

PROCEDURES FOR THE SETTLEMENT OF CONTROL OVER LAND LOCATED INSIDE FOREST AREA

(Joint Regulation of the Minister of Home Affairs Number 79 Year 2014, Minister of Forestry Number PB.3/Menhut-11/2014, Minister of Public Works Number 17/PRT/M/2014, and Head of the National Land Affairs Agency Number 8/SKB/X/2014 dated October 17, 2014)

BY GRACE OF GOD THE ALMIGHTY

THE MINISTER OF HOME AFFAIRS OF THE REPUBLIC OF INDONESIA, MINISTER OF FORESTRY OF THE REPUBLIC OF INDONESIA, MINISTER OF PUBLIC WORKS OF THE REPUBLIC OF INDONESIA AND HEAD OF THE NATIONAL LAND AFFAIRS AGENCY OF THE REPUBLIC OF INDONESIA

Considering:

- a. that pursuant to Decision of the Constitution Court Number Number 34/PUU-IX/2011, forest control by the state has to pay attention to and respect rights to communal land;
- b. that pursuant to Decision of the Constitution Court Number 45/PUU-IX/2011, validation of forest area has to be completed soon in order to produce legally certain and just forest area;
- c. that pursuant to Decision of the Constitution Court Number 35/PUU-X/2012, traditional forest is not state forest;
- d. that 12 ministries/state institutions have signed

Joint Agreement (NKB) on the Acceleration of Indonesia Forest Area Validation on March 11, 2013;

- e. that in the framework of settling community rights in forest area as long as they still control land in forest area as well as in accordance with the principles of the Unitary State of the Republic of Indonesia, it is necessary to recognize and protect community rights;
- f. that the joint agreement as meant letter e has not contained provision ruling procedures for the settlement of control/right to land located inside forest area because it is related to authority of state ministries/institutions;
- g. that having regards to letter a up to letter f, it is necessary to stipulate a joint regulation of the Minister of Home Affairs of the Republic of Indonesia, Minister of Forestry of the Republic of Indonesia, Minister of Public Works of the Republic of Indonesia and Head of the National Land Affairs Agency of the Republic of Indonesia on

Procedures for the Settlement of Control over Land Located Inside Forest Area;

In view of:

1. Law Number 5 Year 1960 on Basic Regulation of Agrarian Principles (Statute Book of the Republic of Indonesia Year 1960 Number 104, Supplement to Statute Book of the Republic of Indonesia Number 2043);
2. Law Number 41 Year 1999 on Forestry (Statute Book of the Republic of Indonesia Year 1999 Number 167, Supplement to Statute Book of the Republic of Indonesia Number 3888) as already amended by Law Number 19 Year 2004 regarding Stipulation of Government Regulation in lieu of Law Number 1 Year 2004 on the Amendment to Law Number 41 Year 1999 concerning Forestry to become a law (Statute Book of the Republic of Indonesia Year 2004 Number 86, Supplement to Statute Book of the Republic of Indonesia Number 4412);
3. Law Number 32 Year 2004 on Regional Administration (Statute Book of the Republic of Indonesia Year 2004 Number 125, Supplement to Statute Book of the Republic of Indonesia Number 4437) as already amended the latest by Law Number 12 Year 2008 on the Second Amendment to Law Number 32 Year 2004 regarding Regional Administration (Statute Book of the Republic of Indonesia Year 2008 Number 59, Supplement to Statute Book of the Republic of Indonesia Number 4844);
4. Law Number 26 Year 2007 on Spatial Management (Statute Book of the Republic of Indonesia Year 2007 Number 68, Supplement to Statute Book of the Republic of Indonesia Number 4725);
5. Law Number 1 Year 2014 on the Amendment to Law Number 27 Year 2007 regarding Management of Coastal Areas and Isles (Statute Book of the Republic of Indonesia Year 2014 Number 2, Supplement to Statute Book of the Republic of Indonesia Number 5490);
6. Law Number 6 Year 2014 on Village (Statute Book of the Republic of Indonesia Year 2014 Number 7, Supplement to Statute Book of the Republic of Indonesia Number 5495);
7. Government Regulation Number 6 Year 1988 on Coordination of Activities of Vertical Institutions in Region (Statute Book of the Republic of Indonesia Year 1988 Number 10);
8. Government Regulation Number 40 Year 1996 on Right to Use land for Business Purpose, Right to Use land for erecting building and right to use land (Statute Book of the Republic of Indonesia Year 1996 Number 58, Supplement to Statute Book of the Republic of Indonesia Number 3643);
9. Government Regulation Number 24 Year 1997 on Land Registratio (Statute Book of the Republic of Indonesia Year 1997 Number 59, Supplement to Statute Book of the Republic of Indonesia Number 3696);
10. Government Regulation Number 16 Year 2004 on Land Management (Statute Book of the Republic of

- Indonesia Year 2004 Number 45, Supplement to Statute Book of the Republic of Indonesia Number 4385);
11. Government Regulation Number 44 Year 2004 on Forestry Planning (Statute Book of the Republic of Indonesia Year 2004 Number 146, Supplement to Statute Book of the Republic of Indonesia Number 4452);
 12. Government Regulation Number 45 Year 2004 on Forest Protection (Statute Book of the Republic of Indonesia Year 2004 Number 147, Supplement to Statute Book of the Republic of Indonesia Number 4453) as already amended by Government Regulation Number 60 Year 2009 on Forest Protection (Statute Book of the Republic of Indonesia Year 2004 Number 137, Supplement to Statute Book of the Republic of Indonesia Number 5056);
 13. Government Regulation Number 26 Year 2008 National Territory Spatial Management Plan (RTRWN) (Statute Book of the Republic of Indonesia Year 2008 Number 48, Supplement to Statute Book of the Republic of Indonesia Number 4833);
 14. Government Regulation Number 10 Year 2010 on Procedure for the Change in Allocation and Function of Forest Area (Statute Book of the Republic of Indonesia Year 2010 Number 15, Supplement to Statute Book of the Republic of Indonesia Number 5097) as already amended by Government Regulation Number 60 Year 2012 regarding Procedure for the Change in Allocation and Function of Forest Area (Statute Book of the Republic of Indonesia Year 2012 Number 139, Supplement to Statute Book of the Republic of Indonesia Number 5324);
 15. Government Regulation Number 11 Year 2010 on Disciplining and Empowerment of Abandoned Land (Statute Book of the Republic of Indonesia Year 2010 Number 16, Supplement to Statute Book of the Republic of Indonesia Number 5098);
 16. Government Regulation Number 15 Year 2010 on the Implementation of Spatial Management (Statute Book of the Republic of Indonesia Year 2010 Number 21, Supplement to Statute Book of the Republic of Indonesia Number 5103);
 17. Presidential Decree Number 86/P Year 2014 on the Appointment of Chairul Tanjung as executor of task, authority and responsibility of Minister of Forestry of the Second United Indonesia Cabinet in the rest of tenure 2009-2014;
 18. Regulation of State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 3 Year 1997 on Implementing Provision of Government Regulation Number 24 Year 1997 regarding Land Registration;
 19. Regulation of State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 5 Year 1999 on Guidance for the Settlement of Communal Rights of Traditional Communities;

20. Regulation of State Minister for Agrarian Affairs/Head of the National Land Affairs Agency Number 9 Year 1999 on Procedure for Granting and Nullifying Right to State Land and Management Right;
21. Regulation of the Minister of Forestry Number P.44/Menhut-11/2012 on Validation of Forest Area (State Gazette of the Republic of Indonesia Year 2012 Number 1242) as already amended by Regulation of the Minister of Forestry Number P.62/Menhut-II/2013 on Validation of State Forest (State Gazette of the Republic of Indonesia Year 2013 Number 1364);
22. Regulation of the Minister of Home Affairs Number 52 Year 2014 on Guidance for the Recognition and Protection of Traditional Communities (State Gazette of the Republic of Indonesia Year 2014 Number 951);

D E C I D E S :

To stipulate:

JOINT REGULATION OF THE MINISTER OF HOME AFFAIRS, MINISTER OF FORESTRY, MINISTER OF PUBLIC WORKS AND HEAD OF THE NATIONAL LAND AFFAIRS AGENCY ON PROCEDURES FOR THE SETTLEMENT OF CONTROL OVER LAND LOCATED INSIDE FOREST AREA.

CHAPTER I

GENERAL PROVISION

Article 1

Referred to in this regulation as:

1. Forest shall be a totality of ecosystem in the form of land square containing biological natural resources dominated by trees and ally of its natural environment, which cannot be separated one each other.
2. Forest Area shall be a specified area stipulated by the government to have its existence preserved as permanent forest.
3. Permanent Forest shall be a forest area having existence preserved as forest area, consisting of conservation forest, protected forest, limited production forest and fixed production forest.
4. Spatial Management shall be a system of spatial planning, spatial utilization and control over sparial utilization.
5. Spatial management planning shall be a process determining spatial structure and pattern, covering the formulation and stipulation of spatial management plan.
6. Land Control, Ownership, Use and Utilization Inventorying hereinafter abbreviated to IP4T shall be an

activity collecting data about land control, ownership, use and utilization, which is processed by geographic information system so as to result in map and information about land control by applicant.

7. Applicant shall be individual person, government, social/religious agency, traditional community having evidence of right to land or evidence of control over land.
8. Team IP4T shall be a team executing the collection of data about P4T.
9. Judicial Data shall be information about legal status of land plot and unit of flat contained in the list of right holders and rights of other parties as well as other burdening charges.
10. Physical Data shall be information about position of border and acreage of land plot and unit of flat which is registered, including information about the existence of building or part of building thereon.
11. Granting of Right to Land shall be stipulation of the government granting a right to state land.
12. Recognition of Traditional Community Right shall be recognition of the government to the existence of rights of traditional communities as long as they remain existing in the fact.
13. Communal Right and the like of traditional community hereinafter called communal right shall be authority, which according to traditional law is owned by certain traditional community to specified area that constitute environment of their residents to take benefit from natural resources, including land inside the area for the continuation of their life and livelihood, arising from traditional and uninterrupted generative and spiritual relations between the traditional community and the said area.
14. Sporadic Land Plot Measurement shall be a process ascertaining the position of border of one or several land plot on the basis of application of right holder or prospective new right holder that has location sharing border or sporadic inside a village/sub-district in the framework of the implementation of sporadic land registration.
15. Land Title shall be the right as meant in Article 16 of Law Number 5 Year 1960 on Basic Regulation of Agrarian Principles and Strata Title to Unit of Flat as meant in Law Number 20 Year 2011 on Flat.
16. Affirmation of Right shall be the granting of land title having written evidence complete as meant in Article 60 paragraph (2) of Regulation of the State Minister for Agrarian Affairs/Head of BPN Number 3 Year 1997 and having evidence incomplete but having information from witness or statement from the said person as meant in Article 60 paragraph (3) of Regulation of the State Minister for Agraria Affairs /Head of BPN Number 3 Year 1997.
17. Recognition of Right shall be the granting of land title having ownership evidence not existing but already proven by the reality of physical control for 20 (twenty) years as meant in Article 61 of Regulation of the State Minister for Agrarian Affairs/Head of BPN Number 3 Year 1997.

18. Regional Apparatus Working Unit hereinafter abbreviated to SKPD shall be regional apparatus responsible for the implementation of public administration affairs in region.

CHAPTER II

PROCEDURES FOR THE SETTLEMENT OF COMMUNAL RIGHT AND CONTROL OVER LAND LOCATED INSIDE FOREST AREA

Article 2

- (1) In the framework of the settlement of communal right and control over land located inside forest area in regency/city, Regent/Mayor shall establish Team IP4T.
- (2) The Team IP4T as meant in paragraph (1) shall consist of:
- a. Head of Regency/City Land Affairs Office as chairman concurrently member;
 - b. representative of regency/city service in charge of forestry affairs as secretary concurrently member;
 - c. representative of the Forest Area Enhancement Center as member;
 - d. representative of regency/city service in charge of spatial management affairs as member;
 - e. local head of district or the appointed official as member;
 - f. head of local sub-district/village or other pronounciation treated such that as member.

Article 3

- (1) In the framework of the settlement of communal land and control over land located inside inter-regency/ city forest area, governor shall establish Team IP4T.
- (2) The Team IP4T as meant in paragraph (1) shall consist of:
- a. Head of Regional Office of the National Land Affairs Agency as chairman concurrently member;
 - b. representative of provincial service in charge of forestry affairs as secretary concurrently member;
 - c. representative of the Forest Area Enhancement Center as member;
 - d. representative of provincial service in charge of spatial management affairs as member;
 - e. heads of related regency/city land affairs offices as members;
 - f. local head of district or the appointed official as member;
 - g. head of local sub-district/village or other pronounciation treated such that as member.

Article 4

The Team IP4T as meant in Articles 2 and 3 shall be assigned to:

- a. receive the registration of application for IP4T;
- b. verify application;
- c. conduct site data collection;
- d. analyze judicial and physical data about land plots located inside forest area;
- e. issue result of analysis in the form of recommendation by enclosing Non Kadastral IP4T Map and Statement of Physical Control over Land Plot [SP2FBT], which is signed by by each applicant as well as other evidence of land control;
- f. submit result of the analysis as meant in letter to Head of Regional Office of the National Land Affairs Agency/Head of Regency/City Land Affairs Office.

Article 5

The implementation of activities of Team IP4T as meant in Article 4 shall cover:

- a. unit of administrative territory of regency/city;
- b. several regencies/cities in a province;
- c. several provinces.

CHAPTER III

INVENTORYING OF LAND CONTROL, OWNERSHIP, USE AND UTILIZATION INSIDE FOREST AREA

Article 6

- (1) The requested land shall be shown directly by the said persn and approved by parties sharing border directly.
- (2) In determining the position, location, and acreage, Team IP4T shall use Global Navigation Satellite System of the navigation type.

Article 7

Results of the site data collection by Team IP4T as meant in Article 4 letter c shall be processed later by using software of geographic information system, which produces:

- a. map with criteria:
 - 1) in the case of urban areas, maximum scale 1:1.000;
 - 2) in the case of rural area, maximum scale 1: 10.000,

By using landscape map issued by the Geospatial Information Agency as basic map.

- 3) inside the map of land use, administrative border of village/sub-district, district and regency is mentioned.
- b. Statement of Physical Control over Land Plot (SPPFBT), which is made by the said person and believable information from at least 2 (two) witnesses from local community environment not having having familial relations with the said person up to the second degree of lineage vertically and horizontally, which states that the said person is true owner of the land plot and acknowledged by head of village/sub-district or other pronunciaton treated such as that.
 - c. Model, content and substance of SPPFBT as meant in letter b shall consist of:
 - 1) identity of applicant;
 - 2) position, border and acreage of land plot;
 - 3) kind of land use and utilization
 - 4) acquisition year.

Article 8

- (1) Based on result of the processing of judicial data and physical data about the land plots as meant in Article 4 letter d, Team IP4T shall decide that application from applicants already controlling and using the land plots for 20 (twenty) years or over may be continued through the affirmation of right.
- (2) In the case of the land plots being controlled less that 20 (twenty) years, land title may be granted in the framework of agrarian reforms in accordance with the provision of legislation.
- (3) In the case of the controlled land plot excluding from the criteria as meant in paragraphs (1) and (2), the land plots may be managed through community empowerment pattern inside/around forest area.

Article 9

The recognition of right of traditional community shall be done in accordance with the provision of legislation.

Article 10

The implementation of IP4T in an area shall be done in accordance with the standard operating procedure in no later than 6 (six) months and the result shall be submitted to Head of Regional Office of the National Land Affairs Agency/Head of Regency/City Land Affairs Office

CHAPTER IV

CHANGE IN FOREST AREA

Article 11

Heads of Regional Offices of the National Land Affairs Agency/Heads of Regency/City Land Affairs Office shall submit the result of analysis as meant in Article 4 letter e to the Ministry of Finance in this case the Director General of Forestry Planology with a copy made available to the Ministry of Home Affairs of the Republic of Indonesia, Ministry of Public Works of the Republic of Indonesia, Governors and Regents/Mayors.

Article 12

The Director General of Forestry Planology shall assess the result of analysis as meant in Article 11 and order the stipulation of borders of forest area in the field in no later than 14 (fourteen) working days as from the receipt of the document of analysis result.

Article 13

- (1) Based on result of the stipulation of borders of forest area as meant in Article 12, the Director General of Forestry Planology on behalf of the Minister of Forestry of the Republic of Indonesia shall issue decision on the change in borders of forest area along with map attachment as the basis for the issuance of certificate of land title.
- (2) The decision as meant in paragraph (1) shall be granted to Head of Regency/City Land Affairs Office with a copy made available to the Minister of Home Affairs of the Republic of Indonesia, Minister of Public Works of the Republic of Indonesia, Head of the National Land Affairs Agency of the Republic of Indonesia, Governors, Regents/Mayorss and Heads of Regional Offices of the National Land Affairs Agency.
- (3) The Minister of Forestry of the Republic of Indonesia shall issue a decision on the change in forest area in no later than 2 (two) months as from the issuance of the decision on the change in borders of forest area as meant in paragraph (1).

CHAPTER V

INTEGRATION OF THE CHANGE IN FOREST AREA INTO SPATIAL MANAGEMENT PLAN

Article 14

Any change in the allocation and function of forest area as well as the use of forest area stipulated by

the Minister of Forestry of the Republic of Indonesia as meant in Article 13 may be executed before the revision of territory spatial management plan is stipulated.

Article 15

- (1) The revision of spatial management plan of provincial and regency/municipal territory shall be done following the review resulting in a recommendation about the need for revision.
- (2) The revision as meant in paragraph (1) shall be done once in 5 (five) years, starting from the stipulation of spatial management plan of provincial and regency/municipal territory.
- (3) During the process of spatial management integration, evidence of right may be granted.

Article 16

- (1) The integration of decision on the change in forest area into spatial management plan of provincial and regency/municipal territory shall be done in no later than 2 (two) months as from the issuance of decision of the Minister of Forestry of the Republic of Indonesia on the change in forest area as meant in Article 13 paragraph (3).
- (2) The integration of decision on the change in forest area as meant in paragraph (1) shall be done by issuing decision of head of region

Article 17

Procedures for the revision of spatial management plan of provincial and regency/municipal territory as meant in Article 15 shall be done in accordance with the provision of legislation.

CHAPTER VI

UTILIZATION OF LAND AND BORDER OF ACREAGE

Article 18

The allocation, use and utilization of land shall be in accordance with spatial management plan of regency/municipal territory.

Article 19

The acreage of land plot that applicant may apply for certification shall be in accordance with the provision of land affairs legislation.

CHAPTER VII

FINANCING

Article 20

Cost needed for the implementation of task of Team IP4T as meant in Article 4 and the stipulation of borders of forest area as meant in Article 12 and Article 13 shall be charged:

- a. State Budget of Revenue and Expenditure (APBN);
- b. Regional Budget of Revenue and Expenditure (APBD); and/or
- c. other sources in accordance with the provision of legislation.

CHAPTER VIII

MISCELLANEOUS

Article 21

Matters not yet regulated in this joint regulation shall be regulated further in technical directive.

CHAPTER IX

TRANSITIONAL

Article 22

Following the enforcement of this regulation:

- a. Applications for land title inside forest area already securing clarification from regency/city land affairs offices which contain statement of the legitimacy thereof and accompanied by map containing position, border and acreage shall be processed on the basis of this regulation.
- b. Applications for land title inside forest area already securing clarification from regency/city land affairs office which contains statement of the legitimacy thereof but not yet accompanied by map containing position, border and acreage shall be processed on the basis of this regulation.
- c. land title already having evidence of right issued sporadically to individual persons, social/religious agencies and government institutions in accordance with the provision in land affairs located inside forest area before the enforcement of this regulation shall be declared to remain effective.

CHAPTER X
CONCLUSION

Article 23

The joint regulation shall come into force as from the date of promulgation.

For public cognizance, the regulation shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Promulgated in Jakarta

On October 17, 2014

THE MINISTER OF HOME AFFAIRS OF
THE REPUBLIC OF INDONESIA

sgd.

H. GAMAWAN FAUZI, SH.,MM.

Acting MINISTER OF FORESTRY OF
THE REPUBLIC OF INDONESIA,

sgd.

CHAIRUL TANJUNG

THE MINISTER OF PUBLIC WORKS OF
THE REPUBLIC OF INDONESIA

sgd.

Ir.DJOKO KIRMANTO, Dipl.HE

THE HEAD OF THE NATIONAL LAND AFFAIRS AGENCY OF
THE REPUBLIC OF INDONESIA,

sgd.

HENDARMAN SUPANDJI

STATE GAZETTE OF THE REPUBLIC OF INDONESIA

YEAR 2014 NUMBER 1719

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