



**THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**THE CONSTITUTIONAL COURT REGULATION
NO. 06/PMK/2005**

ON

THE PROCEDURES OF JUDICIAL REVIEW OF LAW

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

Considering : a. that one of the authorities of the Constitutional Court is to conduct judicial review, among others to examine, justify, and decide petition of judicial review of law against the 1945 Constitution of the Republic of Indonesia;

b. that the Constitutional Court has the authority to further arrange all the matters necessary to support the Court in exercising its duties and authorities;

c. that considering the matter as specified in letter a and b, it is necessary to publish the Constitutional Court Regulation on the procedures of judicial review of law against the 1945 Constitution of the Republic of Indonesia.

In view of : 1. Article 24C paragraph (1) and (6) of the 1945 Constitution of the Republic of Indonesia;

2. Law Number 24/2003 on the Constitutional Court (State Gazette of the Republic of Indonesia No. 98/2003, Additional State Gazette of the Republic of Indonesia No. 4316);

3. Law Number 10/2004 on Legislation (State Gazette of the Republic of Indonesia No. 53/2004, Additional State Gazette of the Republic of Indonesia No. 4389).

Pursuant to : The Work Outcome of the Drafting Team of the Constitutional Court Regulation on the Procedures of Judicial Review and the resolution of the Plenary Meeting of the Constitutional Court.

Decides

To Stipulate : THE REGULATION OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA ON THE PROCEDURES OF JUDICIAL REVIEW OF LAW.

CHAPTER I GENERAL PROVISION

Article 1

In this regulation, the following terms shall mean as follows:

1. Judicial Review means a formal and/or material review as specified in Article 51 paragraph (3) letters a and b of Law No. 24/2002 on the Constitutional Court;
2. Constitutional right and/or authority is the right and/or authority as stipulated in the 1945 Constitution of the Republic of Indonesia;
3. 1945 Constitution is the Constitution of the Republic of Indonesia enacted in Year 1945;
4. Law is any of the prevailing laws of the Republic of Indonesia;
5. Court is the Constitutional Court of the Republic of Indonesia;
6. DPR (the House) is the House of Representatives of the Republic of Indonesia;
7. DPD (the Regional Representatives Council) is the Regional Representatives Councils of the Republic of Indonesia;
8. President is the President of the Republic of Indonesia;
9. Supreme Court is the Supreme Court of the Republic of Indonesia;
10. Plenary is a complementary device of the Court consisting of 9 (nine)

- constitutional justices, except under an extraordinary circumstance of 7 (seven) constitutional justices as stipulated in Article 28 paragraphs (1), (2), and (3) of Law No. 24/2003 on the Constitutional Court;
11. Panel of Justices is a complementary device of the Court consisting of minimum three (3) constitutional justices as specified in Article 28 sections (1), (2), and (3) of Law No. 24/2003 on the Constitutional Court;
 12. BRPK (Buku Registrasi Perkara Konstitusi) is the Registration Book of Constitutional Cases.
 13. Expert's Explanation is a descriptive elucidation of an expert, who, based on his/her educational background and experience, has an exceptional expertise and profound knowledge in regard to the petition, in the forms of both scientific and technical opinions, or other particular opinions pertaining to any required evidence or fact for the purpose of petition examination;
 14. Witness testimony is a testimonial description given by someone in the court concerning an event or incident, which he/she heard, saw and/or experienced;
 15. Interpreter is a person, who has expertise and capability in carrying out oral translation / interpreting activities from foreign language(s) into Bahasa Indonesia and/or the vice versa.

Article 2

The petition assessment of judicial review of law against the 1945 Constitution is performed in a publicly open court, except the Justices Deliberation Meeting.

CHAPTER II PETITIONER AND PETITION MATERIAL

Part One

The Petitioner

Article 3

The Petitioner of judicial review of law against the 1945 Constitution may be:

- a. Any individual person as an Indonesian citizen or a group of people having the same interest;

- b. A Union of Customary Law Community provided that it still exists and complies with the society development condition and the principles of the Unitary State of the Republic of Indonesia as regulated by Laws;
- c. Public or private legal entity; or
- d. State institution.

Part Two

Petition

Article 4

- (1) The petition of judicial review of law covers both formal and material judicial reviews;
- (2) Material judicial review is a judicial review concerning the material content of the articles, sections and/or the sub-section / part of the Law considered violating the 1945 Constitution;
- (3) Formal judicial review is a judicial review concerning the enactment process of law and others excluding the materially judicial review as specified in paragraph (2);

Article 5

- (1) The petition shall be made in writing in Bahasa Indonesia by the Petitioner or its attorney-at-law in twelve copies which includes:
 - a. The Petitioner's Identity covering:
 - Name
 - Place, date of birth / age
 - Religion
 - Occupation / Profession
 - Citizenship / Nationality
 - Complete Address
 - Phone Number(s)/facsimile/cell phone/e-mail (if any)
 - b. The Details concerning the reasons of the petition, which include:
 - the Court's authority as specified in article 4 (four);

- the legal standing of the Petitioner specifying the details of the Petitioner's assumption on either his/her constitutional rights and/or authority having been disadvantaged by the enactment of the law being reviewed;
 - reasoning factors of petition for judicial review as specified in Article 4, which must be described clearly and in details;
- c. The matters of petition to be sentenced in a formally judicial review as specified in article 4, paragraph (3) are among others:
- to endorse the petition of the Petitioner;
 - to declare that the enactment of the law does not comply with the enactment procedures of law based on the 1945 Constitution;
 - to declare that the enacted law does not have any binding legal force.
- d. The matters of petition to be sentences in a materially judicial review as specified in Article 4 paragraph (2) are among others:
- to endorse the petition of the Petitioner;
 - to declare that the material content of the enacted law contradicts to the 1945 Constitution;
 - to declare that the enacted law does not have any binding legal force.
- e. The petition is dully signed by Petitioner or its attorney-at-law
- (2) Besides being made in writing as specified in paragraph (1), the petition must also be filed in digital format which is stored in any form of electronic media, i.e.: disc, compact disc or other similar device.

CHAPTER III

PROCEDURES AND MECHANISMS OF FILING PETITION

Article 6

- (1) The petition is filed to the Constitutional Court through the court registry.
- (2) Verification process for the completeness of administration documents of petition is conducted transparently through consultation forum between the prospective Petitioner and the Court Registrar.
- (3) Registry clerk(s) shall be obliged to verify the completeness of the supporting

documents to support the petition as prescribed in Article 5 paragraph (1) to consist at least:

- a. Petitioner's identity documents complying with the qualification as specified in article 51 paragraph (1) Law Number 24/2003 on the Constitutional Court, namely:
 1. a copy of identity card (KTP) if the petitioner is a citizen of the Republic of Indonesia;
 2. the evidence of the existence of the customary law community in accordance with prevailing laws if the petitioner is a customary law community;
 3. deed of establishment of either a public or private legal entity and its legalization if the petitioner is a legal entity;
 4. rules and regulations of law enactment on establishment of state institution if the Petitioner is a state institution.
 - b. documentary or written evidence pertaining to the reasons of filing the petition;
 - c. list of the prospective expert(s) and/or witness(es) together with a short statement concerning the matters to be explained relating to the reasons of filing the petition, and willingness to attend the court, in case the petitioner intends to propose any expert(s) and/or witness(es);
 - d. list of other possible evidence, in the forms of information stored in electronic media or sent electronically if considered necessary.
- (4) When the petition document is deemed to have satisfied the requirements, it is then declared 'accepted' by Court Registry Clerks by issuing the Certificate of Case Filing Acknowledgment to the Petitioner.
 - (5) If the petition does not suffice, the Court Registrar will notify the Petitioner of the requirements in arrear to be immediately fulfilled, and the Petitioner shall complete them within at least 7 (seven) working days since the receipt of Notification Certificate of the Incomplete Documents.
 - (6) In the event that the Petitioner fails to meet the requirements prescribed in paragraph (7), the Court Registrar shall issue a certificate declaring that the petition is unregistered in the BRPK, and subsequently notify the Petitioner thereof along with the returning of the petition.

- (7) No charge shall be imposed on the petition of the judicial review to be filed.

CHAPTER IV

CASES REGISTRATION AND COURT HEARING(S) SCHEDULING

Part One

Constitutional Cases Registration

Article 7

- (1) Complete and requirements-complying petition shall be registered in the BRPK and labelled with its respective case number.
- (2) Court Registrar shall issue a certificate as the written proof of case registration prescribed in paragraph (1).
- (3) The Court shall present the copies of the Petition to the House of Representatives and President respectively, through a letter undersigned by Court-Registrar within at least 7 (seven) working days since the petition is registered in the BRPK.
- (4) The Court shall inform the Supreme Court through a letter signed by the Chief Justice notifying the judicial review of certain law, and request the Supreme Court to terminate the judicial review of laws and regulation under the law being reviewed as specified in article 55 Law No. 24/2003 on the Constitutional Court, within at least 7 (seven) working days since the petition is registered in the BRPK.
- (5) Forwarding the copy of petition as meant in paragraph (3) and of notification prescribed in paragraph (4) is conducted by Court Bailiff and shall be evidenced by records of delivery.
- (6) In case that the petition already registered in the BRPK is withdrawn by the Petitioner, the Court Registrar shall issue Annulment Certificate of Petition Registration thereof while at the same time returning all the petition documents to the Petitioner.

Part Two

Court Hearing Scheduling

Article 8

- (1) The Court Registrar forwards the registered case documents to the Chief

Justice to determine the composition of Panel of Justices assigned with the examination of the case after the Court Registrar appoints the Substitute Court-Registrar.

- (2) Chairman of Panel of Justices shall, within 14 (fourteen) working days since the petition is registered in BRPK, set up the first hearing session.
- (3) The stipulation of court hearing specified in paragraph (2) is notified to the Petitioner and announced to the public.
- (4) Announcement prescribed in paragraph (3) shall be displayed in a specially designed announcement board for that purpose and also published in the Constitutional Court's website (www.mahkamahkonstitusi.go.id) as well as in printed and electronic media.

Part Three

Summon to the Session

Article 9

- (1) Notification as specified in Article 8 paragraph (3) as summon to the session shall be received by the Petitioner or his authorized Attorney within at least 3 (three) days prior to the hearing.
- (2) Said notification stipulated in Article 8 paragraph (3) and Article 9 paragraph (1) shall be conducted by means of letter of summon undersigned by Court Registrar and submitted directly to the Petitioner by the Court Bailiff or by phone, fax, and/or electronic mail(s) evidenced by Records of the Summon.

Chapter V

EXAMINATION

Part One

Preliminary Examination

Article 10

- (1) Preliminary examination shall be conducted in a publicly open session by a Panel of Justice consisting of at least 3 (three) Constitutional Justices.
- (2) Such preliminary examination can be conducted in a Plenary Session attended by at least 7 (seven) Constitutional Justices.

Article 11

- (1) In preliminary session, Justice(s) shall scrutinize completeness and clarity of the petition material proposed which includes the authority of the Court, legal standing of the Petitioner, and subject matter of the petition.
- (2) In the examination as prescribed in paragraph (1), Justices shall be obliged to advise the Petitioner and/or his Attorney to complete the petition or make necessary revision thereof as required within at least 14 (fourteen) working days.
- (3) Such advice as specified in paragraph 2 (two) also covers matters related to the proper exercise of court session.
- (4) Should the Justice(s) consider that the petition is sufficient and comprehensibly clear, and/or has been revised in compliance with the advice afforded in the plenary session, the Court Registrar shall present the copies thereof to the President, House of Representatives, and the Supreme Court.
- (5) Subject to the preliminary session by the Panel of Justices, said Panel shall report the results thereof and offer the recommendations to the Plenary Session of Justice Deliberation for subsequent process.
- (6). Also included in the report of said panel as prescribed in paragraph 5 (five) is the proposal for combined court proceedings of several cases in so far that the cases under examination
 - a. share the same subject matters
 - b. have interrelatedness and relevancy to one another
 - c. are so proceeded as to comply with certain consideration at the request of the Petitioner
- 7 No combined court proceedings shall be exercised until the Decision of the Chief Justice has been procured.

Part One

Court Examination

Article 12

- (1) Court examination shall be conducted in a publicly open session.
- (2) Such Court examination shall be exercised by a Panel of Justices under certain circumstances as decided by Justice Deliberation Meeting .

Article 13

- (1) Court examination as prescribed in Article 12 shall entail :
 - a. perusal of the subject matter
 - b. scrutiny of body of written evidence
 - c. court hearing to the explanation of the President/Government
 - d. court hearing to the explanation of the House of Representatives
 - e. court hearing to witness(es)
 - f. court hearing to expert
 - g. court hearing to Related Party
 - h. perusal of collection of data, information, action, circumstances, and/or events which suit the body of other evidence which can be used as clues;
 - i. examination of other pieces of evidence in the form of information spoken, delivered, received or stored electronically with optic devices or apparatus of the similar type.
- (2) At the request of a Justice, information uttered, sent, received or stored electronically, related to the petition as prescribed in paragraph 1 (one) letters c to g, shall be forwarded within 7 (seven) working days at the latest since the receipt of the petition.
- (3) Court examination can be conducted **over a long distance** (teleconference).
- (4) Upon the completion of the court examination, each party shall be given opportunity to deliver final summary within 7 (seven) working days at the latest from the date the last session is held, unless provided otherwise in the session.

Article 14

- (1) The Related Parties as meant in Article 13 (thirteen) paragraph 1 (one) letter g are those who are directly or indirectly interested in the subject matter of the petition.
- (2) The directly Related Parties are those whose rights and/or authorities are affected by the subject matter of the petition.
- (3) The Related Parties as specified in paragraphs 2 (two) can be granted the same rights as those of the Petitioner in the court session in the event that their information and pieces of evidence have not yet been sufficiently

represented in the information and pieces of evidence forwarded by the President/Government, House of Representatives, and/or Regional Representatives Council.

- (4) Indirectly Related Parties shall entail :
 - a. parties whose information , on account of their positions, principal duties, and functions, shall be heard; or
 - b. parties whose information must be heard as *ad informandum*, namely parties whose rights and authorities are not directly affected by subject matter of the petition but due to his high concern with the petition.
- (5) The Related Party as prescribed in paragraph (1) must forward a petition to the Court through the Registrar and later, when approved, it will be endorsed with the Decree of the Chief Justice, the copy of which shall be delivered to the related persons.
- (6) In case that the petition of the Related Party is rejected, written notice thereof shall be delivered to the related persons by the Registrar on the order of the Chief Justice.

Article 15

- (1) If necessary, court examination can be proceeded with field examination by the assigned Constitutional Justice(s) with the assistance of the Registrar and/or Substitute Registrar and can also be accompanied by the Petitioner/President/Government, House of Representatives, Regional Representatives Council, and the results thereof shall be presented in the court sessions.
- (2) Field examination is intended to obtain useful clues as specified in Article 13 (thirteen) paragraph (1) letter h.
- (3) Any cost that may arise in the exercise of the field examination shall be borne by each of the parties hereto.

Article 16

- (1) In the event that the Petitioner contemplates any allegation of offence in the drafting of the law for which the examination is applied, the Court can either temporarily terminate the examination or adjourn the verdict thereof.

- (2) Should the contemplated allegation of the crime as meant in paragraph (1) is accompanied with body of evidence, the Court shall declare that the examination be adjourned and shall notify the authorized officials thereof to conduct investigation of the alleged violation contemplated by the Petitioner.
- (3) In case that legal action of alleged crime as described in paragraph (1) has been taken by the competent authority, the Court can, in the interest and for purpose of examination and decision-making process, ask for information from the competent authority who has conducted the investigation and/or forwarded the case.
- (4) Any termination of the process of examination into the petition or any postponement of the verdict as prescribed in paragraph (1) shall be established through the Decree of the Court, which shall be announced in a publicly open session.

Article 17

- (1) In case that the Petitioner shall forward the withdrawal of the petition, the Plenary Justice Deliberation Meeting or the relevant Panel of Justices accord recommendation to the Court to issue the Decree of the Chief Justice.
- (2) The Chief Justice shall issue the Decree concerning the Withdrawal of the Petition which shall be then be announced in a publicly open session and assign the Court Registrar to write the same in the BRPK, the copy of which shall be delivered to the Petitioner.

Part Three

Examination of Evidence

Article 18

- (1) Presentation of Evidence shall be borne by the Petitioner .
- (2) If considered necessary, the Justice(s) can also charge presentation of evidence on the President/Government, the House of Representatives, and the Regional Representatives Council and/or Related Parties.
- (3) The President/Government, the House of Representatives, and the Regional

Representatives Council and/or other Relevant Parties can forward counter evidence (*tegen-bewijs*).

- (4) In case the Court deems it necessary to conduct a hearing either from the President/Government, the House of Representatives, or the Regional Representatives Council, the experts' elucidations and/or witness testimony shall be so delivered subsequent to those of the President/Government, the House of Representatives, the Council of Regional Representatives, unless specified otherwise by the Court for the interest of the smooth execution of the session.

Article 19

- (1). The types of evidence which can be forwarded for examination in the Court are:
 - a. documents or other pieces of written evidence which are procured in such a manner as considered legitimate and legal;
 - b. statements of witnesses under oath concerning the facts which they themselves have noticed, encountered, heard, and experienced;
 - c. statements of experts under oath in accordance with their expertise.
 - d. statements of the Petitioner, the President/Government, The House of Representatives, and/or the Regional Representatives Council, as well as other statements given by directly related parties;
 - e. clues derived from sequences of data, information, action, situation, and/or events which are congruent with other pieces of evidence, and/or
 - f. other pieces of evidence in the form of information uttered, sent, received or stored electronically by means of optical devices or similar types of appliances.
- (2) Documents or written evidence as prescribed in paragraph (1) letter a in the form of excerpts, duplicates, or photocopies of the statutes, decisions of government administrators, and/or judgments of court of justice, the genuine copies thereof shall be procured from the authorized institutions which enact them.

Article 20

- (1) The examination of documents or other written pieces of evidence shall commence on with the inquiry as to the manner of procurement thereof which shall be accountable for from the point of view of law.
- (2) The perusal of documents or other pieces of written evidence in the form of photocopies shall cover :
 - a. the examination of stamp duty
 - b. perusal of the legalization of and/or the adjustment of photocopied documents with the genuine copies thereof.
- (3) In case the requirements as prescribed in paragraph (1) has not yet been fulfilled, the Presiding Justice shall return the petition to the Petitioner prior to or at the subsequent court session.
- (4) In case the requirements as prescribed in paragraph (1) have been complied with, the Presiding Justice shall, during the course of the court session, declare the petition as legitimate.

Article 21

- (1) Witness(es) can be appointed by the Petitioner , the President/Government, the House of Representatives, the Regional Representatives Council, Related Parties, or summoned on the order of the Court.
- (2) The examination of witness(es) shall commence on with the inquiry of the respective identities thereof (name, place and date of birth, religion/belief, occupation, and place of domicile) and readiness to be under oath or promise in compliance with their respective religion to disclose things that they themselves have heard, noticed and experienced.
- (3) The phrase of oath or promise uttered by witness(es) shall read as follows :

“I swear/promise as a witness to tell the truth but the whole truth”.

For Moslems , the phrase shall be preceded with “ *Demi Allah*”

For Catholics and Protestants shall be closed with “*Semoga Tuhan menolong saya*”

For Hindu the phrase shall begin with “*Om Atah Parama Wisesa*”

For Buddhist the phrase shall start with “*Namo Sakyamuni Buddhaya. Demi*

Hyang Buddha Saya bersumpah ...” and closed with “Saddhu, Saddhu, Saddhu”

Believers of other religions shall comply with the rules of their religious teachings.

Article 22

- (1) Experts can be appointed by the Petitioner, the President/Government, the House of Representatives, the Regional Representatives Council, other Related Parties, or summoned on the order of the Court.
- (2) Expert’s elucidations which can be taken into consideration by the Court are ones which are made by someone who bears no conflict of interest with the subject matter of the case and object under examination.
- (3) The examination of expert(s) shall be initiated with the inquiry of the respective identities thereof (name, place and date of birth, religion/belief, occupation, and place of domicile) and autobiography as well as their expertise, and their readiness to be taken under oath or promise in compliance with their respective religion to disclose things they know based on their expertise.
- (4) The phrase of oath or promise uttered by expert(s) shall read as follows :
“I swear/promise as an expert to tell the truth but the whole truth based on my expertise”.
For Moslems , the phrase shall be preceded with “ *Demi Allah*”
For Catholics and Protestants shall be closed with “*Semoga Tuhan menolong saya*”
For Hindu the phrase shall begin with “*Om Atah Parama Wisesa*”
For Buddhist the phrase shall start with “*Namo Sakyamuni Buddhaya. Demi Hyang Buddha Saya bersumpah ...” and closed with “Saddhu, Saddhu, Saddhu”*
Believers of other religions shall comply with the rules of their religious teachings.
- (5) Examination of Expert in the same fields of expertise, who are appointed by parties hereto shall be conducted simultaneously.

Article 23

- (1) The examination of the relevant parties shall be carried out by listening to the elucidation related with the subject matter of the petition.
- (2) The Relevant Parties having direct concern with the subject matter as specified in Article 14 (fourteen) paragraph (5) shall be given opportunity to :
 - a. give oral and/or written statement of elucidation;
 - b. ask questions to witness(es) and/or expert(s);
 - c. appoint expert(s) and/or witness(es) provided that such appointment is related with matters not having been represented in the statement of elucidation given by expert(s) and/or witness(es) whose statements of elucidation have been heard in the court session.
 - d. submit oral and or written final summary.

Article 24

- (1) Translator is someone, owing to his or her competency, able to translate texts written or uttered in foreign languages into the equivalent texts or utterance in the Indonesian language and vice versa.
- (2) The investigation of the translator shall begin with the inquiry of his identity (name, place and date of birth, religion/belief, occupation, and place of domicile) and autobiography as well as their expertise, as well as their readiness to be taken under oath or promise in compliance with their respective religion to translate certain texts or utterances he hears.
- (3) The phrase of oath or promise uttered by translator(s) shall read as follows :

“I swear/promise as a translator to translate the truth but the whole truth”.

For Moslems , the phrase shall be preceded with “ *Demi Allah*”

For Catholics and Protestants shall be closed with “*Semoga Tuhan menolong saya*”

For Hindu the phrase shall begin with “*Om Atah Parama Wisesa*”

For Buddhist the phrase shall start with “*Namo Sakyamuni Buddhaya. Demi Hyang Buddha Saya bersumpah ...*” and closed with “*Saddhu, Saddhu, Saddhu*”.

Believers of other religions shall comply with the rules of their religious teachings.

Article 25

- (1) The President's statement of elucidation is an official statement made by the government both orally or in writing as the product of coordination with relevant Ministers and/or Government Institutions/Bodies, concerning the subject matter of the petition.
- (2) The President can pass authority with substitution rights to the Minister of Justice and Human Rights and ministers, and/or to high ranking officials on ministerial level related to the subject matter of the petition.
- (3) Ministers or high ranking officials on ministerial level as officially authorized proxies to the President/Government as prescribed in paragraph (2) can attend all sequences of the court examination and shall be obliged to attend at least once for every case under examination, in case the Court shall require and summon them.

Article 26

- (1) The statement of elucidation of the House of Representatives is the official statement issued by the House of Representatives, either orally or in writing, which contains facts taking place in the course of the discussion, and/or any accounts related to the subject matter of the case.
- (2) The House of Representatives represented by its Speaker can delegate authority to the chairperson of, or to any member of the commission overseeing the legal affairs, to relevant commission and/or any other members of the House of Representatives appointed for the purpose thereof.
- (3) Proxies to the Speaker of the House of Representatives as prescribed in paragraph (2) can be assisted by any member of the commission, member of the committee, and/or any other member of the House of Representatives assigned for the purpose thereof.

Article 27

- (1) In case of the review of the laws, during the drafting of which involves the

Regional Representatives Council, the Court shall conduct hearing with, and/or demand elucidation from the Council.

- (2) In the event that the review of the law whose material content is related with the interest of a specific region, although its drafting process does not engage the Regional Representatives Council, the Court can conduct hearing with, and/or demand elucidation of the Council.
- (3) The Regional Representatives Council can become party hereto in respect of the case of the petition of judicial review of the law.

Article 28

- (1) Subject to the approval of and through the Presiding Justice, parties to the court session can ask one another any questions and forward response concerning the subject matter proposed by each of the parties hereto, and ask witness(es) and/or expert(s) appointed by each party hereto any question in respect thereof.
- (2) Any Petitioner can procure written statement of elucidation from the President /Government, the House of Representatives and/or the Regional Representatives Council, and/or other Relevant Parties, and produce response thereto.

Chapter IV

Justice Deliberation Meeting

Article 29

- (1) Justice Deliberation Meeting (the *RPH*) shall be conducted in a **closed** and highly-confidential manner presided over by the Chief Justice.
- (2) In the absence of the Chief Justice, the plenary meeting shall be presided over by the Deputy Chief Justice.
- (3) In the event that the Chief Justice and the Deputy Chief Justice are concurrently absent, the plenary meeting shall be chaired by a Temporary Chairperson appointed from and by members of the Court.
- (4) The quorum of the RPH eligible to make a decision shall consist of at least 7 (seven) Constitutional Justices, assisted by Court Registrar, and other

officers under oath.

- (5) The RPH held with no decision whatsoever to be made can be convened barring any restriction as to the number of the quorum as specified in paragraph (4).

Article 30

- (1) The RPH shall hear, discuss, and/or make a decision concerning :
 - a. the report prepared by the panel pertaining to the preliminary examination;
 - b. the report prepared by the panel concerning the court examination;
 - c. the recommendation proposed by the panel regarding the subsequent action to be taken on the result of the examination of the petition;
 - d. legal opinion of the Constitutional Justices;
 - e. the result of examination exercised by the plenary session and the legal opinion of the Constitutional Justices.
 - f. the Constitutional Judge assigned with the preparation of the draft of the decision;
 - g. draft of the final decision;
 - h. appointment of the Constitutional Justices assigned with the final proof-reading of the draft of the decision;
 - i. distribution of tasks to read the decision during the plenary session.
- (2) Subsequent action to be taken on the result of panel's report as prescribed in paragraph (1) letter c, can be in the form of :
 - a. the discussion over the outline of the decision to be taken concerning the power of the Court and the legal standing of the Petitioner;
 - b. the discussion as to whether subsequent examination shall be conducted, or else the decision can be immediately made;
 - c. the execution of the subsequent examination shall be vested either in the plenary session or panel of justices;

Chapter VII

Decision

Article 31

The decision shall be made in RPH in the presence of at least 7 (seven) Constitutional Justices and shall be read/pronounced in the plenary, publicly open session attended by at least 7 (seven) Constitutional Justices.

Article 32

- (1) In a decision-making process, each of the Constitutional Justices shall be obliged to present consideration or written point of view regarding the petition;
- (2) The decision shall , to the greatest possible extent, be made on the basis of the principles of deliberation for consensus;
- (3) Should deliberation for unanimous agreement fail to be achieved, the session shall be adjourned until the following deliberation meeting is convened;
- (4) If , after the best possible endeavor has been made, the meeting fails to reach a unanimous agreement, the decision shall be made based on the majority of the votes cast;
- (5) In the event that the RPH fails to reach a decision based on the majority of the votes cast as prescribed in paragraph (4), the final decision is vested in the Chairperson of the RPH;
- (6) The opinion of the Constitutional Justices which differs from the final decision shall be written down in the decision, except the concerned justice(s) wants the contrary.

Article 33

The Decision of the Court concerning the Judicial Review of law shall contain :

- a. decision heading which shall read : “DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA” (FOR THE SAKE OF JUSTICE, IN THE NAME OF GOD ALMIGHTY)
- b. Petitioner’s identity;
- c. revised summary of the Petition
- d. consideration of the facts unveiled during the session;
- e. legal basis on which the decision is made
- f. injunction
- g. dissenting opinion of the Constitutional Justices;

- h. days and dates on which the decision is made, names and signatures of the Constitutional Justices; as well as that of the Registrar ;

Article 34

The consideration of the facts unveiled during the session as prescribed in Article 33 letter d includes the summary of :

- a. the Petitioner's standing in respect of his petition and additional information forwarded during the session;
- b. The statement of elucidation of the President/Government, the House of Representatives, and/or the Regional Representatives Council;
- c. The statement of the elucidation of the Related Parties; and
- d. the results of examination of evidence;

Article 35

The legal basis on which the decision is made as meant in Article 33 letter e shall cover :

- a. aim and purpose of the petition;
- b. the authority of the Court as prescribed in Article 24 letter c of the 1945 Constitution, Article 10 paragraph (1) letter a of the Law Number 24 of 2003;
- c. legal standing as prescribed in Article 51 (fifty-one) paragraph (1) Law Number 24 of 2003;
- d. rationale in the subject matter of the petition as prescribed in Article 51 (fifty-one) paragraph (3) letter a and/ or b_of Law Number 24 of 2003;
- e. conclusion regarding all matters which have been taken into consideration

Article 36

The injunction as specified in Article 33 (thirty-two) letter f shall read :

- a. "Declare that the petition is to be denied", in the event that the petition does not satisfy the requirements as prescribed in Article 56 (fifty-six) paragraph (1) and (2) of Law Number 24 of 2003;
- b. "Grant the Petitioner's petition";

“Declare that the material content of the paragraphs; articles; and/or parts of the said Law contravenes the 1945 Constitution”;

“Declare that material content of the paragraphs; articles; and/or parts of the said Law has no binding legal force”, on the ground that the Petitioner contemplates reasons as specified in Article 56 (fifty-six) paragraph (2), paragraph (3), and Article 57 (fifty-seven) paragraph (1) of Law Number 24 of 2003;

- c. “Grant the Petitioner’s petition”

“Declare that the establishment of the said Law does not comply with the law-establishing requirements based on the 1945 Constitution”,

“Declare that the said Law does not have binding legal force”, on account of the fact that the Petitioner contemplates reasons as specified in Article 56 (fifty-six) paragraph (4), and Article 57 (fifty-seven) paragraph (2) of Law Number 24 of 2003;

- d. “Declare that the Petitioner’s petition is rejected” on account of the fact that the Law proposed to be judicially reviewed does not contradict the 1945 Constitution, both in terms of its formation and its partial as well as entire material content as specified in Article 56 (fifty-six) paragraph (5).

Article 37

- (1). The decision of the Court shall be signed by Chief Justice and the Justice(s) examining and trying the case, and passing the decision, and by the Registrar Clerks attending the court session;
- (2) In case the Chief Justice cannot attend the session during which the decision is to be read, the Decision of the Court shall be signed by the Deputy Chief Justice in his capacity as the Presiding Chairperson of the Court session and by the Judges present as well as by the Registrar Clerks attending the court session;
- (3) In the event that the Chief Justice and Deputy Chief Justice concurrently cannot attend the afore-mentioned session, the Decision of the Court shall be signed by the Presiding Justice and the Justices present as well as by the Registrar Clerks attending the court session;
- (4) The decision-reading session can be scheduled pursuant to the consensus

reached in the RPH.

Article 38

The Law under the Court judicial review shall remain in force, prior to the decision that the said Law contravenes the 1945 Constitution of the Republic of Indonesia.

Article 39

The Decision of the Court shall have permanent legal force as of the date on which the decision is pronounced during the Plenary, publicly open Session.

Article 40

Copies of the Decision of the Court concerning the judicial review of the law against the 1945 Constitution shall be delivered to the Petitioner within at least 7 (seven) working days as of the date on which the decision is pronounced, and shall be submitted to the President/Government, and to the Supreme Court.

Article 41

The Decision of the Court granting the petition shall be published in the State Gazette within at least 30 (thirty) business days as of the date on which such decision is pronounced in the plenary, publicly open session.

Article 42

- (1) No judicial review of the material contents of the paragraphs, articles, and/or parts of the Law having been previously examined can be re-proposed.
- (2) Without prejudice to the provision of paragraph (1) above, the petition regarding the judicial review of the Law in terms of its material content of the paragraphs, articles, and/or the same parts as the case having once been decided by the Court can be proposed to be judicially reviewed in so far as the constitutional basis on which the said petition is founded is different.

Article 43

- (1). The Court passes a decree in case that :
 - a. the petition is beyond the authority of the Court to try the case;

PROF. DR. JIMLY ASSHIDDIQIE, SH.