INDONESIA

GOVERNMENT REGULATION No. 27 OF 2 MAY 1991 CONCERNING SWAMPS

(State Gazette No. 35 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.

This Regulation provides for the conservation of swamps, which includes the protection, conservation and beneficial use of swamps (article 2).

CHAPTER II - BASIC PRINCIPLES AND OBJECTIVES

Very general principles of swamp conservation given (article 3). The objectives of swamp conservation are (a) to maintain the balance of the ecosystem, (b) to protect and conserve swamps, (c) to make beneficial use of water resources in the swamp, and (d) to develop the natural resources potential of swamps (article 4).

CHAPTER III - AUTHORITY

Control of swamps vests with the State, acting through the Minister (article 5).

CHAPTER IV - FUNCTION OF SWAMPS

Generic provisions of limited consequence (art. 6).

CHAPTER V - AUTHORITY AND RESPONSIBILITY FOR DEVELOPMENT

Responsibility for the development of swamps vests in the Minister, who may delegate it to the Provincial Government (article 7).

CHAPTER VI - INVENTORY OF SWAMPS

The Minister is mandated to carry out an inventory of swamps (article 8).

CHAPTER VII - CONSERVATION OF SWAMPS

Swamps conservation is aimed at maintaining and protecting the ecosystem, and at enhancing the functions and beneficial uses of swamps (article 9).

Conservation of swamps includes the protection, preservation, enhancement of the function and beneficial use of swamps through planning, implementation, exploitation, maintenance and monitoring (article 10).

Generic provisions on the scope of swamp protection (article 11) and of swamp conservation (article 12).

Swamp protection and conservation goals are achieved through long-term, medium-term, short-term and technical plans. These plans are formed by the Minister, acting jointly with other concerned Ministers. Technical plans are formed by each Minister concerned, according to the respective spheres of responsibility (article 13).

The protection and conservation of swamps are the duty and

responsibility of the Minister (article 14).

With a view to protecting swamp conservation areas, it is forbidden (a) to damage the ecosystem of such areas, and (b) to dispose of materials and solid or liquid waste in the said areas. Holders of titles to land inside swamp conservation areas are under an obligation not to interfere with the protection function of such areas (article 15). The Minister has the responsibility to police and enforce these restrictions (article 16).

Water found in swamp conservation areas can be used for one's own daily needs without a license. A license is required if use is made for a commercial purpose, subject to further regulation by the Minister (article 17). The use of trees, animals and other natural resources in swamp conservation areas is subject to a license from the concerned Minister (article 18).

The reclamation of swamps is permissible, under the authority of the Minister or of the Provincial Government. Reclamation can be undertaken also by corporate and social entities and individuals, under license from the Minister. The Minister is to further regulate this subject (article 19).

The Minister is to prepare long-term, medium-term and short-term swamp reclamation plans, based on river basin development plans (article 20). The preparation of technical plans is also the responsibility of the Minister. Corporate and social entities and individuals can prepare such plans, subject to a license from the Minister (article 21).

The construction of swamp reclamation networks - including rehabilitation and upgrading of existing networks - is the duty and responsibility of the Minister, and is based on the plans mentioned at articles 20 and 21 (article 22). The construction of tertiary canals, including accessory structures, can be delegated to water users' groups, and these may receive financial assistance from the Government,

as determined in regulations to be made by the Minister (article 23). Corporate and social entities and individuals may undertake the construction of swamp reclamation networks subject to a license from the Minister (article 24).

Operation and maintenance of primary and secondary canals - including accessory structures - are the responsibility of the Government (article 25). Operation and maintenance of tertiary canals, including accessory structures, are the responsibility of the water users' groups concerned (article 26). Corporate and social entities and individuals are responsible for operating and maintaining the swamp reclamation structures built by them (article 27).

The Minister is empowered to levy a charge on the use of water and on the use of swamp reclamation facilities for the Operation and Maintenance of swamp reclamation networks, payable by water users. Such charges are subject to the approval of other concerned Ministers, including, in particular, the Finance Minister and the Interior Minister. The amount of the charge and relevant collection procedures are determined by the Provincial Government, taking into account the social and economic condition of the community of water users. Any such charging system is to be implemented in a phased and selective manner. The proceeds from the collection of charges will accrue to the Provincial Government as its own revenue, and it will be applied against the financing of Operation and Maintenance costs of swamp reclamation networks, provided these fall within the Provincial Government's sphere of responsibility (article 28 and relevant Elucidation).

Water can be taken from swamp reclamation networks for one's own daily needs without a license. The taking of such water for all other purposes is subject to a license. This matter is to be further regulated by Provincial Government regulations, which must take into account the requirements and procedures for water use licensing laid down by the Minister (article 29). The use of swamp reclamation networks for transportation purposes is subject to regulation by the

Minister responsible for communications (article 30). There shall be a protected strip of land along the reclamation networks, the use and width of which will be determined by the Minister (article 31).

It is forbidden to dispose of materials and solid or liquid wastes into or near swamp reclamation networks, which are likely to result in pollution or impairment of the networks (article 32).

CHAPTER VIII - CO-ADMINISTRATION

The swamp development functions which have not been transferred to the Provincial level of government can be delegated to it in the form of co-administration (article 33).

CHAPTER IX - SUPERVISION

Supervision and enforcement of the swamp conservation legislation are the responsibility of the Minister, or of the Provincial level of government in the form of co-administration. Relevant officials have authority to carry out inspections. Reports of inspections made must be submitted to the Minister. In case of criminal findings, the investigation must be handed over to the police (article 34).

CHAPTER X - PENALTIES

The unlicensed taking of water, trees, animals and other natural resources from swamp conservation areas - articles 17 and 18 refer; the unlicensed reclaiming of swamps and construction of relevant networks by corporate and social entities, and by individuals - articles 19 and 24 refer; the unlicensed taking of water from swamp reclamation networks - article 29 refers; and damaging the environment in swamp conservation areas - articles 15 and 32 refer; are subject to the penalties provided for in article 15 of Basic Law No. 11 of 1974 on

Water Resources (article 35). Such penalties consist of (a) imprisonment for up to two years and/or a fine up to Rp. 5 million, if the violation is intentional; and (b) detention up to three months and/or a fine up to Rp. 50,000, if the violation is due to negligence.

CHAPTER XI - TRANSITIONAL PROVISIONS

The provisions of existing legislation on swamps will remain in force insofar as they are not inconsistent with this Regulation (article 36).

CHAPTER XII - FINAL PROVISIONS

This Regulation will come into effect on 3 December 1991 (article 37).