

TRANSLATION

Regulation of Minister of Public Works  
No. 49/PRT/1990

ON

The Procedure and Requirements of the Use of Water/  
Water Resources Licensing

The Minister of Public Works

Having considered :

- a. that, due to increasing demand of service of water supply, quantitatively as well qualitatively as result of the population growth, meanwhile the quantity, as well as the quality of water resource has limitation, it is then considered necessary to put in order the use of water and or water resource through the effort of licensing to fulfil the need for water according to time, zoning, number and quality;
- b. that, in connection with the above, as a follow-up of Government Regulation (PP) No.22/1982 on Water Administration, particularly article 23, it is necessary to regulate and determine stipulations on the Procedure and Requirement of Licensing to Use Water and or Water Resource for various purposes.
- c. that, in accordance with Article 23 para (4) of PP No.22/1982, the issuance of regulation regarding the abovementioned point a/ is the authority of the Minister of Public Works.
- d. that, for such purpose it needs to be regulated and determined by Ministerial Regulation.

CHAPTER I

Definitions

Article 1

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## CHAPTER II

### THE LICENSE TO USE WATER/WATER RESOURCE

#### First Section The Principle Article 2

- (1) The use of water and or water resource for certain purposes according to the Articles provided in this Regulation is subject to obtaining license prior its use from the Minister or the Governor.
- (2) The issuance of the license as meant in para (1) of this Article, particularly for the use of water and or water resource which may affect the water balance, must be based upon planning on the protection, development and the use of water and or water resource in each river basin concerned which has already been determined by the Minister or the Governor, in accordance with the stipulation as mentioned in Article 7 of PP No.22/1982.
- (3) In case such plan as meant in para (2) of this Article is not yet determined, then the issuance of the said license shall be based upon the outcome of consensus (agreement) among the related agencies dealing with the use of water and or water resource under coordination by the Minister or Governor.

#### Second Section The Applicant Article 3

The use of water and or water resource which is subject to licensing as meant in Article 2 of this Regulation can be done by government agencies, legal and social entities or by individuals.

#### Third Section The Use of Water and or Water Resources which needs license Article 4

The license as meant in Article 2 is compulsory for the use of water and or water resource for the following purpose :

- a. clean/drinking water supply
- b. urban activity and residential area
- c. the supply of irrigation water for agriculture
- d. cattle breeding
- e. plantation
- f. fishery
- g. industry
- h. mining
- i. energy
- j. floating

- k. submerge
- l. water traffic
- m. recreation
- n. discharge of waste water
- o. construction, alteration or ~~establish~~ any structure carried out above and under a water resource.

### CHAPTER III

#### THE AUTHORITY FOR LICENSE ISSUANCE

##### Article 5

- (1) The authority for issuance of the license for the use of water and or water resources ~~lies~~ with the Minister or Governor in accordance with each authority on the respective water resource.
- (2) The issuance of the license which is the authority of the Minister, consists of :
  - a. license, as meant in Article 4, carried out in the water resource located within the river basin, where the management of its water and or water resource ~~lies~~ with the Minister.
  - b. license to use water and or water resource for the need of micro hydro electricity energy in the water resource transferred to the Provincial Government.
- (3) The issuance of the license which is the authority of the Governor, consists of :
  - a. license as meant in Article 4, carried out in the water resource located within the river basin, where the management of its water and or water resources is transferred to the Provincial Government.
  - b. license to use water and or water resource for the need of micro hydro electricity energy in the water resource under the yurisdiction/authority of the Provincial Government.
- (4) In the case of the management authority of water and or water resource in the river basin is transferred to certain legal entities (such as Perum Jatiluhur and Jasa Tirta), then the license to use water and or water resource in the said river basin is still to be issued by the Minister or the Provincial Government, except otherwise determined in the Government Regulation (PP) regulating the establishment of such legal entity (Perum).

##### Article 6

- (1) The authority of the Minister for issuing license on the use of water and or water resource is carried out by the Director General of Water Resources, except otherwise determined by the Minister in accordance with the prevailing legislation.
- (2) The Director General of Water Resources further determines the implementation regulation of the license issuance as meant in para (11) of this article.

#### Article 7

The authority of the Governor in the issuance of the license for the use of water and or water resource shall further be regulated in the Regional Government Regulation (Perda)

### CHAPTER IV

#### PROCEDURE AND REQUIREMENT OF THE APPLICATION FOR HAVING THE LICENSE

##### First Section

##### The Procedure and Requirement of the Application

#### Article 8

- (1) The application for having license on the use of water and or water resource is to be submitted in writing to the Minister or Governor, by filling in the application form with the attachment containing requirement which will further be determined by the Director General of Water Resources.
- (2) The application for the license to use water and or water resource must be submitted three months at the latest prior the date of using water and or water resource.

##### Second Section

##### The procedure and requirement for issuing the license

#### Article 9

- (1) Within 30 (thirty) days after receipt of the application for having license on the use of water and or water resource fully completed with the necessary requirements, the Minister Governor approves or reject the application.
- (2) The license to use water and or water resource may be issued by the Minister or Governor, when the following stipulations are fulfilled :
  - a. the said application will not result into disturbance and or harm the public interest and environmental sustainability.

- b. the said application has fulfilled the requirements, technically as well as administratively, determined according to this Regulation.

#### Article 10

- (1) The requirements as meant in Article 9 para (2) letter b of this Regulation are to be described in the technical recommendation, which forms an integral part with the license to use water and or water resource.
- (2) The technical recommendation to the license to use water and or water resources, which is issued by the Minister, is regulated as follows :
  - a. for the license relates to river basin which management of its water and or water resource rests with the Minister, then the technical recommendation shall further be regulated by the Director General of Water Resources ~~Development~~.
  - b. for the license relates to river basin which management of its water and or water resources is transferred to certain legal Entity, then the technical recommendation shall be given by the legal Entity concerned.
- (3) Technical recommendation for the license to use water and or water resource from the Governor, shall be given by the Head of Level I Dinas PU Pengairan/Head of Level I Sub Dinas Pengairan.
- (4) The Director ~~of~~ <sup>✓</sup> Water Resources ~~Development~~ shall determine general guidance regarding technical requirements which must be provided in each issuance of the license to use water and or water resource.

#### Article 11

- (1) The license to use water and or water resource is given for a period according to its need and can be extended upon request of the license holder.
- (2) The application to extend the license to use water and or water resource must be submitted in writing to the Minister or Governor, at the latest 3 (three) months in advance prior to the <sup>1</sup>date of annulment of the license.  
*expiration*

#### Article 12

Any expenses incurred for the processing of the issuance of the said license is born by the applicant, which will further be regulated by the Minister or Governor.

CHAPTER V  
RIGHT, OBLIGATION AND PROHIBITION  
TO THE LICENSE HOLDER

First Section  
The Right  
Article 13

- (1) The holder of the license has the right to use water and or water resource in accordance with the license given to him.
- (2) The use of water and or water resource as meant in para (1) above must coincide with the condition of the water resource and the availability of water.

Second Section  
The Obligation  
Article 14

- (1) The holder of the license to use water and or water resource for commercial purposes, as meant in Article 4 is obliged to pay subscription fee.
- (2) The basic consideration for receiving subscription fee by the Minister or Governor is meant to finance the exploitation and maintenance of the water structure and to keep the everlasting function of the water resource.  
The deposit of the subscription fee is to be done as follows :
  - a. The subscription fee obtained from the issuance of license to use water and or water resource in the river basin which is under the authority of the Minister, is to be deposited to the State Central Government Treasury Agency (Kas Negara), with the exception if the authority of the management of the river basin is transferred to certain legal Entity, then the said subscription fee is to be deposited to the account of the legal Entity concerned<sup>x</sup>
  - b. The subscription fee obtained from the issuance of license to use water and or water resource in the river basin which is under the authority of the Governor, is deposited to the Regional Government Treasury Agency (Kas Daerah).

Article 15

- (1) The amount of the subscription fee to use water and or water resource for electrical power purposes, except the central micro hydro electrical power, in the river basin which is under the authority of the Provincial Government is determined

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<sup>x</sup>) In this case, the legal Entity as mentioned in this Regulation is the Perum Jatiluhur and or Perum Jasa Tirta

by the Minister.

- (2) The amount of the subscription fee to use water and or water resource for other needs, except as mentioned in para (1) of this Article, in each Province, is determined by the Minister by considering the proposal and advice from the Provincial Government concerned.
- (3) The determination of the subscription fee, as meant in paras (1) and (2) of this Article, is done periodically once in 5 (five) years, except when there is a change in the monetary policy by the Central Government.

#### Article 16

The Provincial Government and the legal Entity are given the authority to determine by them self to further regulate the execution of collecting the subscription fee based on the stipulations contained in this Regulation, subject to the local situation and condition.

#### Article 17

The holder of the license to use water and or water resource is obliged to supply part of water he gets for the interest of his surrounding community/environment if needed, in line with the license given to him.

### Third Section Prohibition Article 18

- (1) The holder of the license to use water and or water resources is prohibited to transfer the said license to other party, without prior written approval from the Minister or the Governor.
- (2) The holder of the license to use water and or water resource is prohibited to sell the said license to other party, except it is determined in the license.

### CHAPTER VI MODIFICATION, TEMPORARY CANCELLATION, WITHDRAWAL AND ANNULMENT OF THE LICENSE

#### Article 19

- (1) In certain case, the Minister or the Governor may modify (change), cancel temporarily, withdraw and annul the license to use water and or water resource which has already been issued.

- (2) The procedure to change/modify, cancel temporarily, withdraw and annul the license as meant in para (1) of this Article shall be further regulated by the Director General of Water Resources ~~Development~~.

CHAPTER VII  
THE CONTROL

Article 20

- (1) The execution of the control towards this Regulation is done by :
- a. The Kanwil (Central Government Representative Office in the Province) of the Ministry of Public Works (MPW) for the use of water and or water resource in the river basin which is under the authority of the Minister.
  - b. Head of Level I Dinas PU Pengairan/Sub Dinas Pengairan PU for the use of water and water resource in the river basin which is under the authority of the Governor.
- (2) The control as meant in para (1) of this Article, covers :
- a. the control towards the fulfillment of the requirements described in the license to use water and or water resource.
  - b. maintaining law and order of the use of water and or water resource against those who do not posses the license.
- (3) The reporting on the result of the control as meant in para (1) of this Article, is regulated as follows :
- a. the Kanwil of the MPW shall report to the Minister and the Director General of WRD and copies sent to the Governor and Head of Level I Dinas PU Pengairan/Sub Dinas Pengairan PU.
  - b. the Head of Level I Dinas PU Pengairan/Sub Dinas Pengairan PU shall report to the Minister through the Governor and copies sent to Kanwil PU.
- (4) In the case that the result of the control there are deviations from the requirements as stipulated in the license to use water and or water resource, then the Minister or the Governor can take the necessary legal measures based upon their respective authority.

CHAPTER VIII  
TRANSITION ARTICLE

Article 21

- (1) Anyone who without license has used water and or water resource for the purpose as mentioned in Article 4 of this Regulation, must submit an application for license to the Minister or the Governor, at the latest within 9 (nine) months after the promulgation of this Regulation.
- (2) To those holders of license to use water and or water resource must re-register their license for renewal and adjustment of the stipulations contained in this Regulation, at the latest within 9 (nine) months after the promulgation of this Regulation.
- (3) The Ministerial Regulation and Provincial Government Regulation which deal with the procedures and requirements for licensing the use of water and or water resource are still valid, as long as they are not in contradictory with their Regulation.

CHAPTER IX  
CLOSING ARTICLE

Article 22

- (1) This Regulation comes into force on the date of its promulgation.
- (2) Any matter which are not yet described in this Regulation shall further be determined by the Minister.
- (3) This Ministerial Regulation is distributed to all concerned to be known and implemented

Determined in : Jakarta  
On the date of : 5 December 1990

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The Minister of Public Works

signed

Radinal Mochtar