

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 31, YEAR 1999
REGARDING ERADICATION OF CRIMINAL ACTS OF CORRUPTION
WITH THE GRACE OF GOD THE ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering:

- a. Corruption is detrimental to the finances of the state or the economy of the state and inhibits national development, hence it must be eradicated in the context of creating an equitable and prosperous society based on Pancasila and the 1945 Constitution;
- b. The consequences of recent corruption, in addition to being detrimental to the finances of the state or the economy of the state, also inhibit growth and the sustainability of national development which demand the highest of efficiency;
- c. Law No. 3/1971 regarding the Eradication of Criminal Acts of Corruption is no longer applicable in light of developments in the legal needs of society. Therefore it must be replaced with a new law regarding the Eradication of Criminal Acts of Corruption and is hence expected to be more effective in preventing and eradicating corruption;
- d. Based on the considerations as referred to in letters a, b, and c, a new law regarding the Eradication of Criminal Acts of Corruption shall be required.

In view of:

1. Article 5 paragraph (1) and Article 20 paragraph (1) of the 1945 Constitution;
2. The Stipulation of the People's Consultative Assembly No. XI/MPR/1998 regarding a Clean and Corruption-free, Collusion-free and Nepotism-free State Administrator;

With the approval of

THE PEOPLE'S CONSULTATIVE ASSEMBLY OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To stipulate: LAW REGARDING THE ERADICATION OF CRIMINAL ACTS OF
CORRUPTION.

CHAPTER I
GENERAL PROVISIONS

Article 1

Referred to in this law as:

1. A corporation shall be an organized group of persons and/or assets both as legal entities as well as non-legal entities.
2. Civil Servants shall comprise:
 - a. Civil servants as referred to in the Law Regarding Employment;
 - b. Civil servants as referred to in the Criminal Code;
 - c. Persons receiving salaries or wages from the state or regional treasury;
 - d. Persons receiving salaries or wages from a corporation receiving assistance from state or regional treasury;
 - e. Persons receiving salaries or wages from other corporations using capital or facilities of the state or the public.
3. Every person shall be considered an individual or a member of a corporation.

CHAPTER II
CRIMINAL ACTS OF CORRUPTION

Article 2

(1) Anyone unlawfully enriching himself and/or other persons or a corporation in such a way as to be detrimental to the finances of the state or the economy of the state shall be liable to life in prison, or a prison term of not less than 4 (four) years and not exceeding 20 (twenty) years and a fine of not less than Rp 200,000,000 (two hundred million rupiah) and not exceeding Rp 1,000,000,000 (one billion rupiah).

(2) In the event that corruption as referred to in paragraph (1) is committed under certain circumstances, capital punishment may be applied.

Article 3

Anyone with the intention of enriching himself or other persons or a corporation, abusing the authority, the facilities or other means at their disposal due to rank or position in such a way that is detrimental to the finances of the state or the economy of the state, shall be liable to life imprisonment or a prison term of not less than 1 (one) year and not exceeding 20 (twenty) years and/or a fine of not less than Rp 50,000,000 (fifty million rupiah) and not exceeding Rp 1,000,000,000 (one billion rupiah).

Article 4

Compensation for losses inflicted upon the finances of the state or the economy of the state shall not annul the punishment of the perpetrator of a criminal act of corruption as referred to in Article 2 and Article 3.

Article 5

Any person committing a crime as referred to in Article 209 of the Criminal Code shall be liable to a prison term of not less than 1 (one) year and not exceeding 5 (five) years and/or a fine of not less than Rp 50,000,000 (fifty million rupiah) and not exceeding Rp 250,000,000 (two hundred and fifty million rupiah).

Article 6

Any person committing the criminal acts as referred to in Article 210 of the Criminal Code shall be liable to a prison sentence of not less than 3 (three) years and not exceeding 15 (fifteen) years and a fine of not less than Rp 150,000,000 (one hundred and fifty million rupiah) and not exceeding Rp 750,000,000 (seven hundred and fifty million rupiah).

Article 7

Any person committing the criminal acts referred to in Article 387 or Article 388 of the Criminal Code shall be liable to a prison term of not less than 2 (two) years and not exceeding 7 (seven) years and/or a fine of not less than Rp 100,000,000 (one hundred million rupiah) and not exceeding Rp 350,000,000 (three hundred and fifty million rupiah).

Article 8

Any person committing the criminal acts referred to in Article 415 of the Criminal Code shall be liable to a prison term of not less than 3 (three) years and not exceeding 15 (fifteen) years and a fine of not less than Rp 150,000,000 (one hundred and fifty million rupiah) and not exceeding Rp 750,000,000 (seven hundred and fifty million rupiah).

Article 9

Any person committing the criminal acts as referred to in Article 416 of the Criminal Code shall be liable to a prison term of not less than 1 (one) year and not exceeding 5 (five) years and a fine of not less than Rp 50,000,000 (fifty million rupiah) and not exceeding Rp 250,000,000 (two hundred and fifty million rupiah).

Article 10

Any person committing the criminal acts as referred to in Article 417 of the Criminal Code shall be liable to a prison term of not less than 2 (two) years and not exceeding 7 (seven) years and a fine of not less than Rp 100,000,000 (one hundred million rupiah) and not exceeding Rp 350,000,000 (three hundred and fifty million rupiah).

Article 11

Any person committing the criminal acts as referred to in Article 418 of the Criminal Code shall be liable to a prison term of not less than 1 (one) year and not exceeding 5 (five) years and/or a fine of not less than Rp 50,000,000 (fifty million rupiah) and not exceeding Rp 250,000,000 (two hundred and fifty million rupiah).

Article 12

Any person committing the criminal acts as referred to in Article 419, Article 420, Article 423, Article 425 or Article 435 of the Criminal Code shall be liable to life imprisonment, or a prison term of not less than 4 (four) years and not exceeding 20 (twenty) years and a fine of not less than Rp 200,000,000 (two hundred million rupiah) and not exceeding Rp 1,000,000,000 (one billion rupiah).

Article 13

Any person rendering gifts or promises to civil servants in view of the powers and authority attached to their respective ranks or positions, or deemed by the person rendering such gifts or promises to be attached to the aforementioned rank or position, shall be liable to a prison term not exceeding 3 (three) years and/or a fine not exceeding Rp 150,000,000 (one hundred and fifty million rupiah).

Article 14

Any person violating the provision of the law which clearly states that violations against the provisions of the aforementioned law shall be regarded as corruption shall be liable to the provisions of this law.

Article 15

Any person attempting, abetting or maliciously conspiring to commit criminal acts of corruption shall be liable to the same penalties as referred to in Article 2, Article 3, Article 5 up to and including Article 14.

Article 16

Any person outside the territory of the Republic of Indonesia rendering assistance, opportunities, means or information to enable the commission of criminal acts of corruption shall be liable to the same penalties as referred to in Article 2, Article 3, Article 5 up to and including Article 14.

Article 17

In addition to being liable to the punishment referred to in Article 2, Article 3, Article 5 up to and including Article 14, a defendant may be liable to additional penalties as stipulated in Article 18.

Article 18

(1) In addition to being liable to additional penalties as referred to in the Criminal Code, further additional penalties shall be as follows:

- a. The confiscation of tangible or intangible movable assets or fixed

- assets used to commit or being the proceeds of criminal acts of corruption, including the guilty party's corporation where the criminal acts were perpetrated, and the same shall apply to the price of the assets used to replace the aforementioned assets;
- b. The payment of compensation, the amount of which shall not exceed the amount of assets obtained through such criminal acts of corruption;
 - c. the winding up of the entire company or parts thereof shall take no longer than 1 (one) year;
 - d. The revocation of all or certain rights or parts thereof or the abolishment of all or certain benefits or parts thereof obtained or to be granted by the government to the guilty party.

(2) In the event that the guilty party does not pay compensation as referred to in paragraph (1) letter b within 1 (one) month following the legal effect of a court verdict, the assets of such person may be seized by the prosecutor and auctioned off to cover the aforementioned restitution.

(3) In the event that the guilty party does not have sufficient assets to pay the compensation as referred to in paragraph (1) letter b, the guilty party shall be liable to a prison term which shall not exceed the principle penalty in accordance with the provisions herein and the duration of such penalty must already have been stipulated in a decision of a court of justice.

Article 19

(1) The decision of a court of justice regarding the seizure of assets not belonging to the guilty party shall not be applied if the interests of third parties acting in good faith would be harmed thereby.

(2) In the event that a decision of a court of justice as referred to in paragraph (1) also includes the assets of third parties acting in good faith, such third parties shall be entitled to submit a letter of objection to the court of justice concerned by no later than 2 (two) months following the pronouncement of the sentence in a public court session.

(3) The submission of such letter of objection as referred to in paragraph (2) shall not postpone nor terminate the execution of the

court verdict.

(4) In the event intended in paragraph (2), the judge shall request a statement from the prosecutor and the parties concerned.

(5) An appeal against the stipulation of the judge as referred to in paragraph (2) may be filed with the Supreme Court.

Article 20

(1) In the event that corruption is committed by or on behalf of a corporation, prosecution and sentencing may be conducted against the corporation and/or its managers.

(2) Criminal acts of corruption committed by a corporation are action by persons either in the context of a working relationship or other relationships, undertaken within the environment of the aforementioned corporation, either singularly or jointly.

(3) In the event that a corporation is prosecuted, the aforementioned corporation shall be represented by its managers.

(4) Managers representing corporations as referred to in paragraph (3) may be represented by other persons.

(5) Judges may order that managers of a corporation appear before the court themselves and may also order that the aforementioned managers be escorted to court hearings.

(6) In the event that criminal charges are brought against a corporation, a summons to appear before the court and the dispatch of such summons shall be addressed to the place of residence of the managers or their offices.

(7) The principle charges that may be brought against a corporation shall only be in the form of fines providing that the maximum punishment be increased by 1/3 (one-third).

CHAPTER III

OTHER CRIMINAL ACTS RELATED TO CRIMINAL ACTS OF CORRUPTION

Article 21

Any person intentionally preventing or obstructing, or directly or indirectly sabotaging investigations, prosecution and examinations of suspects or defendants or witnesses in corruption cases in a court of justice shall be liable to a prison term of not less than 3 (three) years and not exceeding 12 (twelve) years and/or a fine of Rp 150,000,000 (one hundred and fifty million rupiah) and not exceeding Rp 600,000,000 (six hundred million rupiah).

Article 22

Any person as referred to in Article 28, Article 29, Article 35 or Article 36 refusing to provide information or providing false information shall be liable to a prison term of not less than 3 (three) years and not exceeding 12 (twelve) years and/or a fine of Rp 150,000,000 (one hundred and fifty million rupiah) and not exceeding Rp 600,000,000 (six hundred million rupiah).

Article 23

In corruption cases, violations against the provisions as referred to in Article 220, Article 231, Article 421, Article 422, Article 429 or Article 430 of the Criminal Code shall be liable to a prison term of not less than 1 (one) year and not exceeding 6 (six) years and/or a fine of Rp 50,000,000 (fifty million rupiah) and not exceeding Rp 300,000,000 (three hundred million rupiah).

Article 24

Witnesses not complying with the requirements as referred to in Article 31 shall be liable to a prison term not exceeding 3 (three) years and/or a fine not exceeding Rp 150,000,000 (one hundred and fifty million rupiah).

CHAPTER IV

INVESTIGATION, PROSECUTION AND HEARING IN A COURT OF JUSTICE

Article 25

Investigation, prosecution and hearing in a court of justice of corruption cases must have priority over other cases for prompt settlement.

Article 26

Investigation, prosecution and hearing in a court of law in corruption cases shall be conducted in accordance with the applicable criminal procedures, unless determined otherwise herein.

Article 27

In the event that a case of corruption is found to be difficult to prove, a joint team under the coordination of the attorney general may be formed.

Article 28

In the interests of an investigation, a suspect shall be obligated to provide statements regarding his entire wealth and the wealth of his spouse and children and the wealth of persons or corporations known or suspected of being connected with acts of corruption allegedly committed by the suspect.

Article 29

(1) For purposes of an investigation, prosecution or hearing in a court of justice, investigators, prosecutors or judges shall be authorized to request statements from banks regarding the financial condition of the suspect or defendant.

(2) Requests for information as referred to in paragraph (1) shall be submitted to the governor of Bank Indonesia in accordance with the applicable laws and regulations.

(3) The governor of Bank Indonesia shall be obligated to comply with such requests referred to in paragraph (2) by no later than 3 (three) working days from the complete receipt of the aforementioned request documents.

(4) Investigators, public prosecutors or judges may request that banks freeze any accounts in the name of the suspect or defendant if said accounts are thought to contain the proceeds of criminal acts of corruption.

(5) In the event that the results of investigations into suspects or defendants yield insufficient evidence, upon the request of investigators, public prosecutors or judges, banks may rescind the freezing of accounts.

Article 30

Investigators shall be entitled to open, examine and confiscate letters and consignments delivered through postal services, telecommunications or other means suspected of being connected to corruption cases being investigated.

Article 31

(1) In investigations and examinations in a court hearing, witnesses and other persons concerned with corruption cases shall be prohibited from mentioning the name or the address of the informant, or other matters which may reveal the identity of the informant.

(2) Prior to the convening of a trial, the witnesses and other such persons shall be notified of the prohibition as referred to in paragraph (1).

Article 32

(1) In the event that investigators find and deem there is insufficient evidence in one or more elements of the criminal acts of corruption, while it is clearly evident that there have been financial losses suffered by the state, investigators shall turn over the files of the investigations to the prosecutor/state attorney to file a civil suit or yield in favor of the office suffering the loss to file such suit.

(2) Acquittals in corruption cases shall not annul the right to file suit against the party for causing losses to the state.

Article 33

In the event of the demise of the suspect during investigation, whereas it is evident that there were without doubt losses suffered by the state, investigators shall then hand over the resulting dossiers to the prosecutor/state attorney or to the office suffering the loss

to enable the filing of a civil suit against the heirs.

Article 34

In the event of the demise of the defendant during trial, whereas it is evident that there were without a doubt losses suffered by the state, investigators shall then hand over the resulting dossiers to the prosecutor/state attorney or to the office suffering the loss to enable the filing of a civil suit against the heirs.

Article 35

(1) Every person shall be obligated to testify as a witness or an expert if called upon, with the exception of the father, mother, grandfather, grandmother, siblings, spouse, children or grandchildren of the defendant concerned.

(2) Persons released as witnesses as referred to in paragraph (1) may be examined as witnesses upon their consent and upon the express approval of the defendant concerned.

(3) They shall be able to provide testimony without being sworn in, without the approval as referred to in paragraph (2).

Article 36

The obligation to testify as referred to in Article 35 shall also be applicable to those according to occupation, dignity and status or rank, with the exception of religious clergymen, whose faith obligates them to maintain confidentiality.

Article 37

(1) Defendants shall be entitled to prove that they were not involved in acts of corruption.

(2) In the event that defendants are able to prove that they were not involved in corruption, such information shall be used in their favor.

(3) Defendants shall be obligated to provide information regarding their entire wealth and the wealth of their spouse and children and of persons or corporations known to be or suspected of being connected

with the case concerned.

(4) In the event that defendants cannot justify the discrepancy between their wealth and their income or means of enrichment, such information may be used to support existing evidence that the defendant was involved in corruption.

(5) Under the circumstances as referred to in paragraph (1), paragraph (2), paragraph (3) and paragraph (4), the public prosecutor shall remain under the obligation to prove the charges.

Article 38

(1) In the event that a defendant who has been duly summoned is absent from the court hearing without a valid excuse, a judgment may then be passed in the absence of the defendant.

(2) In the event that a defendant is absent during the following session prior to the handing down of a verdict, the defendant must then be examined, and all testimonies of witnesses and letters read out during previous sessions shall be deemed to have been read out in the current session.

(3) Verdicts passed in absentia shall be announced by the public prosecutor in a notice on the bulletin board of the court, regional government office, or notification given to legal representatives.

(4) Defendants or their legal representatives may appeal against verdicts as referred to in paragraph (1).

(5) In the event that a defendant passes away prior to the passing of a verdict and there is sufficient evidence that the defendant did indeed participate in corruption, judges, upon the request of the public prosecutor, shall then stipulate the confiscation of previously seized assets.

(6) No appeal may be filed against such stipulation of confiscation as referred to in paragraph (5).

(7) Every person concerned may submit objections to the court stipulating such stipulation as referred to in paragraph (5), by 30 (thirty) days as from the announcement referred to in paragraph (3).

Article 39

The attorney general shall coordinate and control the inquest, investigation and criminal prosecution of corruption conducted jointly by persons liable to trial in a general court or a military tribunal.

Article 40

In the event there is sufficient cause to press corruption charges in the environment of a military tribunal, the provisions as referred to in Article 123 paragraph (1) letter g of Law No.31/1997 regarding military tribunals shall not be applicable.

CHAPTER V PUBLIC PARTICIPATION

Article 41

(1) The public shall be able to participate in assisting efforts in the prevention and eradication of corruption.

(2) Participation of the public as referred to in paragraph (1) may be realized in the following forms:

- a. the right to seek, obtain and provide information regarding suspicions of the occurrence of acts of corruption;
- b. the right to obtain services in seeking, obtaining and providing information regarding suspicions of crimes of corruption having occurred to law enforcement authorities handling criminal acts of corruption;
- c. the right to convey advice and opinion in a responsible manner to law enforcement authorities handling criminal acts of corruption;
- d. the right to obtain answers to questions regarding reports submitted to law enforcement authorities within 30 (thirty) days;
- e. the right to obtain legal protection with regard to:
 1. implementing their rights as referred to in letters a, b, and c;
 2. summoned to be present during the inquiry, investigation process, and in court sessions as witnesses, expert witnesses, in accordance with the applicable laws and regulations.

(3) The public as referred to in paragraph (1) shall have the right and responsibility in an effort to prevent and eradicate acts of corruption.

(4) The right and responsibility as referred to in paragraph (2) and paragraph (3) shall be conducted with due adherence to the principles and provisions set forth in the applicable laws and regulations and with due adherence to religious and other social norms.

(5) Provisions regarding the procedures on the implementation of public participation in the prevention and eradication of criminal acts of corruption, as referred to in this article, shall be further stipulated by a government regulation.

Article 42

(1) The government shall grant commendations to members of the public who have rendered their assistance in efforts to prevent and eradicate acts of corruption.

(2) Provisions regarding commendations as referred to in paragraph (1) shall be further stipulated in a government regulation.

CHAPTER VI MISCELLANEOUS PROVISIONS

Article 43

(1) By no later than 2 (two) years from this law taking effect, a Corruption Eradication Commission shall be formed.

(2) The commission as referred to in paragraph (1) shall have the task and authority to coordinate and supervise, as well as to inquire, investigate and press charges in accordance with the provisions of the applicable laws and regulations.

(3) Membership in the commission as referred to in paragraph (1) shall comprise elements from the government and the public.

(4) The provision regarding the formation, organizational structure, work procedures, accountability, duties and authority as well as membership as referred to in paragraph (1), paragraph (2), and

paragraph (3) shall be set forth by law.

CHAPTER VII
CLOSING PROVISIONS

ARTICLE 44

As from the time this law takes effect, Law No. 3/1971 regarding the Eradication of Criminal Acts of Corruption (State Gazette Year 1971 No. 19, Supplement to the State Gazette No. 2958) shall be null and void.

ARTICLE 45

This Law shall be applicable as from the date of its stipulation.

For public cognizance, ordering the stipulation of this Law by its announcement in the State Gazette of the Republic of Indonesia.

Validated in Jakarta
on August 16, 1999

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed

BACHARUDDIN JUSUF HABIBE

Stipulated in Jakarta
on August 16, 1999

STATE MINISTER/STATE SECRETARY REPUBLIC OF INDONESIA,

Signed

MULADI

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 1999 NUMBER 140

Issued as true copy
CABINET SECRETARY

OF THE REPUBLIC OF INDONESIA
Second Acting Head of Bureau of Laws and Regulations
[Signed and stamped; stamp reads: CABINET
SECRETARY- REPUBLIC OF INDONESIA]
Edy Sudibyo