

# THE SECOND AMENDMENT TO LAW NUMBER 5 YEAR 1986 ON STATE-ADMINISTRATION COURT

(Law Number 51 Year 2009 dated October 29, 2009)

BY GRACE OF GOD THE ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that judicial power is power which is independent to perform judicature in a bid to enforce law and justice so that judicial institution which is clean and honorable in fulfilling the sense of justice in the society needs to be realized;
- b. that Law Number 5 Year 1986 on State Administration Court as already amended by Law Number 9 Year 2004 concerning the Amendment to Law Number 5 Year 1986 is no longer suitable to developments of the legal need for the people and public administration according to the Constitution of 1945;
- c. that based on the considerations as meant in letter a and letter b, it's necessary to enact a law on the Second Amendment to Law Number 5 Year 1986 on State Administration Court;

In view of:

1. Article 20, Article 21, Article 24, and Article 25 of the Constitution of 1945;
2. Law Number 14 Year 1985 on Supreme Court (Statute Book of the Republic of Indonesia Year 1985 Number 73, Supplement to Statute Book of the Republic of Indonesia Number 3316) as already amended the latest by Law Number 3 Year

2009 on the Second Amendment to Law Number 14 Year 1985 on Supreme Court (Statute Book of the Republic of Indonesia Year 2009 Number 3, Supplement to Statute Book of the Republic of Indonesia Number 4958);

3. Law Number 5 Year 1986 on State Administration Court (Statute Book of the Republic of Indonesia Year 1986 Number 77, Supplement to Statute Book of the Republic of Indonesia Number 3344) as already amended by Law Number 9 Year 2004 on the Second Amendment to Law 5 Year 1986 concerning State Administration Court (Statute Book of the Republic of Indonesia Year 2004 Number 35, Supplement to Statute Book of the Republic of Indonesia Number 4380);
4. Law Number 48 Year 2009 on Judicial Power (Statute Book of the Republic of Indonesia Year 2009 Number 157, Supplement to Statute Book of the Republic of Indonesia Number 5076);

With Joint Approval of

THE HOUSE OF REPRESENTATIVES OF  
THE REPUBLIC OF INDONESIA

And

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDES:

To stipulate :

**THE LAW ON THE SECOND AMENDMENT TO LAW NUMBER 5 YEAR 1986 ON STATE-ADMINISTRATION COURT**

**Article I**

Several provisions in Law Number 5 Year 1986 on State Administration Court (Statute Book of the Republic of Indonesia Year 1986 Number 77, Supplement to Statute Book of the Republic of Indonesia Number 3344) as already amended by Law Number 9 Year 2004 on the Amendment to Law Number 5 Year 1986 concerning State Administration Court (Statute Book of the Republic of Indonesia Year 2004 Number 35, Supplement o Statute Book of the Republic of Indonesia Number 4380) shall be amended as follows:

1. The provision of Article 1 is amended so that Article 1 reads as follows:

**Article 1**

Referred to in this law as:

1. Court shall be state administration court and high state-administration court within the state administration court.
2. Judges shall be judges in state administration court and high state-administration court.
3. Supreme Court shall be any of the executor of judicial power as meant in the Constitution of 1945.
4. Judicial Commission shall be a state institution as meant in the Constitution of 1945.
5. Special Court shall be a court having special authority to examine, adjudicate and rule

certain cases, which may only be established in any of judicial bodies subordinate to the Supreme Court, governed in the law.

6. Ad Hoc Judges shall be temporary judges having expertise and experience in certain fields to examine, adjudicate and rule a case, whose appointed is governed in the law.
7. State Administration shall be state administration performing function to execute public administration affairs in the central level and regions.
8. State Administration Agencies or Officials shall be agencies or officials performing public administration affairs on the basis of the effective legislation.
9. State Administration Decision shall be a written stipulation issued by state administration agencies or officials, containing legal action of state administration, which is based on legislation in force, concrete, individual and final, causes legal consequence for someone or civil law entity.
10. State Administration Dispute shall be a dispute over state administration between persons or civil law entities and state administration agencies or officials in the central and regional levels, as a result of the issuance of state administration decision, including personnel affairs dispute on the basis of legislation in force.
11. Lawsuit shall be an application containing demand against state administration agencies or officials and submitted to the court to secure a decision.

**12. Defendant shall be state administration agencies or officials issuing a decision on the basis of their authority or authority delegated to the agencies or officials, which is complained by persons or civil law entities.**

**2. The provision of Article 9A is amended so that Article 9A reads as follows:**

**Article 9A**

**(1) Special court governed by law may be established within the state administration court.**

**(2) In the special court, ad hoc judges may be appointed to examine, try and rule cases needing expertise and experience in certain fields and specified period.**

**(3) Provisions on requirements and procedures for the appointment and dismissal as well as allowances of ad hoc judges shall be governed in provisions of legislation.**

**3. Six articles are supplemented between Article 13 and Article 14 to become Article 13A, Article 13B, Article 13C, Article 13D, Article 13E, and Article 13F, which read as follows:**

**Article 13A**

**(1) Internal supervision over behaviors of judges shall be done by the Supreme Court.**

**(2) Besides the supervision as meant in paragraph (1), external supervision over behaviors of judges shall be done by the Judicial Commission to preserve and enforce the honor, noble character as well as behaviors of judges.**

**Article 13B**

**(1) Judges shall have integrity and personality, which are not disgraceful, honest, fair, professional, faithful and have noble character as well as experience in the field of law.**

**(2) Judges shall be obliged to abide Code of Conduct and Guidance for Behaviors of Judges.**

**Article 13C**

**(1) In supervising the judges as meant in Article 13A paragraph (2), the Judicial Commission shall coordinate with the Supreme Court.**

**(2) In the case of any difference between results of internal supervision by the Supreme Court and external supervision by the Judicial Commission, the Supreme Court and Judicial Commission shall examine jointly.**

**Article 13D**

**(1) In executing the external supervision as meant in Article 13A paragraph (2), the Judicial Commission shall be assigned to supervise behaviors of judges on the basis of Code of Conduct and Guidance for Behaviors of Judges.**

**(2) In executing the task as meant in paragraph (1), the Judicial Commission shall be authorized to:**

**a. receive and follow up public complaint and/or information about the alleged violation of Code of Conduct and Guidance for Behaviors of Judges;**

- b. examine and rule the alleged violation of Code of Conduct and Guidance for Behaviors of Judges;
- c. attend trial in the court;
- d. receive and follow up complaints from the Supreme Court and judicial agencies subordinate to the Supreme Court about the alleged violation of Code of Conduct and Guidance for Behaviors of Judges;
- e. verify the complaints as meant in letter a and letter d;
- f. ask information or data from the Supreme Court and/or court;
- g. summon and ask information from judges allegedly violating Code of Conduct and Guidance for Behaviors of Judges in the interest of examination; and/or
- h. stipulate decision on the basis of result of the examination as meant in letter b.

#### Article 13E

- (1) In executing the supervision as meant in Article 13A, the Judicial Commission and/or Supreme Court shall be obliged to:
  - a. abide by norms and legislation;
  - b. abide by Code of Conduct and Guidance for Behaviors of Judges; and
  - c. keep the secrecy of the obtained information.
- (2) The Code of Conduct and Guidance for Behaviors of Judges as meant in paragraph (1) shall be stipulated by the Judicial Commission and Supreme Court.

- (3) The execution of the task as meant in paragraph (1) may not reduce the freedom of judges in examining and ruling cases.
- (4) Provision on internal and external supervision over judges shall be governed in a law.

#### Article 13F

In the framework of preserving and upholding the honor, noble character as well as behavior of judges, the Judicial Commission may analyze legally fixed court decisions as a basis of recommendation for the mutation of judges.

- 4. The provision of Article 14 is amended so that Article 14 reads as follows:

#### Article 14

- (1) One that can be appointed as judge of state administration shall meet the following requirements:
  - a. Indonesian citizen;
  - b. devoting to God the Almighty;
  - c. loyal to Pancasila and the Constitution of 1945;
  - d. bachelor in law;
  - e. passing judge education;
  - f. honorable, honest, fair and righteous;
  - g. having 25 (twenty five) years old at the minimum and 40 (forty) years old at the maximum;
  - h. spiritually and physically capable of executing tasks and obligations; and
  - i. never sentenced to imprisonment for committing crime on the basis of legally fixed verdict.

(2) One that can be appointed to become chairman or vice chairman of the state administration court shall have experience as judge of the state administration court for 7 (seven) years at the minimum.

5. A new article is supplemented between Article 14 and Article 15 to become Article 14A, which reads as follows:

#### Article 14A

(1) The appointment of judges of the state administration court shall be done through transparent, accountable and participatory selection.

(2) The selection of the appointment of judges of the state administration court shall be done jointly by the Supreme Court and Judicial Commission.

(3) Further provision on the selection shall be regulated jointly by the Supreme Court and Judicial Commission.

6. The provision of Article 15 paragraph (1) is amended so that Article 15 reads as follows:

#### Article 15

(1) A judge that can be appointed to become judge of the high state-administration court shall comply with the following requirements:

- a. the requirements as meant in Article 14 paragraph (1) letter a, letter b, letter c, letter d, letter f, letter g, and letter h.
- b. having 40 (forty) years old at the minimum;

c. having experience as chairman, vice chairman of the state administration court for 5 (five) years at the minimum or having experience as judge of the state administration court for 15 (fifteen) years at the minimum;

d. passing examination carried out by the Supreme Court; and

e. never subject to the sanction of suspension attributed to violation of code of conduct and guidance for behavior of judge.

(2) One that can be appointed to become chairman of high state administration court shall have experience minimally 5 (five) years as judge of state administration or 3 (three) years for judge of high state administration court once assuming the chairman of state administration court.

(3) One that can be appointed to become vice chairman of high state administration court shall have experience minimally 4 (four) years as judge of state administration or 2 (two) years for judge of high state administration court once assuming the chairman of state administration court.

7. The provision of Article 16 paragraph (1) is amended and two new paragraphs are supplemented between paragraph (1) and paragraph (2) to become paragraph (1a) and paragraph (1b) so that Article 16 reads as follows:

### Article 16

(1) Judges of the court shall be appointed by the President on the basis of recommendation from the Chairman of the Supreme Court.

(1a) Judges of the court shall be dismissed by the President on the basis of recommendation of the Chairman of the Supreme Court and/or Judicial Commission through the Chairman of the Supreme Court.

(1b) Recommendation about the dismissal of judges by the Judicial Commission as meant in paragraph (1a) may only be executed if the said judges violate code of conduct and guidance for behavior of judges.

(2) Chairman and Vice Chairman of the court shall be appointed and dismissed by the Chairman of the Supreme Court.

8. The provision of Article 19 paragraph (1) is amended so that Article 19 reads as follows:

### Article 19

(1) Chairman, vice chairman and judges of the court shall be dismissed honorably from their positions because of the following reasons:

- a. personal request in writing;
- b. physically or mentally sick continuously;
- c. already having 65 (sixty five) years old for chairman, vice chairman and judges of the state administration court and 67 (sixty seven) years old for chairman, vice chairman and judge of high state administration court; and/or;
- d. turning out to be incapable in executing their tasks.

(2) Chairman, vice chairman and judges of the court passing away shall be automatically dismissed honorably by the President from their positions.

9. The provision of Article 20 is amended so that Article 20 reads as follows:

### Article 20

(1) Chairman, vice chairman and judge of the court shall be dismissed dishonorably from their positions because of the following reasons:

- a. sentenced to imprisonment for committing crime on the basis of legally fixed verdict of the court;
- b. committing disgraceful act;
- c. ignoring obligation in execution the tasks of their work for 3 (three) months continuously;
- d. breaching functional oath or promise;
- e. violating the prohibition as meant in Article 18; and/or
- f. violating code of conduct and guidance for behavior of judges.

(2) The recommendation about the dismissal as meant in paragraph (1) letter a shall be submitted by the Chairman of the Supreme Court to the President.

(3) The recommendation about the dismissal on the basis of the reason as meant in paragraph (1) letter b shall be submitted by the Supreme Court and/or Judicial Commission.

(4) The.....

(4) The recommendation about the dismissal on the basis of the reason as meant in paragraph (1) letter c, letter d, and letter e shall be submitted by the Supreme Court.

(5) The recommendation about the dismissal on the basis of the reason as meant in paragraph (1) letter f shall be submitted by the Judicial Commission.

(6) Before the Supreme Court and/or Judicial Commission submits/submit the recommendation about dismissal on the basis of the reason as meant in paragraph (3), paragraph (4), and paragraph (5), judges of the court shall reserve a right to defend themselves before the Judge Honor Council.

(7) The Judge Honor Council as meant in paragraph (6) shall be regulated in accordance with legislation.

10. The provision of Article 21 is amended so that Article 21 reads as follows:

#### Article 21

In the case of chairman or vice chairman of the court being dismissed honorably from their position because of their own request in writing as meant in Article 19 paragraph (1) letter a, the relevant shall not be dismissed automatically from judge.

11. A new paragraph is supplemented between paragraph (1) and paragraph (2) of Article 22 to become paragraph (1a) so that Article 22 reads as follows:

#### Article 22

(1) The Chairman of the Supreme Court may dismiss temporarily chairman, vice chairman and judges of the court from their positions before the dishonorable dismissal as meant in Article 20 paragraph (1) letter b, letter c, letter d, letter e and letter f.

(1a) The Judicial Commission may recommend the temporary dismissal as meant in paragraph (1).

(2) The provision as meant in Article 20 paragraph (2) shall also apply to the temporary dismissal as meant in paragraph (1).

(3) The temporary dismissal as meant in paragraph (1) shall apply for 6 (six) months at the maximum.

12. The provision of Article 25 is amended so that Article 25 reads as follows:

#### Article 25

(1) The protocoler status of judges of the court shall be regulated in accordance with the provisions of legislation.

(2) Besides having the protocoler status, judges of the court shall also reserve a right to obtain basic salary, allowance, service cost, pensions and other rights.

(3) The allowance as meant in paragraph (2) shall be in the form of:

- functional allowance; and
- other allowance on the basis of legislation.

**(4) The other rights as meant in paragraph (2)**

shall be in the form of:

- a. functional houses belonging to the state;
- b. medical insurance; and
- c. transportation facilities belonging to the state.

**(5) Judges of the court shall be given security guarantee in executing their tasks.****(6) Further provision on basic salary, allowance and other rights along with security guarantee for chairman, vice chairman and judges of the court shall be governed by legislation.****13. The provision of Article 28 is amended so that Article 28 reads as follows:****Article 28**

A candidate that can be appointed to become clerk of state administration court shall meet the following requirements:

- a. Indonesian citizen;
- b. devoting to God the Almighty;
- c. loyal to Pancasila and the Constitution of 1945;
- d. having diploma of law bachelor;
- e. having experience minimally 3 (three) years as vice clerk or 5 (five) years as junior clerk of state administration court or assuming vice clerk of high state administration court; and
- f. mentally and physically capable of executing tasks and obligations.

**14. The provision of Article 29 letter b is abolished so that Article 29 reads as follows:****Article 29**

A candidate that can be appointed to become clerk of high state administration court shall meet the following requirements:

- a. the requirements as meant in Article 28 letter a, letter b, letter c, letter d, and letter f;
- b. abolished;
- c. having experience minimally 3 (three) years as vice clerk, 5 (five) years as junior clerk of high state administration court, or 3 (three) years as clerk of state administration court.

**15. The provision of Article 30 is amended so that Article 30 reads as follows:****Article 30**

A candidate that can be appointed to become vice clerk of state administration court shall meet the following requirements:

- a. the requirements as meant in Article 28 letter a, letter b, letter c, letter d, and letter f; and
- b. having experience minimally 3 (three) years as junior clerk or 4 (four) years as alternate clerk of state administration court.

**16. The provision of Article 31 letter b is abolished so that Article 31 reads as follows:****Article 31**

A candidate that can be appointed to become vice clerk of high state administration court shall meet the following requirements:

- a. the requirements as meant in Article 28 letter a, letter b, letter c, letter d, and letter f;



- b. abolished;
- c. having experience minimally 2 (two) years as junior clerk, 5 (five) years as alternate clerk of high state administration court, 3 (three) years as vice clerk of state administration court or assuming as clerk of state administration court.

17. The provision of Article 32 is amended so that Article 32 reads as follows:

**Article 32**

A candidate that can be appointed to become junior clerk of state administration court shall meet the following requirements:

- a. the requirements as meant in Article 28 letter a, letter b, letter c, letter d, and letter f; and
- b. having experience minimally 2 (two) years as alternate clerk of state administration court.

18. The provision of Article 33 is amended so that Article 33 reads as follows:

**Article 33**

A candidate that can be appointed to become junior clerk of high state administration court shall meet the following requirements:

- a. the requirements as meant in Article 28 letter a, letter b, letter c, letter d, and letter f; and
- b. having experience minimally 2 (two) years as alternate clerk of high state administration court, 3 (three) years as junior clerk, 5

(five) years as alternate clerk of state administration court or assuming vice clerk of state administration court.

19. The provision of Article 34 is amended so that Article 34 reads as follows:

**Article 34**

A candidate that can be appointed to become clerk of state administration court shall meet the following requirements:

- a. the requirements as meant in Article 28 letter a, letter b, letter c, letter d, and letter f; and
- b. having experience minimally 3 (three) years as civil servant in state administration court.

20. The provision of Article 35 is amended so that Article 35 reads as follows:

**Article 35**

A candidate that can be appointed to become alternate clerk of high state administration court shall meet the following requirements:

- a. the requirements as meant in Article 28 letter a, letter b, letter c, letter d, and letter f; and
- b. having experience minimally 3 (three) years as alternate clerk of state administration court or 8 (eight) years as civil servant in high state administration court.

21. The provision of Article 36 is amended so that Article 36 reads as follows:

**Article 36**

Clerks may not assume double position as:

- a. trustee;
- b. custodian;
- c. advocate; and/or
- d. other court officials.

22. Two articles are supplemented between Article 38 and Article 39 to become Article 38A and Article 38B, which read as follows:

**Article 38A**

Clerks, vice clerks, junior clerks and alternate clerks of state administration court shall be dismissed honorably with the reason as follows:

- a. passing away;
- b. tendering resignation in writing;
- c. mentally or physically sick continuously;
- d. already having 60 (sixty) years old for clerks, vice clerks, junior clerks and alternate clerks of state administration court;
- e. already having 62 (sixty two) years old for clerks, vice clerks, junior clerks and alternate clerks of high state administration court; and/or
- f. turning out to be incapable of executing their tasks.

**Article 38B**

Clerks, vice clerks, junior clerks and alternate clerks of state administration court shall be dismissed dishonorably with the reason as follows:

- a. sentenced to imprisonment for committing crime on the basis of legally fixed court decision;
- b. committing disgraceful act;
- c. ignoring obligations in the execution of the tasks of their work for 3 (three months consecutively);
- d. breaching functional oath or promise;
- e. violating the prohibition as meant in Article 36; and/or
- f. violating code of conduct of clerks.

23. The provision of Article 39B is amended so that Article 39B reads as follows:

**Article 39B**

(1) A candidate that can be appointed to become bailiff shall meet the following requirements:

- a. Indonesian citizen;
- b. devoting to God the Almighty;
- c. loyal to Pancasila and the Constitution of 1945;
- d. having middle-level education diploma;
- e. having experience minimally 3 (three) years as alternate bailiff; and
- f. physically and mentally capable of executing tasks and obligations.

(2) A candidate that can be appointed to become alternate bailiff shall meet the following requirements:

- a. the requirements as meant in paragraph (1) letter a, letter b, letter c, letter d, and letter f; and

b. having.....

- b. having experience minimally 3 (three) years as civil servant in state administration court.

24. The provision of Article 41 is abolished

25. The provision of Article 42 is amended so that Article 42 reads as follows:

**Article 42**

A candidate that can be appointed to become vice secretary of state administration court shall meet the following requirements:

- a. Indonesian citizen;
- b. devoting to God the Almighty;
- c. loyal to Pancasila and the Constitution of 1945;
- d. having diploma of law bachelor or administration bachelor;
- e. having experience minimally 2 (two) years in the field of court administration; and
- f. mentally and physically capable of executing tasks and obligations.

26. The provision of Article 43 is amended so that Article 43 reads as follows:

**Article 43**

A candidate that can be appointed to become vice secretary of high state administration court shall meet the following requirements :

- a. the requirements as meant in Article 42 letter a, letter b, letter c, letter d, and letter f; and
- b. having experience minimally 4 (four) years in the field of court administration.

27. A new article is supplemented between Article 51 and Article 52 to become Article 51A, which reads as follows:

**Article 51A**

- (1) The court shall open access for the public to obtain information related to decisions and legal proceeding costs in the trial.
- (2) The court shall be obliged to give up copy of decisions to parties in no later than 14 (fourteen) work days as from the reading of the decisions.
- (3) Unless the court implements the provision as meant in paragraph (1) and paragraph (2), chairman of the court shall be subject to sanction as governed in legislation.

28. The provision of Article 52 paragraph (1) is amended and a new paragraph is supplemented between paragraph (1) and paragraph (2) to become paragraph (1a) so that Article 52 reads as follows:

**Article 52**

- (1) Chairperson of the court shall supervise the implementation of tasks of judges.
- (1a) Besides conducting the supervision as meant in paragraph (1), chairperson of the court shall also supervise the execution of tasks and behaviors of clerks, secretary and bailiffs within the jurisdiction thereof.
- (2) Besides the supervisory task as meant in paragraph (1) and paragraph (1a), chairpersons of high state administration courts in their respective jurisdictions

shall supervise legal proceedings in the level of state administration courts and ensure that judicature is executed properly and accordingly.

(3) In executing the supervision as meant in paragraph (1) and paragraph (1a) chairpersons of courts may provide directives, reminder and warning.

(4) The supervision as meant in paragraph (1), paragraph (1a), and paragraph (2) may not reduce the freedom of judges in examining and judging cases.

29. A new article is supplemented between Article 107 and Article 108 to become Article 107 A, which reads as follows:

#### Article 107 A

(1) In examining and judging a case, judges shall be responsible for stipulation or verdict that they make.

(2) The stipulation and verdict as meant in paragraph (1) shall contain legal considerations of judges, which are based on right and accurate legal arguments and bases.

30. The provision of Article 116 is amended so that Article 116 reads as follows:

#### Article 116

(1) Copy of legally fixed court decision shall be sent to parties through a registered mail by clerk of local court on the basis of chairman of the court judging the case in the first level in no later than 14 (fourteen) work days.

(2) Unless the complained fulfill the obligations as meant in Article 97 paragraph (9) letter a after 60 (sixty) work days as from the date of the receipt of the legally fixed court decision as meant in paragraph (1), the decision on the disputed state administration shall not have legal power anymore.

(3) If the complained is obliged to implement the obligation as meant in Article 97 paragraph (9) letter b and letter c, but the obligation is not fulfilled after 90 (ninety) work days, the complainant shall file application to the chairman of the court as meant in paragraph (1) so that the court orders the complained to implement the court decision.

(4) In the case of the complained being not ready to implement the legally fixed court decision, officials of the complained institutions shall be subject to coercive measure in the form of the payment of a certain amount of coercive money and/or administrative sanction.

(5) Officials not implementing the court decision as meant in paragraph (4) shall be announced by clerk in local printed mass media as from the date when the provision as meant in paragraph (3) is not fulfilled.

(6) Besides announcing in local printed mass media as meant in paragraph (5), chairman of the court shall submit the issue to the President as the holder of the highest executive power to order the officials to implement the court decision and the people's

representative institution to perform supervisory function.

- (7) Provisions on the amount of coercive money, kinds of administrative sanction and technical procedures for paying coercive money and/or administrative sanction shall be governed by legislation.

31. The provision of Article 135 is amended so that Article 135 reads as follows:

#### Article 135

- (1) One eligible to become ad hoc judge shall meet the requirements as meant in Article 14 paragraph (1), except letter d, letter e, and letter h.
- (2) The prohibition as meant in Article 18 paragraph (1) letter c shall not apply to ad hoc judges.
- (3) Procedures for implementing the provisions of paragraph (1) and paragraph (2) shall be governed in legislation.

32. Four articles are supplemented between Article 144 and Additional Provision to become Article 144A, Article 144B, Article 144C, and Article 144D, which read as follows:

#### Article 144A

- (1) In executing judicature tasks, state administration courts may collect legal proceeding costs of cases.
- (2) The collection of the costs as meant in paragraph (1) shall be accompanied by legitimate payment form.

- (3) The costs as meant in as meant in paragraph (1) shall include clerical costs and case settlement cost.

- (4) The clerical cost as meant in paragraph (3), shall constitute non-tax state receipt stipulated in accordance with the provisions of legislation.

- (5) The case settlement cost as meant in paragraph (3) shall be borne by parties or parties in disputes, which are stipulated by the Supreme Court.

- (6) The management and accountability for the legal proceeding costs of cases as meant in paragraph (1) shall be audited by the Financial Auditor Board in accordance with the provisions of legislation.

#### Article 144B

- (1) Every court official shall be prohibited from collecting cost other than the legal proceeding costs of cases as meant in Article 144A paragraph (3).
- (2) Violation of the provision as meant in paragraph (1) shall be subject to sanction of dishonorable dismissal as meant in Article 20 and Article 38B.

#### Article 144C

- (1) Everybody implicating in case shall be entitled to legal assistance.
- (2) The state shall bear the legal proceeding costs for incapable justice seekers.

- (3) The incapable parties as meant in paragraph (2) shall enclose certificate of incapability from local sub-district where the parties are domiciled.

#### Article 144D

- (1) Legal aid post shall be established in every state administration court for incapable justice seekers in obtaining legal assistance.
- (2) The legal assistance as meant in paragraph (1) shall be granted in free of charge to all levels of court until decision on the case has fixed legal power.
- (3) The legal assistance and legal aid post as meant in paragraph (1) and paragraph (2) shall be executed in accordance with legislation.

#### Article II

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

For public cognizance, the law shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Ratified in Jakarta

On October 29, 2009

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

On October 29, 2009

THE MINISTER OF LAW AND HUMAN RIGHTS OF THE  
REPUBLIC OF INDONESIA,

sgd

PATRIALIS AKBAR

## STATUTE BOOK OF THE REPUBLIC OF INDONESIA YEAR 2009 NUMBER 160

### ELUCIDATION

#### ON

### LAW OF THE REPUBLIC OF INDONESIA

NUMBER 51 YEAR 2009

#### CONCERNING

### THE SECOND AMENDMENT TO LAW

NUMBER 5 YEAR 1986

#### ON

### STATE ADMINISTRATION COURT

#### I. GENERAL

The Constitution of 1945 stipulates that judicature constitutes independent power executed by a supreme court and judicial boards subordinate thereto to perform judicature in order to enforce law and justice.

The Constitution of 1945 has brought about an important change to the execution of judicial power so as to result in a consequence of the importance of the establishment or change in the whole legislation in the field of judicature.

The enactment or amendment to the legislation is done in a bid to strengthen the principles of judicial power which is independent and free from influence of other power to perform judicature in a bid to enforce the law and justice.

Law Number 5 Year 1986 on State Administration Court as already amended by Law Number 9 Year 2004 regarding the Amendment to Law Number 5 Year 1986 on State Administration Court constitutes any of the laws governing judicial domain subordinate to the Supreme Court.

The second amendment to Law Number 5 Year 1986 on State Administration Court lays down a basis of policy that all affairs related to state administration court, either technical judicial and non-judicial affairs, namely organizational, administrative and financial affairs are under control of the Supreme Court.

Other important amendments to Law Number 5 Year 1986 on State Administration Court as already amended by Law Number 9 Year 2004 regarding the Amendment to Law Number 5 Year 1986 on State Administration Court are, among others, as follows:

1. strengthening judge supervision, either internal supervision by the Supreme Court or external supervision over behaviors of judges by the Judicial Commission in preserving and upholding honor, noble character as well as behavior of judges;
2. tightening requirements for the appointment of judges, either judges in state administration court or judges in high state administration court through , among others, transparent, accountable and participatory selection of judges as well as process or education of judges
3. regulation regarding special court and ad hoc judges.
4. regulation of mechanism and procedure for the appointment and dismissal of judges;
5. welfare of judges;
6. transparency in decision and limitation of the granting of copy of decision;

7. transparency in legal proceeding costs as well as examination of management and accountability of legal proceeding costs of cases;
8. legal assistance; and
9. Judge Honor Council and obligation of judges to abide by code of conduct and guidance for behavior of judges.

General amendment to Law Number 5 Year 1986 on State Administration Court as already amended by Law Number 9 Year 2004 regarding the Amendment to Law Number 5 Year 1986 on State Administration Court basically aims at realizing the implementation of independent judiciary and clean as well as honorable court, which is realized through the arrangement of integrated justice system, particularly state administration court constitutionally constituting any of the judicial boards subordinate to the Supreme Court, which has authority to examine, judge and decide state administration cases.

## II. ARTICLE BY ARTICLE

### Article I

#### Point 1

#### Article 1

Sufficiently clear

#### Point 2

#### Article 9A

#### Paragraph (1)

Special court constitutes differentiation or specialization within the state administration court, such as tax court.

**Paragraph (2) and Paragraph (3)**

**Sufficiently clear**

**Point 3**

**Article 13A**

**Paragraph (1)**

"Internal supervision" over behavior of supreme judges is needed even though the Judicial Commission has conducted external supervision. It's intended to make supervision more comprehensive so that honor, noble character as well as behavior of judges are really preserved.

**Paragraph (2)**

**Sufficiently clear**

**Article 13B up to Article 13E**

**Sufficiently clear**

**Article 13F**

Mutation in this provision includes promotion and demotion.

**Point 4**

**Article 14**

**Paragraph (1)**

**Letter a up to Letter d**

**Sufficiently clear**

**Letter e**

Education of judges is executed jointly by the Supreme Court and A-accredited state or private universities in a specified period and through tight selection.

**Letter f up to Letter i**

**Sufficiently clear**

**Paragraph (2)**

**Sufficiently clear**

**Point 5**

**Article 14A**

**Sufficiently clear**

**Point 6**

**Article 15**

**Sufficiently clear**

**Point 7**

**Article 16**

**Sufficiently clear**

**Point 8**

**Article 19**

**Sufficiently clear**

**Point 9**

**Article 20**

**Paragraph (1) up to Paragraph (6)**

**Sufficiently clear**

**Paragraph (7)**

By legislation means Law Number 22 Year 2004 on Judicial Commission and Law Number 3 Year 2009 on the Second Amendment to Law Number 14 Year 1985 on Supreme Court.



**Point 10****Article 21****Sufficiently clear****Point 11****Article 22****Paragraph (1)**

Dismissed temporarily means the sanction imposed on a judge to not examine and judge case in a specified period other than the temporary dismissal as meant in the state personnel law.

**Paragraph (1a)****Sufficiently clear****Paragraph (2) and Paragraph (3)****Sufficiently clear****Point 12****Article 25****Paragraph (1) up to Paragraph (3)****Sufficiently clear****Paragraph (4)****Letter a and Letter b****Sufficiently clear****Letter c**

Transportation facility means vehicle which may be in the form of motorized vehicle or other forms used to support tasks of judges.

**Paragraph (5)****Security guarantee in executing their tasks**

means judges are given security guard in attending and presiding trial. Judges must be given security protection by related apparatuses, namely police apparatuses so that judges can examine, judge and rule cases properly and accurately without pressure or intervention from any party.

**Paragraph (6)****Sufficiently clear****Point 13****Article 28****Sufficiently clear****Point 14****Article 29****Sufficiently clear****Point 15****Article 30****Sufficiently clear****Point 16****Article 31****Sufficiently clear****Point 17****Article 32****Sufficiently clear****Point 18****Article 33****Sufficiently clear**

Point 19

Article 34

Sufficiently clear

Point 20

Article 35

Sufficiently clear

Point 21

Article 36

Letter a up to Letter c

Sufficiently clear

Letter d

Other court officials are secretary of court, vice secretary of court, vice clerk, junior clerk, bailiff, alternate bailiff and other structural officials.

Point 22

Article 38A and Article 38B

Sufficiently clear

Point 23

Article 39 B

Paragraph (1)

Letter a up to Letter c

Sufficiently clear

Letter d

Middle level education means Senior High School (SMA), Madrasah Aliyah (MA), Vocational High School (SMK), and Vocational Madrasah Aliyah (MAK), or other forms of equivalent education.

Letter e and Letter f

Sufficiently clear

Paragraph (2)

Sufficiently clear

Point 24

Sufficiently clear

Point 25

Article 42

Sufficiently clear

Point 26

Article 43

Sufficiently clear

Point 27

Article 51 A

Paragraph (1)

With regards to the enforcement of the law on transparency of public information, the court is obliged to open or provide access for the public to ascertain information and data about decisions as well as costs of legal proceedings in the court.

Paragraph (2)

Sufficiently clear

Paragraph (3)

In the case of copy of decision being not conveyed, chairman of the said court is subject to administrative sanction in the form of written warning from the Chairman of the Supreme Court.

**Point 28****Article 52****Sufficiently clear****Point 29****Article 107 A****Paragraph (1)**

In making stipulation and decision, judges must rely on legal justice and norms existing and effective in communities. Based on the principles, a judge is not permitted to make stipulation or decision on the basis of personal interest or profit.

**Paragraph (2)****Sufficiently clear****Point 30****Article 116****Paragraph (1)**

Even though a court decision has not secured legally fixed power, parties in dispute may obtain copy of decision given clerk note that the decision has not secured legally fixed power.

The 14 (fourteen) days period is counted as from the date when the court decision has secured legally fixed power.

**Paragraph (2) and Paragraph (3)****Sufficiently clear****Paragraph (4)****"The said officials are subject to coercive**

money" means the charging in the form of a certain amount of money stipulated by judges because the position thereof is mentioned in content of the decision upon approving lawsuit of the complainant.

**Paragraph (5)****Sufficiently clear****Paragraph (6)**

The President as the highest leader of administration is obliged to foster government apparatuses not performing administration functions properly.

**Paragraph (7)****Sufficiently clear****Point 31****Article 135****Sufficiently clear****Point 32****Article 144A and Article 144B****Sufficiently clear****Article 144C****Paragraph (1) and Paragraph (2)****Sufficiently clear****Paragraph (3)**

Sub-district includes village, banjar, nagari and gampong.

**Article 144D**

**Paragraph (1)**

**Sufficiently clear**

**Paragraph (2)**

**Legal assistance provided in free of charge  
is legal assistance which is provided up to the ex-  
ecution of decision.**

**Paragraph (3)**

**Sufficiently clear**

**Article II**

**Sufficiently clear**

**SUPPLEMENT TO STATUTE BOOK OF  
THE REPUBLIC OF INDONESIA NUMBER 5079**

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