

THE USE OF FOREST AREAS

(Government Regulation No. 24/2010 dated February 1, 2010)

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering :

That to implement provisions in Article 38 of Law No. 41/1999 on Forestry as has been amended by Law No. 19/2004 on the Passage of Government Regulation in lieu of Law No. 1/2004 on Amendment to Law No. 41/1999 on Forestry into Law, it is necessary to stipulate Government Regulation on the Use of Forest Areas;

In view of :

1. Article 5 paragraph (2) of the 1945 Constitution;

2. Law No. 41/1999 (*BN No. 6412 pages 1A-6A and so on*) on Forestry (Statute Book of 1999 No. 167, Supplement to Statute Book No. 3888) as has been amended by Law No. 19/2004 (*BN No. 7143 pages 26A-29A*) on the Passage of Government Regulation in lieu of Law No. 1/2004 on Amendment to Law No. 41/1999 on Forestry into Law (Statute Book of 2004 No. 86, Supplement to Statute Book No. 4412);

DECIDES :

To stipulate :

GOVERNMENT REGULATION ON THE USE OF FOREST AREAS.

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Referred to in this Government Regulation

as :

1. Forest is an integrated whole ecosystem in the form of an expanse of land containing bio natural resources dominated by trees in a natural environmental unit which can not be separated one from another.
2. Forest area is a certain area designated and/or declared by the Government as permanent forest.
3. Production forest is a forest area whose main function is to produce forest products.
4. Protected forest is a forest area whose main function is to protect a life-supporting system to regulate water sources, prevent floods, control erosion, avoid sea water intrusion, and maintain land fertility.
5. The use of forest areas is the use of part of forest areas for non-forestry development activities without altering the function and appropriation of the forest areas.
6. The non-commercial use of forest areas is the use of forest areas for non-profit activities.
7. The commercial use of forest areas is the use of forest areas for profit-making activities.
8. Reforestation is the effort to plant types of forest trees on damaged forest areas in the form of idle land, coarse grass, or bush to restore the function of forest.

9. Forest reclamation is the effort to improve or restore forest or land and vegetation in damaged forest areas as a result of the use of forest areas to enable it to function optimally according to its appropriation.
10. Minister is the minister carrying out government affairs in the forestry field.

Article 2

The use of forest areas is aimed at controlling the use of part of forest areas for non-forestry development activities.

Article 3

- (1) The use of forest areas as referred to in Article 2 can only be done in
 - a. production forest areas; and/or
 - b. protected forest areas.
- (2) The use of forest areas as referred to in paragraph (1) shall be done without altering the main function of forest areas by observing borders and certain period as well as environmental conservation.
- (3) Further provisions on borders and certain period as well as environmental conservation as referred to in paragraph (2) are to be provided for in the regulation of the Minister.

Article 4

- (1) The use of forest areas for non-forestry development activities can only be done for activities which have inevitable strategic aims.

(2) The non-forestry development activities as referred to in paragraph (1) cover:

- a. religious activities;
- b. mining;
- c. power plants, transmission, and power distribution, as well as new and renewable energy technology;
- d. telecommunication networks, radio broadcast station, and television relay station;
- e. public roads, toll roads and railway tracks;
- f. transportation facilities other than public transportation facilities for the transport of products;
- g. water resource facilities and infrastructures, water installation networks, and clean water and/or waste water channels;
- h. public facilities;
- i. forestry-related industry;
- j. defense and security;
- k. public safety-supporting infrastructure; or
- l. temporary shelters of natural disaster victims.

Article 5

(1) The use of forest areas for mining activities as referred to in Article 4 paragraph (2) letter b shall be done on condition:

- a. in production forest areas the following mining activities can be done :
 - 1. mining with open mining pattern;
 - 2. mining with underground mining pattern;

b. in protected forest areas only mining with underground pattern can be done on condition it must not lead to :

- 1. a decline in land surface;
- 2. a permanent change in the main function of forest areas; and
- 3. a damage to ground water aquiver.

(2) Further provisions on underground mining in protected forest are to be provided for in a Presidential Decree.

CHAPTER II

FOREST AREA USE PERMIT

Part One

General

Article 6

(1) The use of forest areas shall be done based on forest area land use permits.

(2) The forest area land use permits as referred to in paragraph (1) can be done with :

- a. forest area land use permits with land compensation, for forest areas in provinces whose forests cover an area of less than 30% (thirty percent) of river basin areas, islands, and/or provinces, on condition the land compensation with a ratio of at least 1 to 1 for non-commercial purposes and of at least 1 to 2 for commercial purposes;
- b. forest area land use permits with compensation of paying non-tax state fees on the use of forest areas and planting trees within the framework of rehabilitating river basis

areas, for forest areas in provinces whose forests cover an area of more than 30% (thirty percent) of river basin areas, islands, and/or provinces, on condition :

1. The use of forest areas for non-commercial purposes is subject to compensation of paying non-tax state fees on the use of forest areas and planting trees within the framework of rehabilitating river basin areas with a ratio of 1 to 1;
 2. The use of forest areas for commercial purposes is subject to compensation of paying non-tax state fees on the use of forest areas and planting trees within the framework of rehabilitating river basin areas with a ratio of at least 1 to 1;
- c. forest area lend use permits without land compensation or compensation of paying non-tax state fees on the use of forest areas and without planting trees within the framework of rehabilitating river basin areas, on condition only for :
1. state defense, marine or air traffic safety, check dam, reservoir, sabo, and meteorology, climatology and geophysics;
 2. survey and exploration.
- (3) If in the exploration as referred to in paragraph (2) letter c point 2 "ruah" sampling is conducted as part of mining test in the interest of economic feasibility it shall be subject to provisions in paragraph (2) letter a or b point 2.

- (4) Further provisions on the land compensation ratio as referred to in paragraph (2) letter a and the tree planting ratio within the framework of rehabilitating river basin areas as referred to in paragraph (2) letter b point 2 are to be provided for in a regulation of the Minister.

Article 7

- (1) The Minister shall issue forest area lend use permits as referred to in Article 6 based on applications.
- (2) The Minister can delegate the authority of issuing forest area lend use permits with certain areas to governors for the development of non-commercial public facilities.
- (3) Further provisions on the delegation of authority as referred to in paragraph (2) are to be provided for in a regulation of the Minister.

Article 8

- (1) Forest area lend use permits for the use of forest areas for mining that has a significant impact, wide scope and strategic value can only be issued after obtaining approval from the House of Representatives.
- (2) Further provisions on the criteria of significant impact, wide scope and strategic value as referred to in paragraph (1) are to be laid down in a regulation of the Minister after consulting the ministry carrying out government affairs in the environmental field and the ministry carrying out government affairs in the mining field.

Part Two

**The Procedures and Requirements of
Applying for the Use of Forest Areas**

Article 9

(1) Applications as referred to in Article 9 paragraph (1) shall be filed by:

- a. ministers or officials equivalent to ministers;
- b. governors;
- c. regents/mayors;
- d. boards of directors of corporate bodies; or
- e. heads of foundations.

(2) Applications as referred to in paragraph (1) shall meet requirements

- a. administrative; and
- b. technical.

(3) Further provisions on administrative and technical requirements as referred to in paragraph (2) are to be provided for in a regulation of the Minister.

Article 10

(1) Based on Applications as referred to in Article 9 paragraph (1) the Minister shall make evaluation.

(2) If the results of evaluation as referred to in paragraph (1) indicate that the applications do not meet requirements, the Minister shall issue letters of rejection.

(3) If the results of evaluation as referred to in paragraph (1) indicate that the applications meet requirements, the Minister shall issue permits in principle for the use of forest areas before issuing forest area land use permits.

(4) If the applications meet requirements as referred to in paragraph (3) for survey and exploration, the Minister shall issue forest area land use permits without permits in principle.

Article 11

(1) Permits in principle for the use of forest areas as referred to in Article 10 paragraph (3) are issued for a maximum of 2 (two) years since the date of issuance and can be extended based on the results of evaluation.

(2) The permits in principle as referred to in paragraph (1) contain obligations that must be fulfilled by applicants.

(3) The obligations as referred to in paragraph (2) cover :

- a. setting the borders of approved forest areas and compensation land as well as declaration process;
- b. making an inventory of stands;
- c. making a statement of readiness to pay non-tax state fees on the use of forest areas and plant trees within the framework of rehabilitating river basin areas, if compensation is in the form of paying non-tax state fees on the use of forest areas and planting trees within the framework of rehabilitating river basin areas;
- d. handing over and reforesting land as forest areas if compensation is in the form of land; and
- e. carrying out other obligations set by the Minister.

Article 12

- (1) Holders of permits in principle for the use of forest areas can apply for dispensation to the Minister.
- (2) The dispensation as referred to in paragraph (1) is given for urgent activities which if delayed may inflict losses on the state.
- (3) The dispensation as referred to in paragraph (1) is given for as maximum period as permits in principle for the use of forest areas.

Article 13

If holders of permits in principle for the use of forest areas have met all the obligations as referred to in Article 11 paragraph (3) the Minister shall issue forest area lend use permits.

Article 14

Further provisions on the procedures of applying for the use of forest areas are to be provided for in a regulation of the Minister.

Part Three

**The Obligations of Holders of
Forest Area Lend Use Permits**

Article 15

The holders of forest area lend use permits shall :

- a. pay non-tax state fees on the use of forest areas;
- b. plant trees within the framework of rehabilitating river basin areas;

- c. carrying out reforestation in compensation land;
- d. protecting forests;
- e. carrying out reclamation and/or reforestation in lend use forest areas which are no longer used; and
- f. carrying out other obligations set by the Minister.

Article 16

Based on forest area lend use permits, permit holders can cut down trees within the framework of land clearance by paying compensation for stands, fees on forest resources, and/or reforestation funds according to the law and regulation.

Article 17

The holders of forest area lend use permits are prohibited to :

- a. transfer forest area lend use permits to other parties without approval from the Minister;
- b. use lend use forest areas as collateral to other parties.

Part Four**Permit Period****Article 18**

- (1) The period of forest area lend use permits is the same as the licencing period according to their fields and is based on the law and regulation.
- (2) If the period of forest area lend use permits for activities do not require licencing according to their fields, forest area lend use permits

are issued for a maximum of 20 (twenty) years and can be extended based on the results of evaluation.

- (3) The period of forest area land use permits for state defense, marine or air traffic safety, public roads, public railway tracks, check dams, reservoirs, sabo and meteorology, climatology and geophysics as well as religious activities shall be valid as long as they are used to serve the interests in question.
- (4) The Minister shall evaluate forest area land use permits as referred to in paragraphs (1), (2) and (3) once every 5 (five) years or any time if needed.
- (5) If based on the results of evaluation the holders of forest area land use permits no longer use forest areas according to forest area land use permits, the forest area land use permits shall be revoked.

CHAPTER III

MONITORING AND EVALUATION

Article 19

- (1) The Minister shall monitor and evaluate :
- a. holders of permits in principle for the use of forest areas;
 - b. recipients of dispensation on forest area land use; and
 - c. holders of forest area land use permits.
- (2) In carrying out monitoring and evaluation as referred to in paragraph (1), the Minister can delegate the tasks to appointed officials or governors.

- (3) Further provisions on monitoring and evaluation are to be provided for in a regulation of the Minister.

CHAPTER IV

THE ABOLITION OF PERMITS IN PRINCIPLE OR PERMITS

Article 20

- (1) Permits in principle for the use of forest areas as referred to in Article 10 paragraph (3) or forest area land use permits as referred to in Article 13 shall be declared null and void if :
- a. the period of permits in principle for the use of forest areas or forest area land use permits has expired;
 - b. revoked by the Minister;
 - c. returned voluntarily by the holders of permits in principle for the use of forest areas or forest area land use permits to the Minister before the validity period has expired through a written statement; or
 - d. land use forest areas have their appropriation changed into non-forest areas or have their function changed into forest areas the use of which is banned according to the law and regulation.
- (2) The revocation as referred to in paragraph (1) letter b is done if the holders of permits in principle for the use of forest areas or forest area land use permits are subject to sanctions under this Government Regulation.
- (3) Based on the voluntary handover as referred to in paragraph (1) letter c, the Minister shall

issue decisions on the revocation of permits in principle for the use of forest areas or decisions on the revocation of forest area land use permits.

Article 21

(1) The abolition of forest area land use permits as referred to in Article 20 shall not exempt the holders of forest area land use permits from the obligations to :

- a. pay non-tax state fees on the use of forest areas;
- b. plant trees within the framework of rehabilitating river basin areas or reforesting compensation land;
- c. carrying out reclamation and/or reforestation in land use forest areas which are no longer used;
- d. paying compensation for stands, fees on forest resources, and/or reforestation funds according to the law and regulation;
- e. carrying out other obligations set in the forest area land use permits.

(2) At the time when forest area land use permits as referred to in paragraph (1) are abolished, the ownership of immovables including trees in land use forest areas or movables shall be decided according to the law and regulation.

(3) The movables which according to the law and regulation as referred to in paragraph (2) belong to the permit holders shall be taken out of the forest areas by the permit holders no later than 6 (six) months after the permits are

abolished or reclamation activities are considered successful.

(4) If until the time limit as referred to in paragraph (3) the permit holders whose permits are abolished have not taken out the movables from forest areas, the movables shall be put to auction according to the law and regulation.

Article 22

Further provisions on the abolition of permits are to be provided for in a regulation of the Minister.

CHAPTER V

SANCTIONS

Article 23

The holders of forest area land use permits that do not meet the obligations as referred to in Article 15 or commit the violation as referred to in Article 17 shall have their forest area land use permits revoked by the Minister.

Article 24

Further provisions on the procedure of imposing the sanction as referred to in Article 23 are to be provided for in a regulation of the Minister.

CHAPTER VI

TRANSITIONAL PROVISIONS

Article 25

With the coming into force of this Government Regulation:

- a. Permits in principle for the use of forest areas which have been issued by the Minister before the coming into force of this Government Regulation and have met all the obligations set in the permits in principle can constantly be processed into forest area land use permits by fulfilling obligations under this Government Regulation.
- b. Forest area land use permits or contracts made before the coming into force of this Government Regulation shall remain valid until the expiry of the forest area land use permits or contracts, except in the case of a change in the appropriation or function of forest areas.

Article 26

With the stipulation of this Government Regulation, implementation regulations concerning land use forest areas shall remain valid, provided they do not contradict this Government Regulation.

CHAPTER VII

CONCLUSION

Article 27

This Government Regulation shall come into force as from the date of promulgation.

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

Stipulated in Jakarta

on February 1, 2010

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd.

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

on February 1, 2010

THE MINISTER OF LAW AND HUMAN RIGHTS OF

THE REPUBLIC OF INDONESIA,

sgd.

PATRIALIS AKBAR

STATUTE BOOK OF THE REPUBLIC OF INDONESIA OF
2010 NO. 30

ELUCIDATION
OF
GOVERNMENT REGULATION
NO. 24/2010
ON
THE USE OF FOREST AREAS

I. GENERAL

As one of the deciding factors of life-supporting system forests must be maintained optimally with adequate area and guarded to conserve their supporting capacity. Forestry development is an integral part of the national development so that it must be in accordance with the dynamics of the national development.

The use of forest areas is aimed at controlling the use of part of forest areas for non-forestry development without altering the main function of forest areas.

The use of forest areas for non-forestry development can only be done in production forest areas and protected forest areas.

Non-forestry development that can use forest areas cover religious activities, mining, power plant, transmission and distribution networks as well as new and renewable energy, telecommunication networks, radio broadcast stations, television relay stations, public roads, toll roads, railway tracks, transportation facilities other than public transportation facilities for the transport of products, water resource facilities and infrastructures, water installation networks, and clean water and/or waste water channels, public utilities, forestry-related industries, defense and security, public safety supporting facilities or temporary shelters of natural disaster victims.

The use of forest areas must consider the borders of areas, certain period of time and environmental conservation.

II. ARTICLE BY ARTICLE

Article 1 and Article 2

Sufficiently clear.

Article 3

Paragraph (1)

Sufficiently clear.

Paragraph (2)

The area of forest areas used for the issuance of land use forest area permits is limited to ensure forest conservation and business survival in the forestry sector.

Paragraph (3)

Sufficiently clear.

Article 4

Paragraph (1)

Referred to as "activities that have strategic aim" are activities that are prioritized because they have a very important national influence on state sovereignty, state defense and security, economic growth, socio-cultural life and/or the environment.

Paragraph (2)

Applicants must propose non-forestry development activities according to the law and regulation.

Letter a

Religious activities include place of worship, funeral place, and spiritual tourism.

Letter b

Mining activities include natural oil and gas, mineral, coal and geothermal mining.

Letter c up to Letter i

Sufficiently clear.

Letter j

Defense and security activities include combat training ground, radar station and spy tower.

Letter k

Public safety supporting infrastructures include marine and traffic safety, and meteorological, climatological and geophysical facilities.

Letter l

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Letter a

The location of compensation land is set according to or integrated with a change in the spatial layout plan.

Letter b

Sufficiently clear.

Letter c

Point 1

Sufficiently clear.

Point 2

Referred to as "survey and exploration" include mining and archeological activities.

Paragraph (3)

Referred to as "ruah sampling" is a mining exploration activity to take mineral and coal samples.

Paragraph (4)

The regulation of the Minister must at least carry :

- a. types of trees planted; and
- b. location to be rehabilitated.

Article 7 and Article 8

Sufficiently clear.

Article 9

Paragraph (1)

Letter a up to Letter c

Sufficiently clear.

Letter d

Referred to as "corporate bodies" are:

- 1) state-owned companies;
- 2) regional government-owned companies;
- 3) private companies with Indonesian legal entity;
- 4) permanent business establishments;
- 5) cooperatives.

Letter e

Sufficiently clear.

Paragraph (2) and Paragraph (3)

Sufficiently clear.

Article 10 up to Article 18

Sufficiently clear.

Article 19

Paragraph (1)

Monitoring is done as part of efforts to nurture holders of forest area land use permits in order to meet obligations set forth in the permits.

Paragraph (2) and Paragraph (3)

Sufficiently clear.

Article 20

Paragraph (1)

Letter a up to Letter c

Sufficiently clear.

Letter d

A change in the function of forests is for instance:

- a. land use permits are issued for open mining activities in production forest which later changes into protected forest.**

- b. land use permits are issued for mining activities in production forest or protected forest which later changes into conservation forest.**

Paragraph (2) and Paragraph (3)

Sufficiently clear.

Article 21 up to Article 27

Sufficiently clear.

SUPPLEMENT TO STATUTE BOOK OF THE REPUBLIC OF

INDONESIA NO. 5112

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