can be across territories or universal.

Referred to as “harming Indonesia’s interests” includes but not limited to harm the national economy interest, protection of strategic data, national dignity and prestige, state defense and security, state sovereignty, citizens, as well as legal entities of Indonesia.

Article 3

“Legal certainty principle” means legal basis for utilizing Information Technology and Electronic Transactions as well as any thing supporting their implementation that has obtained legal acknowledgement inside and outside of the court.

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"Benefit principle" means the principle for the utilization of Information Technology and Electronic Transactions aimed at supporting information processes that can improve people's prosperity.

"Prudential principle" means the basis for the relevant party to consider all aspects that are potential to create loss, both for itself and for other parties in utilizing Information Technology and Electronic Transactions.

"Goodwill principle" means the principle used by the parties in conducting Electronic Transactions not aimed intentionally and wrongfully or against the law that cause loss for other parties without knowing by the relevant other parties.

"Principle of freedom to choose technology or technology neutral" means that the principle on the utilization of Information Technology and Electronic Transactions is not focused to the use of certain technology so that it can follow the progress in the future.

Article 4

Self-explanatory.

Article 5

Paragraph 1

Self-explanatory.

Paragraph 2

Self-explanatory.

Paragraph 3

Self-explanatory.

Paragraph 4

Letter a

Letters according to this Law must be made in writing including but not limited to securities, valuable letters, and letters used in civil and criminal procedural, as well as state administration.

Letter b

Self-explanatory.

Article 6

During these times, written form is identical to information and/or document on a piece of paper only, however in principle, information and/or document can be laid down into any media whatsoever, including electronic media. Within the scope of Electronic System, original information the true copy of which is no longer relevant to be differed because Electronic System basically is operated by multiplication causing the original information no longer different from its true copy.

Article 7

This provision is aimed so that an Electronic Information and/or Electronic Document can be used as a reason for a right to surface.

Article 8

Self-explanatory.

Article 9

Referred to as "complete and correct information" includes as follows:

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a. information containing the identity as well as status of a legal subject and its competency, both as producer, supplier, administrator and broker;

b. other information explaining certain matter becoming valid requirement of an agreement as well as explaining the offered goods and or services, such as name, address, and description of goods/services.

Article 10

Paragraph (1)

Reliable Certification is aimed as a proof that a business player conducting electronic trade is properly conducting business after passing assessment and audit from an authorized entity. Proof on Reliability Certification is indicated with a certification logo in the form of *trust mark* at *the home page* of the relevant business player.

Paragraph (2)

Self-explanatory.

Article 11

Paragraph (1)

This Law expressly acknowledges that although constituting a code, Electronic Signature has the same position as manual signature that generally has legal power and legal consequences.

The requirements as intended in this Article constitute the minimum requirements that must be fulfilled in every Electronic Signature. This provision opens the widest chance to anybody to develop a method, technique, or process of making Electronic Signature.

Paragraph (2)

The relevant Government Regulation among other things regulates the technique, methods, facilities, and the process of making Electronic Signature.

Article 12

Self-explanatory.

Article 13

Self-explanatory.

Article 14

The information as intended in this Article is the minimum information that must be fulfilled by every administrator of Electronic Signature.

Article 15

Paragraph (1)

“Reliable” means that the Electronic System has the capability in accordance with the need for its utilization.

“Safe” means that the Electronic System is physically and non-physically protected.

“Operated as it should be” means that the Electronic System has the capability in accordance with its specifications.

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Paragraph (2)

"Responsible" means that there is any legal subject responsible according to law towards the relevant Electronic System Administration.

Paragraph (3)

Self-explanatory.

Article 16

Self-explanatory.

Article 17

Paragraph (1)

This Law gives a chance to utilize Information Technology by the state administrators, Person, Business Entity, and/or public.

The utilization of Information Technology must be conducted wisely, responsibly, effectively, and efficiently so that the largest benefit for the public can be reached.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 18

Paragraph (1)

Self-explanatory.

Paragraph (2)

Choice of law is conducted by the parties in an international contract including those entered into electronically. This Law binds as governing law such contract.

The choice of law in Electronic Transactions can only be conducted if in the contract there is any foreign element and the application thereof must be in accordance with the principles of international civil law (HPI).

Paragraph (3)

In case there is no choice of law, governing law shall be stipulated based on international civil law principle to be stipulated as the governing law for such contract.

Paragraph (4)

The forum authorized to try dispute over international contract, including those conducted electronically, is the forum chosen by the parties. Such forum can be in the form of court, arbitration, or other alternative dispute settlement institutions.

Paragraph (5)

In the event that the parties do not choose a forum, the authorities of the forum apply based on the principle of international civil law. Such principles are known as *the basis of presence* principle and *principle of effectiveness*.

Article 19

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Referred to as “agreed” in this article also includes the agreed procedures as set forth in the relevant Electronic System.

Article 20

Paragraph (1)

Electronic Transactions occur at the time of making of commitment of the parties that can be, among other things, in the form of checking of data, identity, *personal identification number/PIN* or *password*.

Paragraph (2)

Self-explanatory.

Article 21

Paragraph (1)

Referred to as “granted with attorney” in this provision should be stated in a power of attorney.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article 22

Paragraph (1)

Referred to as “feature” is a facility that gives a chance for user of Electronic Agent to change information submitted by it, for example canceling, editing, and re-confirmation facilities.

Paragraph (2)

Self-explanatory.

Article 23

Paragraph (1)

Domain Name is in the form of address or identity of the state administrator, Person, Business Entity, and/or public, the acquisition of which is based on the *first come first serve* principle.

The *first come first serve* principle is different from the provisions in the Domain Name and in field of intellectual property rights because it needs not substantive verification such as verification in the registration of trade mark and patent.

Paragraph (2)

Referred to as “violating other Person’s rights”, is for example violating the registered trade mark, name of registered legal entity, name of famous Person, and similar other names that principally harm other Person.

Paragraph (3)

Referred to as “illegal use of Domain Name” is the registration and use of Domain Name solely for hampering other Person to use the name

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intuitively with his/her private name or name of his/her products, or for going in with the reputation of a famous or popular Person, or for misleading consumers.

Article 24

Self-explanatory.

Article 25

Electronic Information and/or Electronic Document prepared and registered as intellectual property, copyright, patent, trade mark, industrial design, and similar others, must be protected by this Law with due observance of the provisions of Laws and Regulations.

Article 26

Paragraph (1)

In utilizing Information Technology, protection of personal data constitutes one part of *privacy rights.* The privacy rights have the following meanings:

a. Privacy right constitutes the right to enjoy private life and freedom from any disturbances.

b. Privacy right constitutes the right to communicate with other Person without a spy.

c. Privacy right constitute the right for supervising information access regarding personal life and data of someone.

Paragraph (2)

Self-explanatory.

Article 27

Self-explanatory.

Article 28

Self-explanatory.

Article 29

Self-explanatory.

Article 30

Paragraph (1)

Self-explanatory.

Paragraph (2)

Technically, the prohibited acts as intended in this paragraph can be committed by among other things as follows:

a. communicating, sending, transmitting or intentionally trying to realize such matters to any parties who are not eligible; or

b. intentionally hampering so that the relevant information cannot or failed to be received by an authorized party within the government and/or regional governments.

Paragraph (3)

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Security system is the system that limits access to a Computer or prohibits access to a Computer based on the categorization or classification of users as well as the determined level of authority.

Article 31

Paragraph (1)

Referred to as “interception” is the activity for hearing, recording, diverting, changing, hampering, and/or encoding transmission of non-public Electronic Information and or Electronic Document, both by using communication cable network and non-cable network, such as electromagnetic transmission or radio frequency.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 32

Self-explanatory.

Article 33

Self-explanatory.

Article 34

Paragraph (1)

Self -explanatory.

Paragraph (2)

Referred to as “research activity” is the research conducted by a certified research institution.

Article 35

Self-explanatory.

Article 36

Self-explanatory.

Article 37

Self-explanatory.

Article 38

Self-explanatory.

Article 39

Self-explanatory.

Article 40

Self-explanatory.

Article 41

Paragraph (1)

Self-explanatory.

Paragraph (2)

Referred to as “institutions established by the public” are the institutions involved in the field of information technology and electronic transactions.

Paragraph (3)

Self-explanatory.

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Article 42

Self-explanatory.

Article 43

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Letter e

Self-explanatory.

Letter f

Self-explanatory.

Letter g

Self-explanatory.

Letter h

Referred to as “expert” is any body having specific expertise in the field of Information Technology which can be accounted for academically and practically with regard to its field of knowledge.

Letter i

Self-explanatory.

Paragraph (6)

Self-explanatory.

Paragraph (7)

Self-explanatory.

Paragraph (8)

Self-explanatory.

Article 44

Self-explanatory.

Article 45

Self-explanatory.

Article 46

Self-explanatory.

Article 47

Self-explanatory.

Article 48

Self-explanatory.

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Article 49

Self-explanatory.

Article 50

Self-explanatory.

Article 51

Self-explanatory.

Article 52

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

This provision is aimed at sentencing any acts against the law that fulfill the criteria as intended in Article 27 up to Article 37 conducted by a corporation *(corporate crime)* and/or by management and/or staff having capacity for:

a. representing the corporation;
b. making decision in the corporation;
c. supervising and controlling the corporation;
d. taking acts for the interest of the corporation.

Article 53

Self-explanatory.

Article 54

Self-explanatory.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 4843

NOTE

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