

COPY

JOINT REGULATION OF
THE FINANCE MINISTER
THE ATTORNEY GENERAL
THE CHIEF OF INDONESIAN NATIONAL POLICE, AND
THE MINISTER OF JUSTICE AND HUMAN RIGHTS

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ON

GUIDELINES FOR THE ENFORCEMENT OF IMPRISONMENT FOR CIVIL DEBT
IN THE FRAME OF MANAGEMENT OF STATE DEBTS
BY THE COMMITTEE FOR STATE DEBT MANAGEMENT

BY THE GRACE OF ONE ALMIGHTY GOD

THE FINANCE MINISTER
THE ATTORNEY GENERAL
THE CHIEF OF INDONESIAN NATIONAL POLICE, AND
THE MINISTER OF JUSTICE AND HUMAN RIGHTS

Having considered : that in order to implement the provision of Article 10 paragraph (3) and Article 11 of Law Number 49 Prp. of 1960 on the Committee for State Debt Management, it is necessary to enact the Joint Regulation of the Finance Minister, the Attorney General, the Chief of Indonesian National Police, and the Minister of Justice and Human Rights on the Guidelines for the Enforcement of Imprisonment for Civil Debt in the frame of Management of State Debts by the Committee for State Debt Management;

Having observed : 1. Law Number 49 Prp. of 1960 on the Committee for State Debt Management (State Gazette of the Republic of Indonesia Number 156 of 1960, Supplement to State Gazette of the Republic of Indonesia Number 2104);
2. Law Number 12 of 1995 on the Return of the Prisoners to the Society (State Gazette of the Republic of Indonesia Number 77 of 1995, Supplement to State Gazette of the Republic of Indonesia Number 3614);
3. Law Number 25 of 2000 on National Development Program (PROPENAS) of 2000-2004 (State Gazette of the Republic of Indonesia Number 206 of 2000, Supplement to State Gazette of the Republic of Indonesia Number 4421);

4. Law Number 2 of 2002 on Indonesian National Police (State Gazette of the Republic of Indonesia Number 2 of 2002, Supplement to State Gazette of the Republic of Indonesia Number 4168);
5. Law Number 16 of 2004 on the Attorney General Office of the Republic of Indonesia (State Gazette of the Republic of Indonesia Number 67 of 2004, Supplement to State Gazette of the Republic of Indonesia Number 4401);
6. Instruction of President Number 8 of 2002 on the Granting of Legal Certainty for Debtors who Have Settled Their Obligations or the Taking of Legal Sanction on Debtors who Fail to Settle Their Obligations Pursuant to the Settlement of Obligations of Shareholders;
7. Regulation of President Number 89 of 2006 on the Committee for State Debt Management;
8. Decision of the Attorney General Number KEP-115/A/JA/01/1999 on the Organizational Structure and Work Procedure of the Attorney General Office of the Republic of Indonesia Number KEP-558/A/JA/12/2003;
9. Regulation of the Minister of Justice and Human Rights Number M.09.PR-07-10 of 2007 on the Organizational Structure and Work Procedure of the Department of Justice and Human Rights.
10. Regulation of the Finance Minister Number 122/PMK.06/2007 on the Membership and Work Procedure of the Committee for State Receivable Affairs.
11. Regulation of the Finance Minister Number 128/PMK.06/2007 on the Management of State Debts.
12. Regulation of the Finance Minister Number 100/PMK.01/2008 on the Organization and Work Procedure of the Department of Finance as amended by Regulation of the Finance Minister Number 149/PMK.01/2008.
13. Regulation of the Finance Minister Number 102/PMK.01/2008 on the Organization and Work Procedure of Vertical Institutions of the Directorate General of State Assets.

HAS DECIDED

To enact : AND THE MINISTER OF JUSTICE AND HUMAN RIGHTS ON GUIDELINES FOR THE ENFORCEMENT OF IMPRISONMENT FOR CIVIL DEBT IN THE FRAME OF MANAGEMENT OF STATE DEBTS BY THE COMMITTEE FOR STATE DEBT MANAGEMENT

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Joint Regulation, the following words have the following meanings:

1. Committee means the Committee for State Debt Management, at the central level or its branches.
2. KPKNL means the State Assets and Auction Service Office in the Directorate General of State Assets of the Department of Finance.
3. Distress Warrant means a warrant issued by the Branch Committee to the Debtor which orders the person pay in full all his debts within a period of 1 x 24 (one time twenty four) hours calculated since the date of the Debtor is served with it.

4. Imprisonment for Civil Debt means a temporary deprivation of freedom applied against the Object of Imprisonment for Civil Debt in the Place of Imprisonment for Civil Debt.
5. Permit for Imprisonment for Civil Debt means a written response from the Head of Provincial District Attorney Office to the request made by the Branch Committee pursuant to the set administrative requirements.
6. Object of Imprisonment for Civil Debt means Debtor, Debt Guarantor, Shareholder and/or his heir.
7. Place of Imprisonment for Civil Debt means a specific place which is private, has limited facilities, and has a sufficient system of security and supervision to be used for enforcement of Imprisonment for Civil Debt.
8. Bailiff of State Debts, hereinafter referred to Bailiff, means a Civil Servant within KPKNL who is given duties, powers and responsibilities of a bailiff.
9. Investigation means a series of efforts which are made by the Investigator in order to obtain information and/or evidence for the purpose of settlement of State Debts.

CHAPTER II

PERMIT FOR IMPRISONMENT FOR CIVIL DEBT

Part One

Request for Enforcement of Imprisonment for Civil Debt

Article 2

- (1) The Head of Branch Committee shall submit a written request for the enforcement of Imprisonment for Civil Debt to the Head of Central Committee specifying the grounds for the enforcement.
- (2) To the request as referred to in paragraph (1), the Head of Central Committee shall give an approval / a rejection.

Part Two

Request for Permit for Imprisonment for Civil Debt

Article 3

- (1) Upon approval from the Head of Central Committee, the Head of Branch Committee shall request a Permit for Imprisonment for Civil Debt to the Head of Provincial District Attorney Office whose working territory includes the domicile or last address of the Object for Imprisonment for Civil Debt.
- (2) A request for Permit for Imprisonment for Civil Debt shall at least specify the following particulars:
 - a. Full identity of the Object of Imprisonment for Civil Debt (name, sex, place/date of birth and address of the Object of Imprisonment for Civil Debt);
 - b. Name and address of the Creditor;
 - c. Explanation on the result of the investigation saying that the Object of Imprisonment for Civil Debt is deemed to have the means to pay but lacks good faith to pay;
 - d. Period of time for the enforcement of the requested Imprisonment for Civil Debt;
 - e. Number and date of Distress Warrant;

- f. Sum of the unpaid state debts;
- g. Number and date of approval from the Head of Central Committee; and
- h. Information about the insufficient or non-existence of guarantee.

Part Three

Written Response from the Head of Provincial General Attorney Office

Article 4

- (1) Within a maximum of 14 (fourteen) working days after the request for permit for Imprisonment for Civil Debt is received, the Head of Provincial General Attorney Office shall give a written response.
- (2) The written response as referred to in paragraph (1) shall be in the form of the granting of approval or rejection to the permit.
- (3) In the event that the permit for Imprisonment for Civil Debt is approved, the Chief of Central Committee shall issue the Order of Imprisonment for Civil Debt.
- (4) In the event that the permit for Imprisonment for Civil Debt is rejected, the Chief of Branch Committee shall report it to the Chief of Central Committee.
- (5) Based on the report from the Chief of Branch Committee as referred to in paragraph (4), the Chief of Central Committee shall coordinate with the Deputy Attorney General for Civil and State Administrative Affairs for a follow up.

CHAPTER III

ORDER OF IMPRISONMENT FOR CIVIL DEBT

Part One

Issuance

Article 5

The Order for Imprisonment for Civil Debt shall be issued by the Branch Committee no later than 3 (three) working days upon receipt of permit for Imprisonment for Civil Debt from the Head of Provincial District Attorney Office.

Part Two

Notice

Article 6

- (1) Order of Imprisonment for Civil Debt shall be served by Bailiff to the Object of Imprisonment for Civil Debt pursuant to the provisions of laws and regulations and contained in an Official Report (*Berita Acara*) on the Service of Order of Imprisonment for Civil Debt.
- (2) Head of KPKLN shall deliver a Report on the Service of Order of Imprisonment for Civil Debt by enclosing the Order of Imprisonment for Civil Debt and the Official Report on the Service of Order of Imprisonment for Civil Debt to the Head of Branch Committee, the Head of Central Committee, and the Head of Provincial District Attorney Office.

CHAPTER IV

ENFORCEMENT OF IMPRISONMENT FOR CIVIL DEBTS

Part One

Suspension of Enforcement

Article 7

- (1) Any Object of Imprisonment for Civil Debt that has repaid more than 50%

(fifty) of his debts of the debt in arrears may request suspension of the enforcement of Imprisonment for Civil Debt to the Branch Committee by enclosing a promissory note to settle the balance of the debts for a maximum period of 3 (three) months.

- (2) Request for suspension of the enforcement of Imprisonment for Civil Debt may be submitted upon service of Order for Imprisonment for Civil Debt.
- (3) Based on the request as referred to in paragraph (2), the Branch Committee may suspend the enforcement of Imprisonment for Civil Debt for a maximum period of 3 (three) months.
- (4) In the event the suspension period has expired and the Object of Imprisonment for Civil Debt fails to settle the remaining debts, Imprisonment for Civil Debt shall be enforced pursuant to the period stipulated in the Order of Imprisonment for Civil Debt.
- (5) During the period of suspension of Imprisonment for Civil Debt, the Object of Imprisonment for Civil Debt shall be subject to the mandatory report 2 (twice) per 1 (one) week to the Head of KPKNL.

Part Two

Enforcement of Order of Imprisonment for Civil Debt

Article 8

- (1) Imprisonment for Civil Debt shall be is enforced after 14 (fourteen) working days has elapsed since the Order for Imprisonment for Civil Debt is served to the Object of Imprisonment for Civil Debt.
- (2) In the event that there is a written request from the relevant Head of Provincial District Attorney Office to the Chief of Branch Committee for the interest of the public, the Order of Imprisonment for Civil Debt may be enforced after 24 (twenty four) hours has elapsed since the service of the Order of Imprisonment for Civil Debt.
- (3) Interest of the public as referred to paragraph (2) means the interests of nation and state and/or the interest of society.

Article 9

- (1) In the event after 14 (fourteen) days has elapsed since the Order of Imprisonment for Civil Debts is served and the Object of Imprisonment for Civil Debt fails to pay his debts in full, the Head of KPKNL shall assign the Bailiff to enforce the Imprisonment for Civil Debt.
- (2) Prior to the enforcement of Imprisonment for Civil Debt, the Head of KPKNL shall request assistance to the local Police for the security during the picking up and the handover of the Object of Imprisonment for Civil Debt to the place of Imprisonment for Civil Debt.
- (3) The Bailiff shall make an Official Report on the Picking Up of the Object of Imprisonment for Civil Debt which is signed by the Bailiff of State Debts, the Object of Imprisonment for Civil Debt, and witnesses.
- (4) Imprisonment for Civil Debt shall be enforced for a maximum of 6 (six) months calculated from the time the Object of Imprisonment for Civil Debt is placed in the Place of Imprisonment for Civil Debt

Part Three

The Object of Imprisonment for Civil Debt whose Whereabouts are Unknown

Article 10

- (1) In the event the whereabouts of the Object of Imprisonment for Civil Debt are unknown, KPKNL shall conduct an Investigation in order to obtain information and/or evidence about the whereabouts of the Object of Imprisonment for Civil Debt.
- (2) In the event that based on the Investigation it is suspected/ discovered that the Object of Imprisonment for Civil Debt is outside the territory of the Republic of Indonesia, the Head of Branch Committee shall report it to the Head of Central Committee.
- (3) Based on the report of the Head of Branch Committee as referred to in paragraph (2), the Head of Central Committee shall request assistance to the Chief of Indonesian National Police to conduct a search.

CHAPTER V

A PLACE OF IMPRISONMENT FOR CIVIL DEBT AND THE HANDOVER OF THE OBJECT OF IMPRISONMENT FOR DEBT

Part One

A Place for Imprisonment for Civil Debt

Article 11

- (1) Imprisonment for Civil Debt shall be enforced in a Specific Place of Imprisonment for Debt, Prison (*Lembaga Pemasyarakatan*) or House of Detention (Rumah Tahanan Negara).
- (2) In the event that Imprisonment for Civil Debt is enforced in a Prison or a House of Detention, the Head of KPKNL shall apply for a request for provision of space for Imprisonment for Civil Debt to the Head of Prison/House of Detention no later than 3 (three) days prior to the enforcement of Imprisonment for Civil Debt.
- (3) Upon the request as referred to in paragraph (2), the Head of Prison/House of Detention shall prepare a space required for Imprisonment for Civil Debt.
- (4) The Object of Imprisonment for Debt shall be placed separately from suspects/convicts and based on their sex.

Part Two

Handover of the Object of Imprisonment for Civil Debt to the Head of Prison/House of Detention.

Article 12

- (1) The Bailiff shall handover the Object of Imprisonment for Civil Debt pursuant to the Order of Imprisonment for Civil Debt to the Head of Prison/House of Detention.
- (2) The Bailiff shall prepare an Official Report on the Handover of the Object of Imprisonment for Civil Debt which is signed by the Bailiff, the Head of Prison/House of Detention and witnesses.
- (3) The Official Report on the Handover of the Object of Imprisonment for Civil Debt shall contain the following particulars:
 - a. Time of Handover of the Object of Imprisonment for Civil Debt;
 - b. Place of the Imprisonment for Civil Debt;
 - c. Identity of the Bailiff of State Debts;
 - d. Identity of the witnesses;
 - e. Identity of the Object of Imprisonment for Civil Debt;

- f. Number and date of the Permit for Imprisonment for Civil Debt;
- g. Number and date of the Order of Imprisonment for Civil Debt;
- h. Period of Imprisonment for Civil Debt to be enforced;
- i. Medical Certificate issued by a Doctor or Medical Officer in the Prison/House of Detention; and
- j. Request for immediate enforcement of Imprisonment for Civil Debt from the Head of Provincial District Attorney Office, if any.

CHAPTER VI

RIGHTS AND OBLIGATIONS OF THE OBJECT OF IMPRISONMENT FOR CIVIL DEBT WHO IS PLACED IN THE PRISON/ HOUSE OF DETENTION

Part One

Rights of the Object of Imprisonment for Civil Debt

Article 13

- (1) Each Object of Imprisonment for Civil Debt shall have the right to perform his religious duties, receive health care, receive food, receive reading materials, and/or receive a visit at a specific time pursuant to the applicable regulation in the Prison/House of Detention.
- (2) In the event that the Object of Imprisonment for Civil Debt is sick and requires hospitalization outside the Prison/House of Detention, the hospitalization may be carried out upon receipt of permit from the Head of Branch Committee.
- (3) In the event that the Object of Imprisonment for Civil Debt suffers a severe illness which requires an immediate action, an Officer of Prison/House of Detention may immediately take him to the nearest hospital/health clinic and notify the Head of Service Office, and if it requires security details, the Head of Service Office or the Head of Prison/House of Detention may request assistance to the local Police.
- (4) The period during which the Object of Imprisonment for Civil Debt receives medical treatment outside the Prison/House of Detention as referred to in paragraph (2) and paragraph (3) shall not be calculated as the period of Imprisonment for Civil Debt and the treatment costs shall be borne by the Object of Imprisonment for Civil Debt.

Part Two

Obligations of the Object of Imprisonment for Debt

Article 14

The Object of Imprisonment for Debt shall not be subject to mandatory work in the Prison/House of Detention.

Article 15

- (1) The Object of Imprisonment for Debt shall comply with the regulation and discipline while in the Prison/House of Detention.
- (2) In the event of violation of regulation and discipline, the Head of Prison/House of Detention may conduct an investigation into the Object of Imprisonment for Debt.

- (3) In the event that based on the result of the investigation the Object of Imprisonment for Civil Debt is proved to have committed a violation, the Head of Prison/House of Detention shall notify the Chief of Branch Committee and take the required measure pursuant to the regulation applicable in the Prison/House of Detention.
- (4) In the event that the violation committed by the Object of Imprisonment for Civil Debt constitutes a criminal act, the Head of Prison/House of Detention shall report it to the local Police for a follow up pursuant to the applicable regulation.

CHAPTER VII

PERMIT TO EXIT FOR OBJECT OF IMPRISONMENT FOR CIVIL DEBT

Article 16

- (1) The Object of Imprisonment for Civil Debt may apply a permit in writing to the Chief of Branch Committee to exit the place of Imprisonment for Civil Debt in the event the Object of Imprisonment for Civil Debt needs:
 - a. to perform a religious duty in a place of worship;
 - b. to attend a court trial;
 - c. to participate in a general election in a polling station if in the Prison/House of Detention there is no polling station;
 - d. to have a health check or medication at a hospital;
 - e. to attend the funeral of parents, husband/wife and/or children; and/or
 - f. to become a guardian in the wedding of a his biological child/sister.
- (2) The Branch Committee may issue a Permit to Exit the place of Imprisonment for Civil Debt the copy of which is delivered to the Head of Prison/House of Detention, Head of Provincial General Attorney Office, Police, and the Object of Imprisonment for Civil Debt.
- (3) The Permit to Exit the place of Imprisonment for Civil Debt for any activities as referred to in paragraph (1) may be given for a maximum period of 2 x 24 hours.
- (4) The provision of paragraph (3) shall be excepted in the event that the Object Imprisonment for Civil Debt requires hospitalization for his medication.
- (5) The costs incurred to carry out any of the activities as referred to in paragraph (3) and paragraph (4) shall be fully borne by the relevant Object of Imprisonment for Civil Debt and shall not be charged to the State Revenue and Expenditure Budget (APBN).
- (6) In any of the activities as referred to paragraph (1), the Object of Imprisonment for Civil Debt shall be guarded by at least 2 (two) officers from the Place of Imprisonment for Civil Debt and if necessary a request for assistance may be made to the local Police.
- (7) The activities as referred to in paragraph (1) letter d shall not deduct the period of Imprisonment for Civil Debt.

CHAPTER VIII

ESCAPE OF THE OBJECT OF IMPRISONMENT FOR DEBT

Article 17

- (1) In the event the Object of Imprisonment for Civil Debt escapes, the Head of Prison/House of Detention shall:
 - a. make an Official Report on the Escape of the Object of Imprisonment for Civil Debt;
 - b. notify the Chief of Branch Committee; and
 - c. report it the local Police and the Provincial General Attorney Office.
- (2) After the arrest of the Object of Imprisonment for Civil Debt who has escaped, Imprisonment for Civil Debt shall be reinstated for the duration of the period stipulated in the Order of Imprisonment for Civil Debt without calculating the period of Imprisonment for Civil Debt which has been served.

CHAPTER IX

RELEASE OF THE OBJECT OF IMPRISONMENT FOR CIVIL DEBT

Article 18

- (1) In the event the Object of Imprisonment for Civil Debt will be released, the Chief of Branch Committee shall notify the Head of Prison/House of Detention in writing.
- (2) The release of the Object of Imprisonment for Civil Debt from the Place of Imprisonment for Civil Debt shall be made pursuant to the Order of Release of the Object of Imprisonment for Civil Debt which is issued by the Chief of Branch Committee.
- (3) The Bailiff shall make an Official Report on the Release of the Object of Imprisonment for Civil Debt which is signed by the Bailiff, the Head of Prison/House of Detention, and 2 (two) witnesses.
- (4) A copy of the Official Report as referred to in paragraph (3) shall be delivered to the Head of Provincial District Attorney Office which has granted the permit for Imprisonment for Civil Debt

CHAPTER X

COSTS OF THE ENFORCEMENT OF IMPRISONMENT FOR CIVIL DEBT

Article 19

- (1) The costs of the enforcement of Imprisonment for Civil Debt shall be fully charged to the Debtor.
- (2) The costs as referred to in paragraph (1) shall temporarily be borne by the Government by using the fund from the Budget Implementation Itemized List (DIPA) of the Directorate General of State Assets of the Department of Finance.

CHAPTER XI

CLOSING PROVISIONS

Article 20

- (1) Any letters in connection with the enforcement of this Joint Regulation shall be prepared by using the template as set forth in the Appendix of this Joint Regulation.
- (2) The Appendix of this Joint Regulation shall be an integral part of this Joint Regulation and have binding legal force.

Article 21

This Joint Regulation shall be effective as of the date of its enactment. In order that this Regulation is known to the general public, it is hereby ordered that this Regulation be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On 25 March 2009

FINANCE MINISTER	ATTORNEY GENERAL	CHIEF OF INDONESIAN NATIONAL POLICE	MINISTER OF JUSTICE AND HUMAN RIGHTS
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SRI MULYANI
INDRAWATI

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