

INDONESIA

GOVERNMENT REGULATION No. 35 OF 14 JUNE 1991

CONCERNING RIVERS

(State Gazette No. 44 of 1991)

(Summary of contents based on unofficial translation)

CHAPTER I - GENERAL PROVISIONS

Various definitions given (article 1). Among others, "Minister" is identified with the Minister responsible for water development - i.e., the Minister of Public Works.

CHAPTER II - SCOPE AND AUTHORITY

This Regulation provides for the protection, development, use and control of rivers, including natural lakes and reservoirs (article 2).

Control of rivers vests in the State, acting through the Minister (article 3).

A strip of land along the banks of rivers is to be set aside for general protection purposes by the Minister (article 4). Such protected strip is to measure at least 5 meters from the outer foot of the embankment or, if no embankment exists, its width is to be determined on the basis of technical and socio-economic considerations. Separate determinations are made with regard to the sections of rivers which flow in urban areas and along roads (article 5). The authority to manage such protected strip of land rests with the Minister (article 6).

CHAPTER III - FUNCTIONS OF RIVERS

Various provisions of limited practical consequence (article 7).

CHAPTER IV - AUTHORITY AND RESPONSIBILITY FOR RIVER DEVELOPMENT

Responsibility for the development of rivers rests with the Minister (article 8), but he may delegate it to Government agencies (PERUMs) set up for the management of water resources (article 9), or to Provincial Governments if no such PERUMs exist (article 10).

CHAPTER V - PLANNING

Planning is the responsibility of the Minister, and is based on river basin units. River basin planning covers (a) the inventory and recording of rivers and existing river structures; (b) the inventory of the potential and the nature of rivers; (c) monitoring and evaluation of floods, water balance, and water quality; (d) guidance for the implementation of approved plans, and (e) coordination with other plans. The implementation of approved plans is the responsibility of existing PERUMs and of the Provincial Governments, in accordance with their respective spheres of responsibility. (Article 11).

CHAPTER VI - CONSTRUCTION OF RIVER STRUCTURES

Construction of river "structures" for public welfare and safety purposes is a function of Government, and it is carried out directly by the Government or by PERUMs. Other entities and individuals may also construct the said structures, subject to a license from the Government. The Minister is mandated to lay down standard technical specifications which the construction of all the said structures must conform to (article 12).

CHAPTER VII - OPERATION & MAINTENANCE OF RIVERS AND STRUCTURES

Planning, construction activities, monitoring and evaluation of rivers and river structures for general public welfare purposes are functions of Government, and they are carried out directly by the Government or by PERUMs. The operation and maintenance of structures built by other entities and individuals is the respective responsibility of such entities and individuals (article 13).

CHAPTER VIII - EXPLOITATION OF RIVERS AND RIVER STRUCTURES

The exploitation of rivers and river structures is a function of Government, and it is carried out by PERUMs. Other entities and individuals may also exploit rivers and river structures, subject to a license from the Government (article 14).

CHAPTER IX - CONSTRUCTION, OPERATION AND SAFETY OF RESERVOIRS

Construction of reservoirs for public welfare purposes is a function of Government, and it is carried out directly by the Government or by PERUMs. However, other entities and individuals may undertake this activity subject to a water use license, and to approval by the Minister of relevant technical plans. The social impact of relevant projects is to be fully dealt with with the participation of other Government offices concerned (article 15). Generic provisions are made for the operation of reservoirs (article 16), and for their safety (article 17).

CHAPTER X - FLOOD MITIGATION

Provincial Governors are mandated to coordinate all flood mitigation activities (article 19), and are empowered to take emergency

measures (article 20).

CHAPTER XI - SAFETY OF RIVERS AND RIVER STRUCTURES

Generic provisions, the specifics of which are left to a Presidential Decree with regard to the safety of rivers (article 22), and to a Ministerial (Public Works) Decree with regard to the safety of river structures (article 23).

CHAPTER XII - OBLIGATIONS AND PROHIBITIONS

The public is under an obligation to participate in preserving all fixtures for the measurement of water in the rivers and for navigation (article 24). The flow of river water cannot be altered except under a Government license (article 25). The construction, alteration or demolition of river structures is subject to a license from the Government (article 26). The disposal of wastes into or near rivers, which is likely to result in pollution or degradation of the quality of river waters so as to impair further water use and to harm the environment, is prohibited (article 27). The taking of river water is subject to a license, except for personal consumption (article 28). The excavation and taking of inert materials from the bed and banks of rivers is to be restricted to selected locations, designated by the Provincial Governors (article 29).

CHAPTER XIII - FINANCIAL PROVISIONS

Those who construct, operate and maintain river structures bear the relevant costs. The beneficiaries of Government-funded projects, however, may be asked to contribute towards the relevant capital and recurrent expenditures (articles 30, 31).

CHAPTER XIV - SUPERVISION

General provisions on the responsibilities of the Central and Provincial Governments, to be further elaborated on by the Minister (article 32).

CHAPTER XV - PENALTIES

The penalties provided for in article 15 of Law No. 11 of 1974 on Water Resources are applicable in respect of (a) the unlicensed construction of river structures; (b) the unlicensed exploitation of rivers and river structures, ⁱⁿ as per article 14; and (c) the violation of the provisions of articles 25, 26, 27 and 28 (article 33). As a result, intentional violations are subject to imprisonment up to 2 years and/or a fine up to Rp. 5 million. Violations due to negligence are liable instead to detention up to 3 months and/or a fine up to Rp. 50,000.

CHAPTER XVI - TRANSITIONAL PROVISIONS

The provisions of existing legislation will remain in force insofar as they are not inconsistent with this Regulation (article 34).

CHAPTER XVII - FINAL PROVISIONS

This Regulation shall come into effect on 3 December 1991 (article 35).