**GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA**

**NUMBER : 61 YEAR 2010**

**ON**

**IMPLEMENTATION OF LAW OF THE REPUBLIC OF INDONESIA NUMBER 14 YEAR 2008 ON OPENNESS OF PUBLIC INFORMATION**

**BY THE GRACE OF GOD THE ALMIGHTY**

**PRESIDENT OF THE REPUBLIC OF INDONESIA,**

Considering: a. that in order to implement the provision of Article 20 paragraph

 (2) and Article 58 of Law of the Republic of Indonesia Number 14

 Year 2008 on Openness of Public Information, it is considered

 necessary to issue a Government Regulation of the Republic of

 Indonesia on Implementation of Law of the Republic of Indonesia

 Number 14 Year 2008 on Openness of Public Information.

Bearing in mind: 1. Article 5 paragraph (2) of the Constitution of the Republic of

Indonesia Year 1945;

 2. Law of the Republic of Indonesia Number 14 Year 2008 on

 Openness of Public Information (State Gazette of the Republic

 of Indonesia Number 61 Year 2008,, Supplement to the State

 Gazette of the Republic of Indonesia Number 4846).

**DECIDES**

**To issue : GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA**

 **ON IMPLEMENTATION OF LAW OF THE REPUBLIC OF**

 **INDONESIA NUMBER 14 YEAR 2008 ON OPENNESS OF**

 **PUBLIC INFORMATION.**

**CHAPTER I**

**GENERAL PROVISIONS**

Article 1

In this Government Regulation of the Republic of Indonesia, what is meant by :

1. Public Information is information resulted, kept, managed, sent, and / or received by a Public Body related to provider and provision of state and / or provider and provision of other Public Body in accordance with the Law of the Republic of Indonesia on Openness of Public Information and other information related to the public interest.

2. Public Bodies are executive, legislative, and judicative institutions and other bodies that have the functions and main duties related to the state provision, whose part or all of their funds come from State Budget of Income and Expenditure and / or from Regional Government Budget of Income and Expenditure, or from non-governmental organizations as long as part or all of the funds come from State Budget of Income and Expenditure and / or from Regional Government Budget of Income and Expenditure, contribution from the community, and / or from foreign countries.

3. State Public Bodies are executive, legislative, and judicative institutions, and other bodies that have the functions and main duties related to state provision, whose part or all of their funds come from State Budget of Income and Expenditure and / or from Regional Government Budget of Income and Expenditure.

4. Public Official is a person appointed and given a duty to occupy a certain position or profession in the Public Body

5. Official in charge of the Management of Information and Documentation, hereinafter referred to as PPID is an official responsible in the field of keeping, documenting, providing and/or servicing information in the Public Body.

6. Applicant for Public Information is a citizen and / or Indonesian legal body that submits a request for Public Information referred to in Law on Openness of Public Information.

7. Excepted Information is information that cannot be accessed by Applicant for Public Information referred to in Law on Openness of Public Information.

8. Classification of Public Information is defining of information as Excepted Information based on Law on Openness of Public Information.

9. Consequential Testing is testing on consequences that arise when an information is given to the community by considering meticulously that closing Public Information may protect greater interest than opening it or the reverse.

10. The Period of Exception is a certain time span of an Excepted Information that cannot be accessed by applicant for Public Information.

11. Indemnity is payment of an amount of money to an individual or civil legal body on the burden of State Public Body based on the decision of State Administration Court due to material loss incurred by plaintiff.

12. Minister is the Minister that provides governmental matters in the field of communication and information technology.

**CHAPTER II**

**WRITTEN CONSIDERATION ON POLICY OF PUBLIC BODY**

Article 2

(1) In case there is a request for Public Information by an Applicant of Public Information, the Public Body shall make written consideration on each policy taken to satisfy the right of each Applicant of Public Information.

(2) The written consideration referred to in paragraph (1) is determined by PPID upon the agreement of the concerned Public Body Management.

(3) The written consideration referred to in paragraph (1) can be accessed by each Applicant of Public Information.

**CHAPTER III**

**CLASSIFICATION OF INFORMATION AND PERIOD OF EXCEPTION TOWARD EXCEPTED INFORMATION**

**Part One**

**Classification of Information**

Article 3

(1) Classification of Information is determined by PPID in each Public Body based on Consequential Testing in a meticulous and careful manner before stating that certain Public Information is excepted to be accessed by every body.

(2) The determination of Information Classification referred to in paragraph (1) is done upon agreememnt of the concerned Public Body Management

Article 4

(1) The Information Classification referred to in Article 3 is defined in the form of a letter of classification determination.

(2) The letter of classification determination referred to in paragraph (1) at least contains :

a. Type of excepted information classification;

b. Identity of PPID official that makes determination;

c. Public Body, including working unit of the official that makes determination;

d. Period of Exception;

e. Reason for exception; and

f. place and date of determination.

**Part Two**

**Period of Exception toward Excepted Information**

Article 5

(1) Period of Exception of Public Information which when opened and given to Applicant of Public Information, may delay the process of law enforcement determined at most thirty (30) years.

(2) The Period of Exception referred to in paragraph (1) is excepted if said Public Information has been opened in the court proceeding open to the public.

Article 6

The Period of Exception of Public Information which when opened and given to the Applicant of Public Information may disturb the protection interest of intellectual property right and protection from unhealthy business competition defined based on the prevailing legal regulations.

Article 7

(1) The Period of Exception of Public Information which when opened and given to Applicant of Public Information may endanger state defense and security defined during the period needed for the protection of state defense and security.

(2) The Period of Exception of Public Information which when opened and given to Applicant of Public Information may disclose the natural resources of Indonesia defined during the period needed for the protection of natural resources of Indonesia.

(3) The Period of Exception of Public Information which when opened and given to Applicant of Public Information may harm national economic resilience, defined during the period needed for the protection of national economic resilience.

(4) The Period of Exception of Public Information which when opened and given to Applicant of Public Information may harm the interest of foreign relations defined during the period needed for the protection of interest of foreign relations.

(5) Determination of certain period needed as referred to in paragraphs (1), (2), (3), and (4) is decided by the highest management of the concerned Public Body.

Article 8

(1) The Period of Exception of Public Information which when opened may disclose the content of personal authentic act and the last will and testament of a person defined based on the provision of legal regulations.

(2) The Period of Exception of Public Information which when opened and given to Applicant of Public Information may disclose personal secret of a person defined during the period needed for the protection of someone’s personal secret.

(3) The Public Information referred to in paragraphs (1) and (2) may be opened if:

a. the party whose secret is disclosed provides written agreement; and/or

b. disclosure related to the position of someone in public professions is in accordance with the provision of legal regulations.

Article 9

The Period of Exception of a memorandum or letters inter Public Bodies or Intra Public Bodies related to Excepted Information is defined based on the provision of legal regulations.

Article 10

(1) PPID on agreement of Public Body management may change the classification of Excepted Information.

(2) The change of classification of Excepted Information referred to in paragraph (1) may only be done based on Consequential Testing.

Article 11

(1) The Excepted Information that has ended the Period of its Exception becomes Public Information that can be accessed by Applicant of Public Information with the determination of PPID.

(2) The determination referred to in paragraph (1) is done at most thirty (thirty) work days before the termination of the Period of Exception.

(3) In the event that the determination referred to in paragraph (2) is not done, the Excepted Information becomes Public Information at the time of termination of the Period of Exception.

**CHAPTER IV**

**OFFICIAL IN CHARGE OF MANAGEMENT OF INFORMATION AND DOCUMENTATION**

**Part One**

**General**

Article 12

(1) Officials that can be appointed as PPID within the scope of State Public Body in the Headquarters and in the regions are officials that deal with Public Information.

(2) PPID referred to in paragraph (1) is appointed by the management of each State Public Body concerned.

(3) PPID within the scope of Public Body other than State Public Body is appointed by the management of the concerned Public Body.

Article 13

(1) PPID is held by a person that has competence in the field of management of information and documentation.

(2) The competence referred to in paragraph (1) is determined by the management of the concerned Public Body.

**Part Two**

**Duty and Responsibility**

Article 14

(1) PPID has the duty and responsibility in :

a. providing, keeping, documenting, and securing information;

b. information service in accordance with the applicable rules;

c. quick, accurate, and simple Public Information service;

d. determining the operational procedure of spreading Public Information;

e. Consequential Testing;

f. Classification of Information and/or its modification;

g. determining the Excepted Information that has terminated its Period of Exception as Public Information that can be accessed ; and

h. determining written consideration on each policy taken to fulfil the right of every person on Public Information.

(2) Besides the provisions referred to in paragraph (1), PPID may exercise its duty and responsibility in accordance with the provision of legal regulations.

Article 15

In implementing its duty, PPID is assisted by functional official in the concerned Public Body.

**CHAPTER V**

**PROCEDURE OF PAYMENT OF INDEMNITY BY STATE PUBLIC BODY AND IMPOSITION OF CRIMINAL FINE**

**Part One**

**Procedure of Payment of Indemnity by State Public Body**

Article 16

(1) Indemnity on the act of State Public Body which causes material loss suffered by the Plaintiff is done based on the procedure of implementation of indemnity at State Administration Court with maximum indemnity of Rp. 5,000,000.00 (five million rupiahs).

(2) The indemnity referred to in paragraph (1) is fixed through the decision of the State Administration Court if proved that material loss occurred is due to the act against the law committed by State Public Body.

(3) The amount of the indemnity that has been determined in the decision of State Administration Court is fixed and unchanged although there is a time lapse between the date of adopting the decision and the time of payment of the indemnity.

Article 17

(1) The indemnity that becomes the responsibility of Public Body is the financial burden of the concerned Public Body.

(2) The provision regarding the payment of indemnity referred to in paragraph (1) is implemented in accordance with the provision of legal regulations.

Article 18

In case the payment of indemnity cannot be implemented by the State Public Body in the current budget year, the payment of indemnity is included and implemented in the following budget year.

**Part Two**

**Imposition of Criminal Fine**

Article 19

(1) Payment of criminal fine for Public Body becomes the financial burden of the concerned Public Body in accordance with the provision of legal regulations.

(2) Criminal fine referred to in paragraph (1) becomes the responsibility of Public Official and does not become the financial burden of Public Body if it can be proved that the action done by the Official is outside his main duty and functions which exceed his authority determined in the provision of legal regulations and the provision of the concerned Public Body.

Article 20

The decision of the court which imposes criminal fine to the Public Body as State Administration body does not decrease the right of the state to impose administrative sanctions to the Public Official based on the provision of legal regulations.

**CHAPTER VI**

**FINAL PROVISIONS**

Article 21

(1) PPID must have been assigned at most one (1) year counting from the promulgation of this Government Regulation.

(2) In case PPID has not been assigned, the duty and responsibility of PPID may be done by a unit or service in the field of information, communication, and / or public relation.

Article 22

This Government Regulation of the Republic of Indonesia shall come into force on the date of its promulgation.

In order to make known to every body, instruct the promulgation of this Government Regulation by placing it in the State Gazette of the Republic of Indonesia.

 Done at: JAKARTA

 On : August 20, 2010

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**PRESIDENT OF THE REPUBLIC OF INDONESIA,**

Signed

**DR. H. SUSILO BAMBANG YUDHOYONO**

Promulgated at Jakarta

On August 23, 2010

**MINISTER OF LAW AND HUMAN RIGHTS**

**OF THE REPUBLIC OF INDONESIA**

 Signed

 **PATRIALIS AKBAR**

**STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2010 NUMBER 99**

For copy conform to the original

STATE SECRETARIAT OF THE REPUBLIC OF INDONESIA

Head of Bureau of Legal Regulations,

Division of Politics and People’s Welfare,

 Wisnu Setiawan

**EXPLANATORY NOTE**

**ON**

**THE GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA**

**NUMBER 61 YEAR 2010**

**ON**

**IMPLEMENTATION OF LAW OF THE REPUBLIC OF INDONESIA NUMBER 14 YEAR 2008 ON OPENNESS OF PUBLIC INFORMATION**

I. GENERAL

 Law of the Republic of Indonesia Number 14 Year 2008 on Openness of Public Information is a new legal regime that carries a principle of transparency in the provision of the life of the nation and state. The Law does not only regulate the openness of information in the state institutions themselves, but also in the non-governmental organizations which a part or the whole of their funds come from public funds, either the State Budget of Income and Expenditure and Regional Government Budget of Income and Expenditure, community contribution, or from the source of foreign countries.

 For further regulation, Law Number 14 Year 2008 on Openness of Public Information instructs the creation of government regulation which regulates the Period of Exception toward Excepted Information and the procedure of payment of Indemnity by State Public Body. Nevertheless, this Government Regulation does not only regulate the two cases mentioned above, but also regulates a written consideration of the policy of Public Body, Classification of Excepted Information, position and duty of Official In Charge of Managing Information and Documentation, and imposition of criminal fine.

 Such regulation is needed so that Law Number 14 Year 2008 on Openness of Public Information may be implemented appropriately. This is in line with Law Number 10 Year 2004 on Formation of Legal Regulations that provide the legal basis for delegating authority to the government to regulate things that are needed in the provision of state government which is not on explicit demand from a law.

In implementing the openness of Public Information, all lines of public officials must be more transparent, accountable, and oriented to services to the people as best as possible, because the implementation of openness of Public Information is not solely the task of Official in Charge of Managing Information and Documentation, but also the task of Public Bodies with all their human resources.

Hence, the implementation of openness of Public Information is expected to move forward the provision of the life of the nation and state of becoming more democratic.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear

Article 2

 Sufficiently clear

Article 3

Paragraph 1

 What is meant by “Classification of Information” is Excepted Public Information, among other things, public information related to the process of law enforcement, state defense and security, and national economic resilience.

Paragraph (2)

Sufficiently clear

. Article 4

Sufficiently clear

Article 5

Paragraph (1)

What is meant by “Public Information which when opened and given to Applicant of Public Information may delay the process of law enforcement” is information that can :

1. delay the process of research and investigation of a criminal action;

2. disclose the identity of informer, reporter, witness, and / or the victim that knows the criminal action

3. disclose criminal intelligent data and plans that have to do with prevention and handling of all forms of transnational crime;

4. endanger safety and life of law enforcers and / or their families; and / or

5. endanger the security of equipment, means, and / or infrastructure of law enforcers

Paragraph (2)

Sufficiently clear

Article 6

What is meant by “the provision of legal regulations” is, among other things, legal regulations concerning trade confidentiality, legal regulation on patent, legal regulations regarding monopoly practice prohibition and unhealthy business competition, and legal regulations regarding business company’s documents.

Article 7

Paragraph (1)

What is meant by “Public Information which when opened and given to Applicant of Public Information may endanger state defense and security” is :

a. information on strategy, intelligence, operation, tactics, and techniques related to provision of state defense and security system, covering the stages of planning, implementation, and terminating or evaluation in relation to threat from inside and outside the country

;

b. document containing strategy, intelligence, operation, techniques, and tactics related to the provision of state defense and security system that covers the stages of planning, implementation, and terminating or evaluation;

c. number, composition, disposition, or dislocation of strength and capability in the provision of state defense and security system and the plan of its development

;

d. picture and data regarding situation and condition of landing stage and / or military installation;

e. forecasting data of the military capability and defense of other country restricted to all actions and / or indication of said country that may endanger the sovereignty of Unitary State of the Republic of Indonesia and / or data related to military cooperation with other country as agreed in such cooperation agreement as confidential or strictly confidential;

f. state secret code system; and / or

g. State intelligence system.

 Paragraph (2)

Sufficiently clear

Paragraph (3)

What is meant by “Public Information which when opened and given to Applicant of Public Information may harm the national economic resilience” is:

1. the initial plan of purchase and sale of national or foreign currency, share and vital asset belonging to the state;

2. the initial plan of the change of conversion rate, interest rate, and operation model of financial institution;

3. the initial plan of the change of bank interest rate, government loan, fiscal change, tariffs, or other state / regional income;

4. the initial plan of sale or purchase of land or property;

5. the initial plan of foreign investment;

6. the process and result of banking supervision, insurance, or other financial institutions; and / or

7. matters related to the process of currency printing.

Paragraph (4)

What is meant by “Public Information which when opened and given to Applicant of Public Information may harm the interest foreign relations” is :

1. position, bargaining power and strategy that will be and has been taken by the state in relation to international negotiation;

2. diplomatic correspondence between countries;

3. communication system and code used in exercising international relations; and / or

4. protection and securing the strategic infrastructure of Indonesia abroad.

Paragraph (5)

Sufficiently clear

Article 8

Paragraph (1)

What is meant by “the provision of legal regulations” among other things, is legal regulations on archives.

Paragraph (2)

What is meant by “Public Information which when opened and given to Applicant of Public Information may disclose personal secret” is :

1. biography and conditions of family members;

2. history, condition and treatment, physical health treatment, and psychic of a person.

3. financial condition, asset, income, and bank account of a person;

4. evaluation results in relation to capability, intellectualism, and recommendation of an ability of a person; and / or

5. note concerning personality of a person related to activity of formal education unit and non-formal education unit.

Paragraph (3)

Point a

Sufficiently clear

Point b

What is meant by “the provision of legal regulations” among other things, is legal regulations concerning combat against corruption criminal actions and legal regulations concerning Commission of Anti Corruption criminal actions.

Article 9

What is meant by “the provision of legal regulations “ among other things, is

 legal regulations on archives and legal regulations on business company’s documents.

Article 10

Paragraph (1)

What is meant by “change the classification of Excepted Information” is for example of Public Information which at first is classified as Excepted Information related to the process of law enforcement which its classification is then changed into Excepted Information related to the state defense and security.

Paragraph (2)

Sufficiently clear

Article 11

Paragraph (1)

The determination is this provision is made in the form of a list of information that can be accessed based on demand.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 12

Sufficiently clear

Article 13

Sufficiently clear

Article 14

Paragraph (1)

Sufficiently clear

Paragraph (2)

What is meant by “the provision of legal regulations” among other things, is legal regulations regarding personnel

Article 15

Sufficiently clear

Article 16

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

What is meant by “the amount is fixed and unchanged” is that although there is a time lapse between the time of adopting the decision by State Administration Court and the implementation of payment of indemnity, such thing does not influence the amount of indemnity that has been decided by the Judge of State Administration Court. Hence, against the amount of indemnity, there is no possibility to ask for interest as addition of the value of indemnity.

Article 17

Paragraph (1)

Sufficiently clear

Paragraph (2)

What is meant by “the provision of legal regulations” among other things, is legal regulations regarding payment of indemnity and the procedure of its implementation at state judicial administration.

Article 18

If it is possible for State Public Body, payment of indemnity is done soon after submission of request for the implementation of the decision of State Administration Court by the concerned party.

Article 19

Paragraph (1)

What is meant by “the provision of legal regulations” among other things, is legal regulations regarding state finance and legal regulations regarding payment of indemnity and the procedure of its implementation at state judicial administration..

Paragraph (2)

What is meant by “the provision of legal regulations” among other things, is legal regulations regarding personnel.

Article 20

What is meant by “the provision of legal regulations” among other things, is legal regulations regarding personnel.

Article 21

Sufficiently clear

Article 22

Sufficiently clear

**SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 5149**