

THE LAW OF THE REPUBLIC OF INDONESIA
NUMBER 11 OF THE YEAR 1974

ON

WATER RESOURCES DEVELOPMENT

BY THE GRACE OF ALMIGHTY GOD
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

considering that :

- a. water, water resources and the natural riches contained therein are a gift of Almighty God and that, given their overall beneficial character, ~~they are required~~ by man for economic, social and related cultural purposes ;
- b. soil, water resources and the natural riches contained therein shall be controlled by the State and utilized for the optimum welfare of the People in a just and equal manner ;
- c. the utilization of water and water resources shall be in the interest and welfare of the People as to promote at the same economic growth, social justice and the ability of the People to form a just and prosperous Community based on the Pancasila ;
- d. the 1936 "Algemeen Water Reglement" has not been implemented throughout Indonesia and that other legislation relating to water resources development is no longer in conformity with the present situation ;

- c. in order to achieve the purposes, a national water resources development law is needed which shall be in conformity with the economic, social as well as technological development of Indonesia and which shall serve as the basis for further regulations :

and considering further :

1. Article 5 paragraph (1), Article 20 paragraph (1), Article 27 and Article 33 paragraph (3) of the Constitution of 1945 ;
2. The Degree of the People's Consultative Assembly Number IV, MPR/1973 on Guidelines of State Policy ;
3. The Law Number 5 of the year 1960 on Basic Agrarian (Government Gazette of the Republic of Indonesia of the year 1960 Number 104, Supplement to the Government Gazette of the Republic of Indonesia Number 2042) ;
4. The Law Number 9 of the year 1960 on Basic Health (Government Gazette of the Republic of Indonesia of the year 1960 Number 131, Supplement to the Government Gazette of the Republic of Indonesia Number 2831) ;
5. The Law Number 11 of the year 1962 on General Hygiene (Government Gazette of the Republic of Indonesia of the year 1962 Number 48, Supplement to the Government Gazette of the Republic of Indonesia of the year 1967 Number 8, Supplement to Government Gazette of the Republic of Indonesia Number 2475) ;
6. The Law Number 5 of the year 1967 on Basic Forestry (Gover-

ment Gazette of the Republic of Indonesia of the year 1967 Number 8, Supplement to the Government Gazette of the Republic of Indonesia Number 2823) ;

7. The Law Number 6 of the year 1967 Basic Gazette Breeding and Animal Health (Government Gazette of the Republic of Indonesia of the year 1967 Number 22, Supplement to the Government Gazette of the Republic of Indonesia Number 2824) ;
8. The Law Number 11 of the year 1967 on Basic Mining (Government Gazette of the Republic of Indonesia of the year 1967 Number 22, Supplement to the Government Gazette of the Republic of Indonesia Number 2931) ;
9. The Law Number 5 of the year 1974 on Local Government Administration (Government Gazette of the Republic of Indonesia of the 1967 Number 22, Supplement to Government Gazette of the Republic of Indonesia Number 3037).

With the assent of Parliament,

HEREBY PROMULGATES
THE LAW ON WATER RESOURCES DEVELOPMENT

CHAPTER I
DEFINITIONS

Article 1

In this Law, the following terms shall have the following meaning :

1. State : the State of the Republic of Indonesia ;
2. Government : the Government of the Republic of Indonesia ;
3. Water : any water found in or originating from surface as well as underground water resources, excluding the waters of the high sea ;
4. Water resources : natural water bodies and man-made reservoirs, whether surface or underground ;
5. Water resource management : the control and administration of water and water resources, either in their natural state or as exploited by man and including the natural inorganic riches contained therein ;

6. Water Regulation : all legal provisions governing the right of use, the control, management, utilization, processing, and policing of water and water resources, including the natural inorganic, riches contained therein, for the optimization of benefits with a view to satisfying the vital needs of the People ;
7. Water management area : a water resources basin or area, including all structures and networks therein, the management whereof shall be in accordance with special regulations;
8. Hydrogeological area : a water resources basin or area, including surface and underground waters ;
9. Water resources development : the development of water and water resources for the utilization thereof through project plans, design and technical specifications made in accordance with the relevant general development plan and intended to optimize benefits and to satisfy the vital needs of the People ;
10. General planning : all activities and undertakings aiming at the formulation of basic guidelines for large scale development programmes to be implemented in accordance with defined general and particular objectives, and taking into

consideration the suggestions, project ideas, available knowledge and experience as well as prevailing conditions and circumstances ;

11. Project panning : all activities and undertakings intended to serve as guidelines, designs and specifications for the implementation of specific small scale projects of a technical nature

CHAPTER II NATURE AND PURPOSE

Article 2

Water and water resources, including the natural riches contained therein, as defined in Article 1, paragraphs 3, 4 and 5 of this Law have a social function and shall be utilized for the welfare and prosperity of the People.

CHAPTER III RIGHT OF CONTROL AND COMPETENCES OF THE STATE

Article 3

- (1) Water and water resources, including the natural riches contained therein, as defined in Article 1, paragraphs 3, 4 and 5 of this Law shall be controlled by the State.
- (2) State control as referred to in paragraph (1) of this Article shall empower the Government to :
- a. manage and develop the utilization of water and water resources ;

- b. authorized or licence water uses on the basis of the relevant general and project plans and in accordance with corresponding regulation ;
 - c. regulate, authorize or licence the utilization, purpose of use and supply of water and water resources ;
 - d. regulate, authorize or licence the exploitation of water and water resources ; and
 - e. determine and regulate legal acts and realtionships among individuals and/or corporations in respect of water and water resources uses.
- (3) The provisions of paragraph (2) of this Article shall be subject to the existing right of the local adat communities in so far as such rights are not contradictory to the national interest.

Article 4

The powers of the Government, as specified in Article 3 of this Law, may be delegated to its agencies at the central or regional level or to specific corporate bodies in accordance with conditions and procedures as specified by Government Regulation.

Article 5

- (1) The Minister in charge of water affairs shall be responsible and is hereby empowered to coordinate all matters relating to general and project planning and to the supervision, exploitation, maintenance, conservation and utilization of water and water resources, subject to the interests of the Departments and agencies concerned.

- (2) The administration of underground water resources and of hot-springs as mineral and geothermal resources shall not fall under the competence and responsibility of the Minister referred to in paragraph (1) of this Article.

Article 6

In the case of an emergency, or in the likelihood that an emergency would occur, the Government shall be entitled to take precautionary measures and to regulate protection or relief activities in the departing from the provisions of this Law.

Article 7

The function and powers referred to in Article 4, 5 and 6 of this Law shall be further specified by Government Regulation.

CHAPTER IV GENERAL AND PROJECT PLANNING

Article 8

- (1) Water regulations, water management areas and water resources development shall be based on general and project plans intended to serve the Community interest.
- (2) General and project plans governing water management areas and water resources development as referred to in paragraph (1) of this Article shall be subject to the interest of the People for all purposes and in accordance with established priorities.
- (3) General and project plans referred to in paragraph (2) of this

Article shall aim at water resources in conformity with the basic framework of National Development and shall be implemented in accordance with national, regional and local interest purposes.

Article 9

Water resources planning, development and utilization shall be based on the survey and inventory of water resources in terms of National Wealth.

CHAPTER V M A N A G E M E N T

Article 10

- 1) In accordance with its statutory functions and powers, the Government shall formulate specific water resources management policies, in particular with respect to :
- a. the determination of the conditions and procedures for general and project planning and for water and water resources utilization, exploitation, policing and licencing ;
 - b. The permanent regulation and implementation of water and water resources development as well as of waterworks management, including main structures and networks, with a view to the optimization of benefits ;
 - c. The prevention of pollution harmful to water uses and to the environment ;
 - d. The control of, and protection against harmful effects of water ;
 - e. The survey and inventory of water resources; and
 - f. The procedures for, and implementation of information and special training programmes in the field of water resources.

- (2) The implementation of the policies referred to in paragraph (1) of this Article shall be subject to Government Regulation.

CHAPTER VI UTILIZATION

Article 11

- (1) The central and local governments shall hold primary responsibility in ensuring that water and water resources are used beneficially.
- (2) Corporations, associations and individuals shall obtain a government licence in order to utilize water and water resources.
- (3) The provisions of the Article shall be further subject to Government Regulation.

CHAPTER VII OPERATION AND MAINTENANCE

Article 12

In order to ensure the adequate functioning and operation of water management and hydrogeological areas, waterworks and related structures shall be operated, maintained and repaired in accordance with the following provisions :

- a. In the case of waterworks or structures directly benefiting a particular community, corporation, association or individual, the beneficiary shall participate in these works; such a participation shall be further subject to Government Regulation ;

In the case of waterworks or structures intended to serve the public interest, these works shall be undertaken by the central or interested local governments.

CHAPTER VIII CONSERVATION

Article 13

- (1) Water, water resources, waterworks and structures shall be permanently conserved and protected in order to maintain their social function as specified in Article 2 of this Law. To this end, the following shall be undertaken :
 - a. Soil and water resources conservation ;
 - b. The control of harmful effects of water on water resources and on the environment ;
 - c. The control of water pollution harmful to water uses and to the environment; and
 - d. The conservation and protection of waterworks and structures in order to ensure their permanent operation.
- (2) The provisions of paragraph (1) of this Article shall be further subject to Government Regulation.

CHAPTER IX FINANCING

Article 14

- (1) The financing of all activities within the framework of water and water resources control and development shall be subject to Government Regulation.

- (2) Communities directly benefiting from existing waterworks and structures either for their subsequent or immediate use may be required to share related management costs.
- (3) Corporation, associations and individuals directly benefiting from existing waterworks and structures either subsequent or immediate use shall share related costs in the form of a contribution payable to the Government.
- (4) The provisions of paragraph (2) and (3) of this Article shall be subject to Government Regulation.

CHAPTER X PENAL PROVISIONS

Article 15

- (1) Imprisonment up to 2 years and/or a fine up to Rp 5.000.000,- (Five million rupiahs) shall be inflicted upon anyone who :
 - a. Intentionally makes use of water and water resources not in accordance with general or project plans or water resources development as defined in paragraph (1) of Article 8 of this Law ;
 - b. Intentionally makes use of water, water resources without a prior licence as specified in paragraph (2) of Article 11 of this Law ;
 - c. Having obtained from the Government a water or water resources use licence as specified in paragraph (2) of Article 11 of this Law, intentionally refrains from undertaking, or from participating in activities relating to the conservation of soil, water and water resources or to the protection of

waterworks and structures as specified in paragraph (1), items a, b, c and d of Article 13 of this Law.

- (2) Offences specified in paragraph (1) of this Article shall be considered as crimes.
- (3) Anyone who, by negligence, infringes the provision of Article 8, paragraph (1), Article 11, paragraph (2) and of Article 13, paragraph (1), items a, b, c and d, of this Law shall be liable to detention up to 3 month and/or to a fine up to Rp 50.000,- (Fifty thousand rupiahs).
- (4) Offences specified in paragraph (3) of this Article shall be considered as minor offences.

CHAPTER XI TRANSITORY PROVISIONS

Article 16

All provisions of the existing water legislation not contradictory to this Law shall continue in force as long as, and until new regulations are issued as provided for in this Law.

CHAPTER XII FINAL PROVISION

Article 17

This Law shall enter into force on the date of its promulgation.

In order that everyone shall know thereof, this Law shall be published in the Government Gazette of the Republic of Indonesia.

Promulgated in Jakarta
on the 26th of December 1974
THE PRESIDENT OF THE REPUBLIC OF INDONESIA
Signed by

S O E H A R T O

Published in Jakarta
on the 26th of December 1974
THE MINISTER/SECRETARY OF STATE
Signed by

S U D H A R M O N O, S. H.

GOVERNMENT GAZETTE ON THE REPUBLIC OF INDONESIA
OF THE YEAR 1974 NUMBER 65.

ELUCIDATION OF
THE LAW OF THE REPUBLIC OF INDONESIA
NUMBER 11 OF THE YEAR 1974
ON
WATER RESOURCES DEVELOPMENT

A. General Elucidation.

1. The Almighty God has given to Indonesia several natural riches, one of which is water and water resources, such as rivers, lakes, swamps, springs, groundwater, aquifers, all of which are needed by man both for direct as well as indirect use. Hence, land and water and the natural riches contained therein shall be controlled by the State and shall be utilized for the optimum welfare of the people in a just and equal manner.

Therefore the utilization of water and water resources shall be directed towards the interest and welfare of the people, at the same time to promote social justice and a prosperous community based on Pancasila.

The Republic of Indonesia being a Legal State, there shall be a concise and through law, to guarantee the protection of the interest of the people and the state and there shall be a unified law on water resources development in Indonesia.

2. The existing law governing water resources development are felt to be no longer fully relevant to the present situation nor to fulfil the aspirations of Pancasila and the Constitution of 1945.

The General Water Regulation of 1936, the existing basis for regulation on water management focused on the use of

water for purposes mainly in the field of irrigation, without making provision for water resources conservation and development, it had been declared valid only for part of Indonesia, particularly Java and Madura.

3. Water resources management means the control and administration of water and water resources including the natural inorganic riches contained therein, either in their natural state or exploited by man.
As far as this Law is concerned water resources management includes among others :
 - a. irrigation, the use of surface and ground water for agricultural purposes ;
 - b. Swamp area development, that is, reclamation of swamp areas which may be used for agriculture ;
 - c. Flood control and river improvement ;
 - d. Water supply for domestic municipal and industrial purposes and water pollution control.

4. The laws on water resources development should have the following characteristics :
 - a. Simple but able to accommodate the long term prospect. in accordance with conditions ;
 - b. Contain basic principles for following regulations ;
 - c. Cover all aspects of water resources management to function a real basis in every aspect for regulations issued separately.

5. To avoid misinterpretation of term used in this law, the first chapter of the law contains definitions of term used in water resources management.
6. In view of n its beneficial character as a natural wealth essential to the life of man, water and water resources shall be controlled by the state.
The state control over water and water resources shall be exercised by Government both centrally and locally.
The law also allows that the government's powers to control water and water resources may be delegated to corporate bodies, in accordance with conditions and procedure specified by the government, respecting the rights of traditional or social-religious communities in so far as such rights are not contradictory to this law or to the national interest.

B. Elucidation article by article.

Article 1.

The objective of the foundations in this article is that technical terms used in the law and in the regulations should be understood.

- No. 1. Clear enough.
- No. 2. Clear enough.
- No. 3. The water in this law does not include water of the high seas, unless the sea water has been utilized or shore for any purpose. Such utilization is subject to the provisions of this law.
- No. 4. The terms "water resources" includes among others rivers, lakes, reservoirs, swamps, springs and aquifers
- No. 5. Water management should be implemented through regulation of the use of water and water resource with protection and conservation.
The inorganic riches include for instance sand and

stone but exclude mineral and mining materials.

No. 6. Clear enough.

No. 7. The term "water management area" means an area which receives benefits from water management operations, and can cover several administrative areas.

No. 8. Clear enough.

No. 9. Clear enough.

No. 10. Clear enough.

No. 11. Clear enough.

No. 12. Clear enough.

No. 13. Clear enough.

To achieve the social function of water and water resources, they shall be utilized for the benefit of life, materially as well as spiritually.

Article 3.

paragraph (1) : Clear enough.

paragraph (2) : The right of control empowers the Government to take action, the principle of which are mentioned in a up to e. Those activities include the obligation to conserve water and water resources.

paragraph (3) : a local traditional community means community with laws and regulations based on custom and religion.

Article 4.

The delegation of powers to the specific corporate body is meant to encourage the community to participate in conservation, development and utilization of water and water resources.

Article 5.

paragraph (1) : the coordination of all matters relating to

conservation, development and utilization of water and water resources by the Minister in charge of water affairs means that the activities of the Minister and the head of other bodies concerned with the water and water resources should be synchronized.

paragrap (2) : Clear enough.

Article 6.

In the case of emergency, or in the event of a possible emergency the government may deviate from the provision of this law or override the existing right on water and water resources belonging to other parties.

Article 7.

This article lays down the basis on which the Government may implementing its powers realting to Article 4, 5 and 6 to be specified by Government Regulation.

Article 8.

paragraph (1) : Clear enough.

paragraph (2) : The interest of the People in all aspects according to established priorities included :

- A. a. Drinking water ;
b. Domestic use ;
c. National Defence and Security ;
d. Religius purposes ;
e. Municipal uses, for instance fire prevention, flushing, watering plantations;

- B. a. Agriculture ;
b. Animal lusbandry ;
c. Plantation ;

d. Fishery ;

C. a. Energy ;
paragraph (3) : Clear enough.

Article 9.

Survey and inventory is necessary to determine the direction and basis of general and project planning for development and utilization of water and water resources. Those activities could not be undertaken under conditions such mentioned in article 6 of this law.

Article 10.

paragraph (1) : Specific water resources management in accordance with functions and powers includes among others management of rivers, irrigation, water for industry, water for municipal purposes, drinking watersupply and other domestic uses of water.

The extension service as specified in f. of this paragraph gives information about all matters, which have relation to water resources development and management, to encourage the community concerned to participate in all activities relating to conservation of waterworks and related structures, while special training programmes in the field of water resources is recommended for officials of water resources agencies.

paragraph (2) : Clear enough.

Article 11.

Utilization of water and water resources means the use of water

and water resources to improve the quality with the intention of profit making by corporations, associations, and individuals as far as possible on the basis of cooperatives.

Article 12.

Activities related to operation, maintenance and repair are necessary, not only to ensure the adequate functioning and operation waterworks and related structures, but also to increase the sense of participation as well as the sense of responsibility among the community especially the beneficiaries of water and water resources. The community includes among others farmers and agrarian entrepreneurs.

Article 13.

paragraph (1) : Soil and water conservations activities include among others reforestation and erosion control.

paragraph (2) : Clear enough.

Article 14.

paragraph (1) : Clear enough.

paragraph (2) : This provision is provided particularly for non profit making corporate bodies, associations or individuals. The direct beneficiaries of water and water resources may be required to contribute to the cost of operation and maintenance as mentioned in Article 12a of this law with the condition such participation is not felt to great burden for the people.

paragraph (3) : This provision is provided as the legal basis for the prosecution of crimes of which are not regulated by the Penal Code, particularly Article 187, 188, 190, 191, 202, 203 but

directly related to this law. Since international offences against this law could endanger public security, people and property, the offences are considered as crimes.

paragraph (3) :
and (4) : Offences against provisions specified by this paragraph which are the result of neglect considered as minor offences.

Article 16.

This provision is made to avoid any vacuum being created by this law on mater resources development.

Article 17. : Clear enough.

SUPPLEMENT OF GOVERNMENT GAZETTE OF
THE REPUBLIC OF INDONESIA
NUMBER 3046.