

**ELUCIDATION OF LAW OF THE REPUBLIC OF INDONESIA NO. 28  
OF 1999 ON THE STATE ORGANIZER WHO IS CLEAN AND FREE  
FROM CORRUPTION, COLLUSION AND NEPOTISM**

**I. GENERAL**

1. The State Organizer has an important role in materializing the cause of the nation. This is firmly expressed in the Elucidation of the 1945 Constitution which states that what is very important in the government and in the life of the state is the spirit of the State Organizers and the Head of the government. For more than 30 (thirty) years the State Organizers fail to perform their duties and functions optimally, so that the organizing of the State cannot take place properly. This is because of the existence of the centralization of power, authority in and accountability to the President/Mandatory of the Peoples Consultative Assembly of the Republic of Indonesia.

The centralization of power, authority and accountability mentioned above do not only have negative impacts in the area of politics but also in the area of economy and the monetary field, inter alia the practices of state organizing which provide more advantages for certain groups and give opportunities to the growth of corruption, collusion and nepotism.

The criminal acts of corruption, collusion and nepotism are not only committed by the state organizers, between the state organizers themselves, but also between the state organizers and other parties such as families, cronies, businessmen, so that they corrupt the principles of lives in maintaining a society, nation and state, and jeopardize the existence of the state.

In the framework of saving and normalizing the national life according to the reform demands, the sameness of vision, perception and mission of the entire state organizers and the public is needed. This sameness of vision, perception and mission shall be in line with the people's conscience wishing the materialization of state organizers who are capable of performing their duties and functions seriously, full of sense of accountability, effectively and efficiently, free from corruption, collusion and nepotism, as messaged by Stipulation of the People's Consultative Assembly of the Republic of Indonesia No. XI/MPR 1998 on the State Organizer who is Clean and Free from Corruption, Collusion, and Nepotism.

2. This Law shall contain provisions directly or indirectly relevant to the upholding of law against the criminal acts of corruption collusion and nepotism, which are specially directed towards state organizers and other functionaries having strategic functions in relation to the organizing of the state according to the provisions of the rules and legislation in force.
3. This Law shall contain part or sub-system of the regulations and legislation relevant to the upholding of law against the acts of corruption, collusion and nepotism. The main target of this Law shall be State Organizers covering the State Organizers in the Highest State Institution, the State Organizers in the High State Institutions, Ministers, Governors, Judges, State Organizers and/or other Functionaries having strategic functions in relation to the organizing of the state according to the provisions of the rules and legislation in force.
4. For materialization of the organizing of the state organizers who are clean and free from corruption, collusion, and nepotism, in this Law are stipulated the General Principles on the organizing of the state covering the principles of legal certainty, the principles of State Organizing Orderliness, the principles of Public Interests, the principles of Transparency, the principles of Proportionalities, the principles of Professionalisms, and the principles of Accountabilities.
5. The arrangement on the public participation in this Law shall aim at empowering the public in the framework of materializing the organizing of the state, which is clean and free from corruption, collusion and nepotism. With the rights and obligations they own, the people are expected to more enthusiastic in exerting an optimal social control over the organizing of the state by consistently abiding by the legal signals in force.
6. For this Law to reach its target effectively, there shall be an arrangement for the establishment an Investigating Commission having the duties and authority to examine the assets of State Organizers before during and after holding office, including asking for information either from the State Organizers themselves, their families and cronies, or from business people, by consistently considering the principles of innocence and the human rights. The membership of the Investigating Commission, which consists of governmental and public elements, shall reflect the independence or autonomy of this Commission.
7. This Law shall also regulate the obligations of the State Organizers before, during and after holding office, among others announce and report their assets before and after holding office. The provisions on sanctions of this Law shall apply to the state organizers themselves, the public, and the Investigating Commission as a preventive and repressive endeavor, and shall function as guarantee for complying with the provisions on the general principles of the state organizing,

the rights and obligations of the state organizers, and with other provisions so that it can be expected to strengthen the norms of institutions, individual and moralities.

## II. ARTICLE BY ARTICLE

### Article 1

Sufficiently clear

### Article 2

#### Figure 1

Sufficiently clear

#### Figure 2

Sufficiently clear

#### Figure 3

Sufficiently clear

#### Figure 4

"Governor" shall mean the Representative of the Central Government in the Region.

#### Figure 5

In this provision "Judge" shall mean the Judge in all levels of the Court

#### Figure 6

In this provision "Other State Functionaries" shall mean the Head of a foreign mission of the Republic of Indonesia holding the function as Ambassador Extraordinary and Pleni Potentiary, the Vice Governor, and the Regent/Mayor.

#### Figure 7

"Other functionaries having strategic functions" shall be functionaries, whose duties and authority in carrying out the organizing of the state are sensitive to the practice of corruption, collusion and nepotism, covering:

1. the Board of Executive Directors (Direksi), the Board of Directors (Komisaris), and other structural functionaries of State Corporations and Regional State Corporations;
2. the Management of Bank Indonesia and the Management of the National Banking Restructuring Agency (BPPN);
3. the head of a State High Learning Institute;
4. Echelon I Officials and other officials equalized in the settings of the civilians, military, and police of the Republic of Indonesia;
5. Prosecutors;
6. Investigators;
7. The Clerk of the Court; and
8. Project Managers and Treasurers of Projects.

### **Article 3**

#### **Figure 1**

"The principles of legal certainty shall mean the principles in a State of Law which give priority to a platform at rules and legislation, decency, and justice in every policy of the State Organizer.

#### **Figure 2**

"The Principles of State Organizing Orderliness" shall mean the principles in a State of Law, which become the platform for orderliness, harmony, and balance in exerting control over the State Organizer.

#### **Figure 3**

"The Principles of Public Interests" shall mean the principles in a State of Law, which give priority to public welfare by using an imperative, accommodative, and selective method.

#### **Figure 4**

"The Principles of Transparency shall mean the principles of opening oneself to the public rights of acquiring correct, fair and non-discriminative information on the organizing of the state by consistently considering the protection of individual rights, groups and state secrets.

#### **Figure 5**

"The Principles of Proportionalities" shall mean the principles, which give priority to the balance between the rights and obligations of the state organizer.

#### **Figure 6**

"The Principles of Professionalisms" shall mean the principles, which give priority to expertise based on the ethical codes and provisions of the rules and legislation in force.

#### **Figure 7**

"The Principles of Accountabilities" shall mean the principles, which determine that every activity and result of the state organizer must be capable of being accounted for to the society or the people as the supreme holders of the state sovereignty according to the provisions of the rules and legislation in force.

### **Article 4**

The implementation of the rights of the State Organizer determined in this Article shall be in line with the provisions of Article 27 paragraph (2) and Article 28 of the 1945 Constitution and the provisions of the regulations and legislation in force.

### **Article 5**

In case the State Organizer is a member of Tentara Nasional Indonesia (Indonesian National Armed Forces) or a member of Kepolisian Negara Republik Indonesia (Police of the Republic of Indonesia), the provisions of this Law shall apply to the State Organizer.

Figure 1

Sufficiently clear

Figure 2

In case the State Organizer intentionally hinders the data collection of his assets, a sanction shall be imposed on him according to the provisions of the regulations and legislation in force.

Figure 3

Sufficiently clear

Figure 4

In case the State Organizer whose data on his assets are being collected by the Investigating Committee intentionally gives incorrect information, he shall be subject to sanction according to the provisions of the regulations and legislation in force.

Figure 5

Sufficiently clear

Figure 6

Sufficiently clear

Figure 7

Sufficiently clear

**Article 6**

"The rights and obligation of the State Organizer shall be executed according to the provisions of the 1 945 Constitution" shall mean that the rights and obligations shall be executed by maintaining the high minded human conduct and firmly holding the characteristics of noble populace morality.

**Article 7**

Sufficiently clear

**Article 8**

Paragraph (1)

The public participation as meant in this paragraph shall be the active role of the public to participate in the materialization of a clean State Organizer who is clean and free from corruption, collusion and nepotism which shall be carried out by abiding by the legal, moral and social norms prevailing in the society.

Paragraph (2)

Sufficiently clear

**Article 9**

Paragraph (1)

The provisions in paragraph (1) letter d figure 2) shall constitute a public obligation which is required by this Law to be present in the process of examination, investigation, and in the session of the Court as a reporting witness, witness, expert witness, If summoned as a reporting witness, witness, expert witness by the competent authority the person concerned is purposefully not

present, he shall be subject to sanctions according to the provisions of the regulations and legislation in force.

**Paragraph (2)**

Basically the public reserve the rights to acquire information on the organizing of the state, but those rights shall remain to consider the provisions of the regulations and legislation in force which stipulate a limitation that for certain cases their secrecy is secured, among others those secured by Law on Postal Affairs and Law on Banking.

**Paragraph (3)**

Sufficiently clear

**Article 10**

Sufficiently clear

**Article 11**

An "independent institution" in this article shall mean an institution, which in performing its duties and authority is free from the influence of the executive, legislative and judicial power, and of other state institutions.

**Article 12**

Sufficiently clear

**Article 13**

Sufficiently clear

**Article 14**

Sufficiently clear

**Article 15**

**Paragraph (1)**

The number of membership of the Investigating Commission in this provision shall be uneven. This is aimed at making decision with the majority of votes if a decision cannot be made through negotiation.

**Paragraph (2)**

Sufficiently clear

**Paragraph (3)**

For obtaining an accountable result of examination, the members of the Sub-Commissions shall have high integrity, expertise and be professional in their fields.

In case there is a suspicion on the existence of involvement of other parties such as family, crony and business people in the practice of corruption, collusion or nepotism, they can be subject to the provisions of the regulations and legislation in force.

**Paragraph (4)**

Sufficiently clear

**Paragraph (5)**

The Secretary General shall have the duties of assisting in the area of administrative service for the smoothing the implementation of the Investigating Commission's duties.

Paragraph (6)  
Sufficiently clear

Paragraph (7)  
Sufficiently clear

Paragraph (8)  
The establishment of the Regional Investigating Commission shall aim at assisting the Investigating Commission in the Regional House of Representatives. The membership of the Regional Investigating Commission needs to receive consideration from the Regional House of Representatives beforehand.

**Article 16**

Paragraph (1)  
Sufficiently clear

Paragraph (2)  
The provision in this paragraph (2) shall apply to the Regional Investigating Commission.

**Article 17**

Sufficiently clear

**Article 18**

Paragraph (1)  
Sufficiently clear

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
The provision in this paragraph shall aim at greater confirming the fundamental difference between the duties of the Investigating Commission as the investigators of the assets of the State Organizer and the function of the Police and the Office of the Prosecutor.

The function of the investigation carried out by the Investigating Commission before someone is appointed as State Organizer shall have the characteristic of data collection, while the investigation carried out after the State Organizer has finished holding his office shall have the characteristic of evaluation to determine whether there is an indication of corruption, collusion and nepotism.

What are meant by "indication" in this paragraph shall be facts or data showing the existence of corruption, collusion and nepotism.

What is meant by "the competent authority" shall be the Badan Pemeriksa Keuangan dan Pembangunan (Council for the Audit of Finance and Development), Office of the Attorney General, and the Police.

**Article 19**

Sufficiently clear

**Article 20**

Sufficiently clear

**Article 21**  
Sufficiently clear  
**Article 22**  
Sufficiently clear  
**Article 23**  
Sufficiently clear  
**Article 24**  
Sufficiently clear

**SUPPLEMENT TO STATUTE BOOK OF THE REPUBLIC OF  
INDONESIA NUMBER 3851**