
AUTHORIZED TRANSLATION



LAW OF THE REPUBLIC OF INDONESIA

NUMBER 5 OF 2004

REGARDING

AMENDMENT TO THE LAW NUMBER 14 OF 1985

REGARDING

SUPREME COURT

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that judge power is an independent authority carried out by a Supreme Court and court bodies underneath in the general court, religious court, military court, and state administrative court, as well as by a Constitutional Court;
 - b. that the Supreme Court as provided for in the Law Number 14 of 1985 is no longer in accordance with the society and constitutional development according to the Constitution of the Republic of Indonesia of 1945;
 - c. That based on the consideration as referred to in item a and item b, it is necessary to establish Law regarding Amendment

to Law Number 14 of 1985 regarding Supreme Court;

- In view of :
1. Article 20, Article 21, Article 24, Article 24A, Article 24B, and Article 25 of the Constitution of the Republic of Indonesia of 1945;
 2. Law Number 4 of 2004 regarding Judge Power (State Gazette of the Republic of Indonesia of 2004 Number 8, Supplement to State Gazette of the Republic of Indonesia Number 4358);
 3. Law Number 14 of 1985 regarding Supreme Court (State Gazette of the Republic of Indonesia of 1985 Number 73, Supplement to State Gazette of the Republic of Indonesia Number 3316);

At Joint Approval of

HOUSE OF PEOPLE'S REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

and

PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To Stipulate:

**LAW REGARDING AMENDMENT TO THE LAW NUMBER 14 OF 1985
REGARDING SUPREME COURT.**

Article I

Several provisions in the Law Number 14 of 1985 regarding Supreme Court (State Gazette of the Republic of Indonesia of 1985 Number 73, Supplement Number 3316) is amended as follows:

1. The provision in Article 1 is amended so as to henceforth read as follows:

Article 1

The Supreme Court shall be a State High Institution as referred to in the Constitution of the Republic of Indonesia of 1945.

2. The provision in Article 4 is amended so as to henceforth read as follows:

Article 4

- (1) The composition of the Supreme Court shall consist of chairman, member judge, registrar, and a secretary.
 - (2) Chairman and member judge of the Supreme Court is the supreme judge.
 - (3) The number of supreme judge shall be maximum 60 (sixty) people.
3. The provision in Article 5 is amended so as to henceforth read as follows:

Article 5

- (1) Head of Supreme Court shall consist of a chairman, two (2) vice chairmen, and several deputy of chairman.
- (2) Vice-Chairman of the Supreme Court as referred to in paragraph (1) shall consist of vice chairman of judicial and vice chairman of non-judicial sectors.
- (3) Vice chairman of judicial sector shall be responsible for deputy chairman of civil case, deputy chairman of criminal case, deputy chairman of religion case, deputy chairman of military case, and deputy chairman of State Administration case.
- (4) In very description as referred to in paragraph (3), the Supreme Court can do specialization of certain law area chaired by the head of deputy chairman.
- (5) Vice-chairman of the non-judicial sector shall be responsible for deputy chairman of development and deputy chairman of supervision.
- (6) The service term of Chairman, Vice Chairman, and Deputy Chairman of

Supreme Court shall be for 5 (five) years.

4. The provision in Article 7 is amended so as to henceforth read as follows:

Article 7

- (1) To become eligible to be appointed as a Supreme Judge, the candidate shall meet the following requirements:
- a. Indonesian Citizen;
 - b. Devoted to the God Almighty;
 - c. Graduate in law or other discipline and having expertise in the law field;
 - d. At age of minimum 50 (fifty) years;
 - e. Physically and mentally health;
 - f. Experienced at least 20 (twenty) years as a judge, including at least 3 (three) years as a supreme judge.
- (2) If required, the Supreme Court can be appointed not based the career system with the following requirements:
- a. Eligible as referred to in paragraph (1) item a, item b, item d, and the item e;
 - b. Experienced in the legal profession and / or legal academics at least 25 (twenty five) years;
 - c. Master of science degree in law with the basic law degree or another scholar who has expertise in the law sector;
 - d. Never been sentenced to prison based on court decisions that have obtained permanent legal force for committing a criminal act punishable by imprisonment of 5 (five) years or more.
- (3) In the Supreme Court, ad hoc judge can be appointed provided for in the

law.

5. The provision in Article 8 is amended so as to henceforth read as follows:

Article 8

- (1) The Supreme Judge shall be appointed by the President from the candidates nominated by the House of People's Representatives.
- (2) Candidates for Supreme judge as referred to in paragraph (1) shall be selected by the House of People's Representatives from the candidates proposed by the Judicial Commission.
- (3) Selection of candidates for Supreme Judge as referred to in paragraph (2) shall be made within not later than 14 (fourteen) days as of the trial since the names of the candidates received the Council of Representatives.
- (4) Chairman and Vice Chairman of the Supreme Court shall be elected from and by the supreme judges and appointed by the President.
- (5) Deputy Chairman of the Supreme Court shall be appointed by the President among the Supreme Judges proposed by the Chairman of the Supreme Court.
- (6) Presidential Decree on appointment of Supreme Judge, the Chairman and Vice Chairman, and Deputy Chairman of the Supreme Court as referred to in paragraph (1), paragraph (4), and paragraph (5) shall be stipulated within not later than 14 (fourteen) business days as of the submission of candidates accepted President.

6. The provision in Article 9 is amended so as to henceforth read as follows:

Article 9

- (1) Before assuming office, Supreme Court justices take an oath or affirmation required by his religion.

- (2) An oath or affirmation justices as referred to in paragraph (1) read as follows:

Oath:

"By Allah I swear that I will fulfill the obligations of judges with the best and the fairest, uphold the Constitution of Republic of Indonesia Year 1945, and perform all legislations strictly according to the Constitution of the Republic of Indonesia of 1945, and dedication to the homeland and nation. "

Appointments:

"I promise that I will earnestly fulfill its obligations Judge best and the fairest, uphold the Constitution Republic of Indonesia of 1945, and perform all legislations strictly according to the Constitution of the Republic of Indonesia of 1945, and the dutiful to the homeland and nation."

- (3) Chairman, Vice Chairman, and Deputy Chairman of Supreme Court took their sworn or promise before the President.
- (4) Member Judge of Supreme Court taken the oath or promise by the Chairman of the Supreme Court.

7. The provision in Article 11 is amended so as to henceforth read as follows:

Article 11

- (1) Chairman, Vice Chairman, Deputy Chairman, and Judge of Supreme Court honorably discharged from office by the President upon the recommendation of Chairman of the Supreme Court because:
- a. Death;
 - b. Reaching age of 65 (sixty five) years;
 - c. Own request;
 - d. Permanent spiritual or physical disorder; or

- e. Proven of unable to perform their duties.
 - (2) In case the Supreme judge has reached 65 (sixty-five) years, extendable up to 67 (sixty seven) years, provided that the exceptional performance and sound mind and spirit based on the medical certificate.
8. The provision in Article 12 is amended so as to henceforth read as follows:

Article 12

- (1) Chairman, Vice Chairman, Deputy Chairman, and Member Judge of Supreme Court did not honorably discharged from office by the President upon the recommendation of the Supreme Court at reason:
 - a. Sentenced to prison by a court decision which has obtained permanent legal force for committing a criminal act punishable by imprisonment of 5 (five) years or more;
 - b. Committing immoral acts;
 - c. Continuous failure to perform obligation in carrying out his job;
 - d. Breaching the oath of office;
 - e. Breaching the prohibitions as referred to in Article 10.
 - (2) The proposal on the dishonorable dismissal at the reasons mentioned in paragraph (1) items b through e shall be made after the relevant party is provided with opportunity to defend himself before the Supreme Court Advisory Council.
 - (3) The provisions of establishment, composition, and work system of the Supreme Court Advisory Council shall be stipulated by the Chairman of Supreme Court.
9. The provision in Article 13 is amended so as to henceforth read as follows:

Article 13

- (1) Chairman, Vice Chairman, Deputy Chairman, and Member Judge of Supreme Court before it is discharged honorably as referred to in Article 12 paragraph (1) may be suspended from their position by the President upon the recommendation of the Supreme Court.
 - (2) Any proposal for the suspension as referred to in paragraph (1) shall also apply the provisions in as referred to in Article 12 paragraph (2).
10. The provision in Article 18 is amended so as to henceforth read as follows:

Article 18

In the Supreme Court a secretariat shall be established headed by a registrar who is helped by several deputy of registrar and several of the substitute for registrar.

11. The provision in Article 19 is amended so as to henceforth read as follows:

Article 19

The provision in the organizational structure, duties, responsibilities, and working procedures of the Supreme Court secretariat shall be established by Presidential Decree at the proposal of the Supreme Court.

12. The provision in Article 20 is amended so as to henceforth read as follows:

Article 20

- (1) To be appointed to become Registrar Supreme Court, a candidate must meet the following requirements:
 - a. Indonesian National;
 - b. Devoted to God Almighty;

- c. Graduate degree in law or other scholars who have expertise in the law sector; and
 - d. Experienced at least 2 (two) years as a deputy registrar at the Supreme Court and at least 3 (three) years as a registrar at the court of appeal level.
- (2) To be appointed a Junior Registrar Supreme Court, a candidate must meet the following requirements:
- a. As referred to in paragraph (1) item a, item b, and c item; and
 - b. Experienced at least 2 (two) years as registrar of the court of appeal level and 5 (five) years as registrar of court of first instance.
- (3) To be appointed become Substitute Registrar Supreme Court, a candidate must meet the following requirements:
- a. As referred to in paragraph (1) item a, item b, and c item; and
 - b. Experienced at least 10 (ten) years as a civil servant in the field of technical matters on the Supreme Court.
13. The provision in Article 21 is amended so as to henceforth read as follows:

Article 21

Registrar of Supreme Court shall be appointed and dismissed by the President upon the recommendation of the Chairman of the Supreme Court.

14. The provision in Article 22 is amended so as to henceforth read as follows:

Article 22

Before assuming office, the Registrar of the Supreme Court taken the oath or promise by the Chairman of the Supreme Court.

15. Between Article 24 and Part Four is inserted 1 (one) new article that Article

24A, which read as follows:

Article 24A

- (1) The registrar, a deputy registrar and the substitute for registrar on the Supreme Court shall honorably be discharged from his position because:
 - a. Death;
 - b. Reaching pension age in accordance with the legislation;
 - c. Own request;
 - d. Permanent spiritual or physical disorder; or
 - e. Proven of unable to perform their duties.
 - (2) The registrar, a deputy registrar, and substitute for registrar on the Supreme Court did not honorably discharge from office by reason of:
 - a. Sentenced to prison by a court decision which has obtained permanent legal force for committing a criminal act punishable by imprisonment of 5 (five) years or more;
 - b. Committing immoral acts;
 - c. Continuous failure to perform obligation in carrying out his job;
 - d. Breaching the oath of office;
16. Chapter II, Part Four of the Secretary General of the Supreme Court was changed to the Secretary of the Supreme Court.
17. The provision in Article 25 is amended so as to henceforth read as follows:

Article 25

- (1) In the Supreme Court, a secretariat shall be established headed by a Secretary of the Supreme Court.

- (2) The Secretary of Supreme Court shall be appointed and dismissed by the President upon the recommendation of Chairman of the Supreme Court.
- (3) In the Secretariat of the Supreme Court several directorate general and agency shall be established headed by a director general and head of the agency.
- (4) The Director-General and head of the agency shall be appointed and dismissed by the President upon the recommendation of Chairman of the Supreme Court.
- (5) Before assuming office, the director general and head of agency shall take the oath or promise taken by the Chairman of the Supreme Court.
- (6) The provision in the organizational structure, duties, responsibilities, and procedures of work of the secretariat and agencies in the Supreme Court, shall be established by presidential decree at the proposal of the Supreme Court.

18. Article 26 and Article 27 are deleted.

19. The provision in Article 30 is amended so as to henceforth read as follows:

Article 30

- (1) Supreme Court in the cassation level shall cancel the decision or adjudication of the courts of all courts because:
 - a. Unauthorized or exceeded authorized limits;
 - b. Wrongly apply or violate applicable law;
 - c. Failure to fulfill the conditions required by laws and regulations that threaten the negligence was concerned with the cancellation decision.
- (2) In a consultative meeting, any Supreme Court justices are required to submit the consideration or a written opinion to the matter under

review and become an integral part of the decision.

- (3) In case this consultative meeting could not be reached unanimous consensus, a different opinion of Supreme Court justices must be loaded in the decision.
- (4) Further implementation of the provisions in as referred to in paragraph (2) and paragraph (3) shall be governed by the Supreme Court.

20. The provision in Article 31 is amended so as to henceforth read as follows:

Article 31

- (1) Supreme Court has the authority to examine the legislation under the Law of Law.
- (2) Supreme Court declared invalid the fight under the Law's regulations on grounds contrary to the rules fight given a higher or establishment does not comply with the provisions in the regulations.
- (3) Decisions regarding the invalidity of the fight given the rules as referred to in paragraph (2) can be taken either related to the examination on appeal or by petition directly to the Supreme Court.
- (4) Regulation of the fight is declared invalid as referred to in paragraph (3) does not have binding legal force.
- (5) Decisions as referred to in paragraph (3) shall be published in State Gazette of the Republic of Indonesia in joints later than 30 (thirty) working days after the decision.

21. Between Article 31 and Article 32 is inserted by 1 (one) new article 31A of the article which read as follows:

Article 31A

- (1) Petition for judicial review under the Law's regulations on the fight against the Law were filed by the applicant or his / her attorney to the Supreme Court, and is made in writing in Indonesian.
 - (2) The application must contain at least:
 - a. Name and address of the applicant;
 - b. Description of a subject on which the petition, and shall describe clearly that:
 - 1) the substance of the paragraph, article, and / or the regulation is considered the fight against the rules fight given higher; and / or
 - 2) Formation of the fight given the rules do not meet the provision in the regulations.
 - c. Things that are required to cut.
 - (3) In case the Supreme Court is of opinion that the petitioner or the petition does not qualify, the ruling stated the application is not accepted.
 - (4) In case the Supreme Court considers the request unreasonable, the ruling declared that the appeal be granted.
 - (5) If the application is granted as referred to in paragraph (4), the ruling explicitly stating the substance of the paragraph, article, and / or part of the fight rules that conflict with legislation which is higher.
 - (6) In terms of regulation the fight is not against the rules fight given a higher and / or not against the establishment, the ruling declared that the appeal was rejected.
 - (7) The provision in more information about the fight testing regulations under the Law is governed by Supreme Court.
22. The provision in Article 35 is amended so as to henceforth read as follows:

Article 35

Supreme Court gives legal considerations to the President in the petition for clemency and rehabilitation.

23. Between Article 45 and Paragraph 2 of the General Court is inserted by 1 (one) new article that Article 45A which read as follows:

Article 45A

- (1) Supreme Court to hear appeal in cases that qualify for an appeal filed, unless the case that the Law is limited submission.
 - (2) Cases are excluded as referred to in paragraph (1) consists of:
 - a. Decision about the pretrial;
 - b. Criminal cases punishable with imprisonment of 1 (one) year and / or threatened with criminal penalties;
 - c. Case that the object of state administrative complaint form of decision of local officials who jointing decision applies in the territory of the regions concerned.
 - (3) Appeal against the case as referred to in paragraph (2) or the appeal that do not meet the formal requirements, declared unacceptable by the setting of the head of the court of first instance and his case file was not sent to the Supreme Court.
 - (4) Determination chairman of the court as referred to in paragraph (3) no legal action may be filed.
 - (5) The implementation of the provisions in as referred to in paragraph (3) and paragraph (4) shall be further be regulated by the Supreme Court.
24. Between Article 80 and Chapter VII of provision on Seal is inserted by 3 (three) new articles namely Article 80A, Article 80B, and Article 80C that read as follows:

Article 80A

Before the Judicial Commission as referred to in Article 8 paragraph (2) is formed, nominating candidates for Supreme Court judge shall be made by the Supreme Court at approval of DPR and hereinafter designated as Supreme Court judge by the President.

Article 80B

The position of registrar of the Supreme Court held by the judge should be adjusted to the provisions in this Law within not later than 5 (five) years as of the effectiveness date hereof.

Article 80C

The provision on the development of military personnel in the Registrar of the Supreme court shall be made in accordance with the regulations governing the military personnel.

25. In Chapter VII of the provision in Closing plus 1 (one) new article that Article 81A which read as follows:

Article 81A

The Budget of Supreme Court shall be charged to separate budget item in the State Budget.

Article II

This Law shall become effective as of the date of promulgation.

For public cognizance, it is instructed to promulgate this Law by inserting the same in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta

On : January 15, 2004

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed

MEGAWATI SOEKARNO PUTRI

Promulgated in Jakarta

On : January 15, 2004

SECRETARY OF STATE REPUBLIC OF INDONESIA,

signed

BAMBANG KESOWO

STATEGAZETTE OF THE REPUBLIC OF INDONESIA OF 2004 NUMBER 9

ELUCIDATION TO
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 5 OF 2004
REGARDING
AMENDMENT TO LAW NUMBER 14 OF 1985
REGARDING SUPREME COURT

I. GENERAL

The Constitution of the Republic of Indonesia of 1945 stipulates that the Supreme Court and judicial bodies underneath it in the general courts, religious courts, military courts, and state administrative courts are the independent judicial authorities, besides the Constitutional Court, to hold court to enforce the law and justice. In addition, the Supreme Court determined also have the authority to hear cases at appeal, the test rules fight given under Law, and other authority granted by the Law.

The power of an independent judiciary is one important principle for Indonesia as a country of law. This principle requires judicial authority that is free from any interference whatsoever and in whatever form, so that in performing their duties and obligations is no guarantee the impartiality of the judicial authorities, except to law and justice.

In order to strengthen the implementation of changes to the judicial authorities who have been placed Constitution Republic of Indonesia of 1945, need to be adjustments for various Law which regulates the judicial authorities. This Law contains changes to the various substances Law Number 14 of 1985 on the Supreme Court. These changes, in addition to customized with the policy direction established in the Constitution the Republic of Indonesia of 1945, also based on the new Law on the judicial authorities who replaced Law Number 14 of 1970 concerning the provision in-the provisions in Principal Judicial Power, as amended by Law Number 35 of 1999 on Amendment of Law Number 14 of

1970 concerning the provision in-the provisions in Principal Judicial Power.

Various changes in the substance of this Law, among others, about the confirmation of the position of Supreme Court as a principal judge authorities, the conditions to be able to appointed become judge, as well as several substances related to procedural law, particularly in carrying out the duties and authority in examining and deciding on the appeal and in conducting the fight given the right to test against regulations under Law. In this Law the restrictions on who can appeal to the Supreme Court was made. This restriction on the side intended to reduce the tendency of each case submitted to the Supreme Court at the same time intended to encourage increased quality of the verdict the court of first instance and court of appeal level in accordance with the values of law and justice in society.

With the increasing scope of duties and responsibilities of the Supreme Court, among others in the field of regulation and management of problems of organization, administration, financial and judicial bodies under the Supreme Court, Supreme Court then the organization should also be carried adjustments.

II. ARTICLE BY ARTICLE

Article I

Point 1

Article 1

Self-explanatory.

Point 2

Article 4

Self-explanatory.

Point 3

Article 5

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Specialist specific areas of law tailored to the needs, the young chief civil instance can consist of a deputy chief of general civil law and the deputy chief of customary law.

Deputy chairman of criminal law may consist of deputy chairman of general civil law and chairman of the deputy chairman of special criminal law.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Point 4

Article 7

Paragraph (1)

Item a

Self-explanatory.

Item b

Self-explanatory.

Item c

By "other graduate " in the provisions shall mean is a graduate of Islamic and police science degree.

Item d

Self-explanatory.

Item e

Self-explanatory.

Item f

Self-explanatory.

Paragraph (2)

Item a

Self-explanatory.

Item b

Self-explanatory.

Item c

By "other graduate", see the explanation of paragraph (1) item c.

Item d

Self-explanatory.

Paragraph (3)

Ad hoc justices among other supreme judge of ad hoc human rights based on Law Number 26 of 2000 regarding Human Rights Court and Supreme Court supreme judge ad hoc in the case of corruption based on Law Number 30 of 2002 regarding Corruption Eradication Commission.

Point 5

Article 8

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

By "hearing day" in the provision was not included in recess.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Point 6

Article 9

Self-explanatory.

Point 7

Article 11

Paragraph (1)

Item a

Self-explanatory.

Item b

Self-explanatory.

Item c

Self-explanatory.

Item d

By "permanent physical and spiritual disorder" under the provision shall mean a medical condition that causes the relevant no longer able to carry out their duties properly.

Item e

By "proven of performing their duties" shall mean the instance in question made a big mistake in carrying out their duties.

Paragraph (2)

By "extraordinary achievement" in the provision shall mean regulated in the provisions in the Supreme Court in accordance with the regulation of the fight.

Point 8

Article 12

Paragraph (1)

Item a

Self-explanatory.

Item b

By "immoral act" shall mean a deed or attitude, both inside and outside the court which can demean the judge.

Item c

Self-explanatory.

Item d

Self-explanatory.

Item e

By "Article 10" in the provision shall mean the Law Number 14 of 1985 regarding Supreme Court.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Point 9

Article 13

Paragraph (1)

During the suspension, the relevant Supreme Court Justice can not handle the case.

Paragraph (2)

Self-explanatory.

Point 10

Article 18

Self-explanatory.

Point 11

Article 19

Self-explanatory.

Point 12

Article 20

Paragraph (1)

Item a

Self-explanatory.

Item b

Self-explanatory.

Item c

See explanation of Article 7 paragraph (1) item c.

Item d

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Point 13

Article 21

Self-explanatory.

Point 14

Article 22

Self-explanatory.

Point 15

Article 24A

Self-explanatory.

Point 16

Self-explanatory.

Point 17

Article 25

Self-explanatory.

Point 18

Self-explanatory.

Point 19

Article 30

Paragraph (1)

In examining the case, the Supreme Court is obliged to dig, follow, and understand the sense of justice who lives in the community.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Point 20

Article 31

Self-explanatory.

Point 21

Article 31A

Self-explanatory.

Point 22

Article 35

Self-explanatory.

Point 23

Article 45A

Paragraph (1)

Self-explanatory.

Paragraph (2)

Item a

Self-explanatory.

Item b

Self-explanatory.

Item c

This provision excluded the state administrative official decision from the authority given to regions that are not in compliance with the fight.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Point 24

Article 80A

Self-explanatory.

Article 80B

Self-explanatory.

Article 80C

Self-explanatory.

Point 25

Article 81A

Self-explanatory.

Article II

Self-explanatory.

**SUPPLEMENT TO STATEGAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 4359**

Translated from Indonesian Language
Jakarta, December 1, 2010
Authorized and Sworn Translator,

FIKRI SAID OBED