

CONTROL AND UTILIZATION OF NEGLECTED LAND

(Government Regulation RI Number 11 Year 2010, dated January 22, 2010)

**WITH THE BLESSING OF THE ONE AND ONLY GOD
PRESIDENT OF THE REPUBLIC OF INDONESIA,**

Considering:

- a. that under Article 27, Article 34, and Article 40 Law Number 5 Year 1960 concerning Regulation of Agrarian Main Basis, extinct right to land due to negligence.
- b. that at present neglected land is causing bigger gap in social, economy, and welfare of the people and degrading the quality of the environment, so that it is necessary to rearrange control and utilization of the neglected land;
- c. that Government Regulation Number 36 Year 1998 concerning Control and Utilization of Neglected Land, can no longer constitute as refer-

ence for settlement and control and utilization of neglected land so that replacement shall be necessary;

- d. that based on the consideration referred to in letter a, letter b, and letter c, it is necessary to stipulate Government Regulation concerning Control and Utilization of Neglected Land;

In view of:

1. Article 5 paragraph (2) the 1945 Constitution of the State of the Republic of Indonesia Year 1945 (BN No. 7152 page 14A);
2. Law Number 5 Year 1960 concerning Regulation of Agrarian Basic Principles (Statute Book of the Republic of Indonesia Year 1960 Number 104, Supplement to Statute Book of the Republic of Indonesia Number 2043);

3. Law Number 4 Year 1996 concerning Pledge of Land and Property related to the Land (Statute Book of the Republic of Indonesia Year 1996 Number 42, Supplement to Statute Book of the Republic of Indonesia Number 3632);
4. Law Number 41 Year 1999 (*BN No. 6412 pages 1A-6A and so forth*) concerning Forestry (Statute Book of the Republic of Indonesia Year 1999 Number 167, Supplement to Statute Book of the Republic of Indonesia Number 3888);
5. Law Number 1 Year 2004 (*BN No. 7042 pages 3AB-19A and so forth*) concerning State Treasury (Statute Book of the Republic of Indonesia Year 2004 Number 5, Supplement to Statute Book of the Republic of Indonesia Number 4355);
6. Law Number 18 Year 2004 (*BN No. 7152 pages 2A-13A and so forth*) concerning Plantation (Statute Book of the Republic of Indonesia Year 2004 Number 84, Supplement to Statute Book of the Republic of Indonesia Number 4411);
7. Law Number 32 Year 2004 (*BN No. 7183 pages 1A-11A and so forth*) concerning Regional Government (Statute Book of the Republic of Indonesia Year 2004 Number 125, Supplement to Statute Book of the Republic of Indonesia Number 4437), as lately amended by Law Number 12 Year 2008 concerning Second Amendment to Law Number 32 Year 2004 concerning Regional Administration (Statute Book of the Republic of Indonesia Year 2008 Number 59, Supplement to Statute Book of the Republic of Indonesia Number 4844);
8. Law Number 26 Year 2007 (*BN No. 7599 pages 10A-30A and so forth*) concerning Space Layout (Statute Book of the Republic of Indonesia Year 2007 Number 68, Supplement to Statute Book of the Republic of Indonesia Number 4725);
9. Law Number 41 Year 2009 concerning Continuous Protection of Agricultural Land (Statute Book of the Republic of Indonesia Year 2009 Number 149, Supplement to Statute Book of the Republic of Indonesia Number 5068);
10. Government Regulation Number 40 Year 1996 concerning Right to Use for Business, Right to Construct Building, and Right to Use (Statute Book of the Republic of Indonesia Year 1996 Number 58, Supplement to Statute Book of the Republic of Indonesia Number 3643);
11. Government Regulation Number 38 Year 2007 concerning Distribution of Administration Affairs Between the Government, Regional Administration of Province, and Regional Administration of Regency/Municipality (Statute Book of the Republic of Indonesia Year 2007 Number 82, Supplement to Statute Book of the Republic of Indonesia Number 4737);

D E C I D E S:

To stipulate:

GOVERNMENT REGULATION CONCERNING CONTROL AND UTILIZATION OF NEGLECTED LAND.

CHAPTER I

GENERAL PROVISION

Article 1

What is meant in this Government Regulation by:

1. Ownership Right, Right to Use for Business, Right to Construct Building, and Right to Use shall be right to the land referred to in Law Number 5 Year 1960 concerning Regulation on Agrarian Basic Principles.
2. Right.....

2. Right to Manage shall be Right to Control by the State which authority to implement it is partly delegated to the holder thereof.
3. The basis for control of the land shall be license/decision/certificate from the competent authority constituting the basis for the person or legal entity to control, use, or utilize the land.
4. The Holder of Right shall the holder of right to land, holder of Right to Manage, or holder of license/decision/certificate from the competent authority constituting the basis for control of the land.
5. Head shall be Head of National Land Affairs of the Republic of Indonesia.
6. Head of Office shall be Head of Office of National Land Affairs of the Region.

CHAPTER II

OBJECT OF CONTROL OF NEGLECTED LAND

Article 2

The object of control of neglected land shall cover the land that is granted the right by the State in the form of Ownership Right, Right to Use for Business, Right to Construct Building, Right to Use, and Right to Manage, or the basis for control of the land not exploited, not used, or not utilized according to the condition of the land or the nature and objective of granting the right or basis for its exploitation.

Article 3

Not included as object of control of neglected land referred to in Article 2 shall be:

- a. land with Ownership Right or Right to Use for Business in the name of individual person which without intention is not used according to the condition or nature and objective of grant of right thereto; and

- b. land controlled by the government either directly or indirectly and either having status or no status yet as Asset of the State/Region that is unintentionally not used according to the condition or nature and objective of grant of right thereto.

CHAPTER III

IDENTIFICATION AND INVESTIGATION

Article 4

- (1) The Head of Regional Office shall prepare data of the land indicated neglected.
- (2) Data of the land referred to in paragraph (1) as the basis for identification and investigation.

Article 5

- (1) The identification and examination referred to in Article 4 paragraph (2) shall be conducted by a Committee.
- (2) Composition of members of the Committee referred to in paragraph (1) consists of elements of National Land Affairs Body and elements of relevant agency as governed by the Head.

Article 6

- (1) The identification and examination referred to in Article 5 paragraph (1) shall be conducted:
 - a. effective as of three (3) years after the Right of Ownership, Right Use for Business, Right to Use; or
 - b. effective as of expiry of the license/decision/certificate constituting the basis for exploitation of the land obtained from the competent authority.
- (2) The identification and examination of neglected land shall cover:

- a. the name and address of the Holder of Right;
- b. the location, area, status of right or basis for exploitation of land and the land physical condition controlled by the Holder of Right; and
- c. the condition causing the land to be neglected.

Article 7

- (1) The identification and examination activities referred to in Article 6 shall cover:
- a. verification and physical data and juridical data;
 - b. checking the land book and/or certificate and other document to perceive of any existence of mortgage, including data, plan, and phases of use and utilization of the land at application for right;
 - c. request for information from the Holder of Right and other related parties, and the Holder of Right and related parties must give the required information or data;
 - d. conducting physical examination;
 - e. conducting plotting of the site of the use and utilization of land on the land map;
 - f. make analysis on the cause of neglected land;
 - g. prepare report on the result of identification and examination;
 - h. holding Committee meeting; and
 - i. draw up Minutes of Meeting.
- (2) The Committee shall submit report on the result of identification, examination, and Minutes of Meeting referred to in paragraph (1) to the Head of Regional Office.

CHAPTER IV

REMINDER

Article 8

- (1) If based on the result of identification and examination referred to in Article 7 paragraph (2)

it is concluded that there exist neglected land, the Head of Regional Office shall notify and at the same time make first written reminder to the Holder of Right, so that within one (1) month as of the date the reminder is made, to use the land based on the condition or nature and objective of grant of right or according to the license/decision/certificate constituting the basis for its exploitation.

- (2) If the Holder of Right fails to implement the reminder referred to in paragraph (1), the Head of Regional Office shall make the second written reminder with the same term as that of the first reminder.
- (3) If the Holder of Right fails to comply with the reminder referred to in paragraph (2), the Head of Regional Office shall make the third written reminder with the same term as that of the second reminder.
- (4) The reminder referred to in paragraph (1), paragraph (2), and paragraph (3) shall be reported by the Head of Regional Office to the Head of Office.
- (5) In the event that the land referred to in paragraph (1), paragraph (2), and paragraph (3) bearing the Right to Pledge, then the reminder letter shall also be notified to the Holder of Pledge.
- (6) If the Holder of Right still fails to comply with the reminder referred to in paragraph (3), the Head of Regional Office shall propose to the Head of Office to decide the land concerned as neglected land.

CHAPTER V

DECESSION OVER NEGLECTED LAND

Article 9

- (1) The Head shall determine neglected land against the land proposed by the Head of Regional Office referred to Article 8 paragraph (6).

- (2) If the land to be determined as neglected land is land bearing right as referred to in Article 6 paragraph (1) letter a, determination of neglected land as referred to in paragraph (1) shall also state determination of elimination of the right to the land, and at the same time terminate the legal relationship and shall confirm land under the direct control of the State.
- (3) If the land to be determined as neglected land is the land that been granted the basis for control as referred to in Article 6 paragraph (1) letter b, the determination of neglected land referred to in paragraph (1) must also contain elimination of legal relation and confirmation as the land under control of the State.

Article 10

- (1) The land is determined as neglected land as referred to in Article 9 paragraph (1), if it is the entire spread out land, then the right to the land is eliminated, the legal relation thereof is eliminated, and confirmed as land under control of the State.
- (2) The land determined as neglected land as referred to in Article 9 paragraph (1), if the entire spread out land is neglected, then the right to the land must be eliminated, the legal relation thereof must be eliminated, and confirm as the land under direct control of the State and further the former Holder of Right shall be granted right again to part of the land that is actually exploited, used, and utilized according to the decision on the grant of right thereto.
- (3) To obtain right to land over part of the land referred to in paragraph (2), the former Holder of Right may submit application for right to land according to the provisions in the statutory regulation.

Article 11

- (1) If the land bearing right is neglected is less than or equivalent to 25% (twenty-five percent), the Holder of Right may submit application for revision of the area of a plot of land that is actually used and utilized according to the decision for grant of right thereof.
- (2) The cost for revision for reduction of area of land referred to in paragraph (1) shall be borne by the Holder of Right.

Article 12

- (1) The land proposed to be determined neglected land, declared as having status quo condition as of the date of the proposal as referred to in Article 8 paragraph (6).
- (2) The land declared as having status quo condition as referred to in paragraph (1), no legal action may be taken to such land until decision over the neglected land is issued, which also shall state determination of elimination of the right to land, at the same time eliminate the legal relation and confirm as land under control of the State.

Article 13

- (1) The land that has been determined as neglected land, within a period of one (1) month as of the date it is decided as neglected land, must be vacated by the former Holder of Right from all properties on the land on account of the party concerned.
- (2) If the former Holder of Right fails to comply with the obligation referred to in paragraph (1), then all the properties on the land shall no longer belong to the party concerned, and the land shall automatically under the direct control of the State.

Article 14

Further provision on the procedure for orderly control is governed in Regulation of the Head of Region.

CHAPTER VI**UTILIZATION****FORMER NEGLECTED LAND****UNDER CONTROL OF THE STATE****Article 15**

- (1) Allocation for exploitation, ownership, use, and utilization of former neglected and now controlled by the State as referred to in Article 9 paragraph (1) shall be utilized for the State and public interest by means of Agrarian restructuring and State strategic program for other reserve by the State.
- (2) Allocation and arrangement of allocation for exploitation, ownership, use, and utilization of State controlled former neglected land as referred to in paragraph (1) shall be implemented by the Head of the Region.

Article 16

No permit/decision/certificate in any form may be issued for the land referred to in Article 15 paragraph (1) pertaining to its control and use other than that determined in Article 15.

Article 17

Orderly control of neglected land and utilization of former neglected land shall be implemented by the Head of Region and the result thereof must be reported periodically to the President.

CHAPTER VII**TRANSITIONAL PROVISION****Article 18**

By the time this Government Regulation

comes to force, the land identified or given reminder as neglected land based on Government Regulation Number 36 Year 1998 concerning Orderly Control and Utilization of Neglected Land, follow-up action shall be taken within three (3) months in accordance with this Government Regulation .

CHAPTER VIII**CLOSING PROVISION****Article 19**

By the time this Government Regulation comes to force, Government Regulation Number 36 Year 1998 concerning Orderly Control and Utilization of Neglected Land and its implementation regulation shall be revoked and declared null and void.

Article 20

This Government Regulation takes effect on the date it is enacted.

For public cognizance, this Government Regulation shall be announced by placing it in the Statute Book of the Republic of Indonesia.

Enacted in Jakarta

On January 22, 2010

PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd.

DR. H. SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta

On January 22, 2010

MINISTER OF LAW AND HUMAN RIGHTS

THE REPUBLIC OF INDONESIA,

ttd.

PATRIALIS AKBAR

STATUTE BOOK OF THE REPUBLIC OF INDONESIA

YEAR 2010 NUMBER 16

**ELUCIDATION
OF
GOVERNMENT REGULATION OF
THE REPUBLIC OF INDONESIA
NUMBER 11 YEAR 2010
CONCERNING
ORDERLY CONTROL AND UTILIZATION OF
NEGLECTED LAND**

I. GENERAL

Land shall be gift from the One and Only God for the people, nation and the State of Indonesia, that must be exploited, utilized, and used for the maximum welfare of the people. At present land that is controlled and/or owned either that already has the right to land or some new lands acquired in some places are still neglected, so that the noble aspiration to improve the people's welfare is still not to optimum yet. Accordingly, it is necessary to initiate rearrangement in order to accomplish land as the source of the people's welfare, in order to accomplish more righteous, secure sustainable system for the Indonesian people and nation, and to strengthen social harmony. Besides, to optimize exploitation, use, and utilization of all the land in the Indonesian territory, it is necessary to improve quality of the environment, minimize poverty and create working opportunity, and improve defense on food and energy.

Neglecting the land in rural and city, other than constituting indiscreet attitude, non-economic (lost of opportunity to accomplish economic potential of the land), and non-judicious, and also constitutes violation of the obligation to be complied with by the Holder of Right or the party that has obtained the basis for controlling

the land. Neglecting the land also has impact on hampering achievement of various objectives to accomplish development program, the susceptible defense in food and national economy, the locked access to social economy of the people especially the farmers on the land, and perturbed justice and social harmony.

The State grants right to the land or Right to Manage to the Holder of Right to exploit, use and utilize, and to maintain it properly other than for the welfare of the Holder of Right is also meant for the welfare of the people, nation and State. When the State grants right to any person or legal entity this is usually accompanied by obligations to be stipulated in Law Number 5 Year 1960 concerning Regulation on Agrarian Basic Principals and decision letter for grant of right thereof. Accordingly, the Holder of Right is prohibited from neglecting the land thereof, and if the Holder of Right neglect the land, Regulation of Agrairan Basic Principals governed the legal consequence thereof, namely elimination of right to the land concerned and termination of legal relation and confirm as land under the direct control of the State. For land that bears no right to the land yet, exploitation and use of the land must be based on right to the land in accordance with Article 4 in conjunction with Article 16 Law Number 5 Year 1960 concerning Regulation of Agrarian Basic Principals. Accordingly any person or legal entity that has obtained the basis for control of the land, either by procurement of land from other party, appointment by the holder of the Right to Manage, due to obtaining location permit, or obtaining decision on release of forest zone shall be obliged to maintain and exploit it properly, not neglecting it, and

submit application to obtain right to the land. Although the party concerned obtains no right to the land yet, if the party concerned neglects the land, then the legal relation to the land concerned will be revoked and shall be confirmed as land under the direct control of the State.

Accordingly, negligence of land must be prevented and orderly controlled to minimize or eliminate negative impact. Therefore prevention, orderly control and utilization of neglected land shall constitute important prerequisite to run the national development program, particularly in agrarian sector as mandated by the 1945 Constitution of the Sate of the Republic of Indoensia, Regulation of Agrarian Basic Principals, and National Long-Term Development Program.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Land that bears Ownership Right, Right to Building, Right to Use, or Right of Manage shall be declared as neglected land if the land is not exploited, not used or not utilized according to the condition or nature and objective of the right thereto.

Likewise with the land bearing the basis for exploitation thereof shall be declared neglected land if no application for right is submitted, it is not exploited, not used, or not utilized according to the requirements and or condition duly stipulated in the location permit, decision letter for grant of right, decision letter for release of forest zone, and/or in permit/ decision/other certificate from the competent authority.

Article 3

Letter a

What is meant by "unintentionally unused according to the condition or nature and objective of grant of right thereto" in this provision shall be due to the Holder of Right is individual having no capability from the point of economy to exploit, use or utilize according to the condition or nature and objective of the grant of right thereto.

Letter b

What is meant by "unintentionally used according to condition or nature and objective of grant of right thereto" in this provision shall be due to limited State/Regional budget to exploit, use, or utilize according to the condition, nature and objective of grant of right thereto.

Article 4

Paragraph (1)

What is meant by " land indicated neglected" shall be land bearing right or basis to exploite the land not being exploited, not used or utilized according to the condition, nature and objective for grant of right or basis for its exploitation not identified and examined yet.

To obtain data on land indicated as neglected inventory must be conducted the result of which shall be reported to the Head of Region.

Paragraph (2)

Self-explanatory.

Article 5 through Article 7

Self-explanatory.

Article 8

Paragraph (1)

The first reminder letter shall state all matters that must be conducted by the Holder of Right and penalty may be imposed if the Holder of Right ignores or fails to implement the reminder.

Paragraph (2)

The second reminder, after due consideration of the progress on the first reminder, must state all matters that must be conducted concretely by the Holder of Right and penalty shall be imposed if the Holder of Right ignores or fails to implement the reminder.

Paragraph (3)

The third reminder, which is the final reminder, after due consideration of the progress of the second reminder, must state all matters that must be concretely conducted by the Holder of Right and penalty shall be imposed if the Holder of Right ignores or fails to implement the reminder.

Paragraph (4) through Paragraph (6)

Self-explanatory.

Article 9 through Article 14

Self-explanatory.

Article 15

Paragraph (1)

The State former neglected land shall be State general reserve land utilized for the State

and the people's interest, by means of agrarian restructuring and State strategic program and for State other reserve.

Agrarian restructuring is policy on land covering political layout system and legal land affairs and asset system of the people and access system of the people to the land based on the spirit of Article 2 Decision of the Panel of People Deliberation of the Republic of Indonesia Number IX/MPR/2001 concerning Agrarian Renewal and Management of Natural Resource, and Article 10 of Law Number 5 Year 1960 concerning Regulation of Agrarian Basic Principals. The people's asset layout and access layout over the land may be distributed and redistribution of State former neglected land.

The State strategic program shall be among other things, to develop food sector, energy, people housing in the context of improve the welfare of the people.

Other State reserves among other things, to fulfil the need for land for the Government, defense, and security, the need for land as effect of natural, relocation and re-residence of the people affected by development for public interest.

Paragraph (2)

Self-explanatory.

Article 6 through Article 20

Self-explanatory.

**SUPPLEMENT TO STATUTE BOOK OF THE
REPUBLIC OF INDONESIA NUMBER 5098**

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