



**COMPILATION
OF LAW AND REGULATION
OF THE REPUBLIC OF INDONESIA
CONCERNING
ITEMS OF CULTURAL PROPERTY**

MINISTRY OF CULTURE AND TOURISM

2003

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PREFACE

This compilation of the Law of the Republic of Indonesia Number 5 of the year 1992 concerning Items of Cultural Property (*Undang-undang Republik Indonesia Nomor 5 Tahun 1992 tentang Benda Cagar Budaya*) and Government Regulation of the Republic of Indonesia Number 10 of the year 1993 concerning Implementation of Law Number 5 of the year 1992 concerning Items of Cultural Property (*Peraturan Pemerintah Republik Indonesia Nomor 10 Tahun 1993 tentang Pelaksanaan Undang-undang Republik Indonesia Nomor 5 Tahun 1992 tentang Benda Cagar Budaya*).

This reprinted version from the first edition issued by the Directorate for Protection and Development of Historical and Archaeological Heritage, Directorate General for Culture, Ministry of Education and Culture in 1999. In this version, no changing has been made in the content as originated in the first publication. In this occasion, our special thanks are due to Prof Mardjono Reksodiputro, S.H., M.A., Counsellor at Law for his assistance in correcting this translation.

Efforts have been made this translation to be as perfect as possible to enable English to understand the content of it. However, if any doubt exists regarding

the interpretation of the Law and the Government Regulation, reference should be made to the original text in Indonesian as the final interpretation.

Jakarta, 2003
Deputy for History and Archaeology

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**ELUCIDATION ON
THE LAW OF THE REPUBLIC OF INDONESIA
NUMBER 5 OF THE YEAR 1992
CONCERNING
ITEMS OF CULTURAL PROPERTY**



President of
the Republic of Indonesia

**LAW OF THE REPUBLIC OF INDONESIA
NUMBER 5 OF THE YEAR 1992**

CONCERNING

ITEMS OF CULTURAL PROPERTY

WITH THE BLESSINGS OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering: a. that items of cultural property are important resources of the national culture related to the understanding and promotion of history, science, and culture, require protection, preservation and conservation for the fulfilling of an understanding of national identity and the national interest;

b. that to preserve the items of cultural property it is necessary to have measures to state the administra-

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tion, ownership, discovery, seeking, conservation, care and maintenance management, utility, and supervision of items of cultural property;

- c. that the regulations governing items of cultural property as set out in the "Monumenten Ordonnantie" Number 19, of the year 1931 (State Gazette of 1931 Number 238) as amended in accordance with the "Monumenten Ordonnantie" Number 21 of the year 1934 (State Gazette of 1934 Number 515), are at the present time no longer appropriate with the means of protecting and safeguarding of items of cultural property; and it is therefore considered necessary to draw up regulations concerning items of cultural property by means of legislation;

Given :

1. Article 5 paragraph (1), article 20 paragraph (1), and Article 32 of the 1945 Constitution;
2. Law Number 4 of the year 1982 concerning the Basic Provisions on

ment (State Gazette of 1982 Number 12, Supplement to the State Gazette Number 2315);

3. Law Number 9 of the year 1990 concerning Tourism (State Gazette of 1990 Number 8, Supplement to the State Gazette Number 3427);

With the Approval of

THE PEOPLE'S REPRESENTATIVE
COUNCIL OF THE REPUBLIC OF INDONESIA

HAS DECIDED

TO ENACT: THE LAW CONCERNING ITEMS
OF CULTURAL PROPERTY

CHAPTER I
GENERAL PROVISIONS

Article 1

That which is meant in this law by:

1. Items of Cultural Property are:
 - a. Artifacts made by man, movable or immovable, individually or in groups, or parts thereof

- or remains thereof, which are at least 50 (fifty) years of age, or represent a specific stylistic period of at least 50 (fifty) years of age, and are considered to possess value of importance to history, science, and culture;
- b. natural objects which are considered to possess important value for history, science, and culture.
2. A site is a location which contains or is presumed to contain items of cultural property together with the surroundings which require safeguarding.

CHAPTER II PURPOSE AND SCOPE

Article 2

The purpose of the protection of items of cultural property and sites is to conserve and utilize them for the advancement of the national culture of Indonesia.

Article 3

The scope of this law covers items of cultural property, items which are presumed to be items of cultural property, valuable items of which the owner is unknown, and sites.

CHAPTER III CONTROL, OWNERSHIP, RECOVERY AND SEARCHING FOR CULTURAL ITEMS

Part One Control and Ownership

Article 4

- (1) All items of cultural property are controlled by the State.
- (2) The authority to control items of cultural property as meant in paragraph (1) includes items of cultural property found within the boundaries of the legal territory of the Republic of Indonesia.
- (3) The return of items of cultural property which are outside the legal boundaries of the Republic of Indonesia at the time this law comes into effect, and within the framework of authorization by the State, shall be undertaken by the Government in accordance with international conventions.

Article 5

- (1) Within the framework of control as meant in Article 4, all items of cultural property which owing to their value, characteristics, quantity, and type as well as their historical, scientific, and cultural importance need to be preserved are declared as State property.
- (2) Provisions concerning the determination of items of cultural property as meant in paragraph (1) are stipulated by Government regulations.

Article 6

- (1) Certain items of cultural property can be owned or controlled by any person by taking into consideration their social functions and providing that it is not in contradiction with the provisions of this law.
- (2) Items of cultural property as meant in paragraph (1) are items of cultural property:
 - a. which are owned or inherited by descent or are heirlooms;
 - b. of which there are sufficient numbers of any given type and a representative number are already owned by the State.

- (3) In the event the persons meant in paragraph (1) are Indonesia citizens, they may own or take possession of the items of cultural property as meant in paragraph (2) a and b.
- (4) In the event the persons meant in paragraph (1) are aliens, they may own or take possession of items of cultural property as meant in paragraph (2) b only.

Article 7

- (1) Transfer of ownership of specific items of cultural property comprising of heirlooms owned by Indonesian citizens can only be conducted to the State.
- (2) Transfer of ownership of items of cultural property as meant in paragraph (1) shall be conducted with appropriate compensation.
- (3) Provisions regarding the arrangements and manner in which compensation shall be given as meant in paragraph (1) and paragraph (2) shall be stipulated by Government regulations.

Article 8

- (1) Each ownership, transfer of ownership's right, and removal of items of cultural property as meant in Article 6 and Article 7 must be registered.
- (2) Provisions regarding the registration as meant in paragraph (1) shall be stipulated by Government regulations.

Article 9

Whosoever as defined in Article 6, whose items of cultural property are lost and/or damaged is obliged to notify the Government within a time limit of 14 (fourteen) days from the time such a loss or damage occurred.

Part Two Discovery

Article 10

- (1) Whosoever discovers or has knowledge of the discovery of items of cultural property of items which are presumed as cultural property, or valuable items of which the owner is unknown,

is obliged to report the aforesaid discovery to the Government within the time limit of 14 (fourteen) days from the time of the discovery or knowledge of such discovery.

- (2) On the basis of the above mentioned report, a verification relating to the item as intended in paragraph (1) must be carried out immediately.
- (3) From the moment that the above mentioned report is received and during the period of research, the discovered item is subject to protection as an item of cultural property.
- (4) On the basis of the result of the above mentioned research as meant in paragraph (2), the Government shall determine whether the above mentioned item is or is not an item of cultural property, and shall decree;
 - a. state ownership of the item together with appropriate compensation for the discoverer or discoverers;
 - b. partial ownership of the items of cultural property by the discoverer or discoverers in accordance with Article 6 paragraph (2) b;
 - c. return to the discoverer or discoverers, if it is proven that the above mentioned item is not an item of cultural property or valuable property of which the owner is unknown;

- d. ownership, authorization, and utilization in accordance with all applicable laws and regulations, if it is proven that the above mentioned item is valuable property of which the owner is unknown.
- (5) Provisions as meant in paragraph (1), paragraph (2), paragraph (3), and paragraph (4) shall be stipulated by Government regulations.

Article 11

The Government shall decree that the location of the discovery of an item of cultural property or an item which is presumed to be cultural property as meant in Article 10 paragraph (1) as a site and shall decide the boundaries thereof.

Part Three Search

Article 12

- (1) Whosoever is prohibited to search for items of cultural property or valuable items of which the owner is unknown by means of excavation, diving, removal or any other means of searching, without obtaining permission of the Government.

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- (2) Provisions regarding the search for items of cultural property or valuable items of which the owner is unknown including the conditions and manner of permission to be given as meant in paragraph (1) shall be stipulated by Government regulations.

CHAPTER IV CARE AND PROTECTION

Article 13

- (1) Whosoever owns or has control over items of cultural property is obliged to take care and protect it.
- (2) The care and protection of items of cultural property as meant in paragraph (1) shall be undertaken with due regard to the safety, historic value, and authenticity of the aforesaid property.

Article 14

- (1) In the event a person or persons owning or having control over any specified items of cultural property as meant in Article 6 does not undertake his or her obligations to take care of

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and protect that cultural property as meant under Article 13, the Government will give a warning.

- (2) If, within a period of 90 (ninety) days from the date the warning is issued as meant in paragraph (1) remedial steps for protection of the aforementioned items of cultural property have not been undertaken by the owner or person or persons having control over the items of cultural property, then the Government may take over the right to protect those aforementioned items of cultural property.
- (3) Actions regarding the provisions as meant in paragraph (2) shall be stipulated by Government regulations.

Article 15

- (1) Whosoever is prohibited from causing damage to items of cultural property and sites as well as their immediate surroundings.
- (2) Without permission from the Government, each and every person is prohibited from:
 - a. transporting items of cultural property out of the territory of the Republic of Indonesia;

- b. transporting items of cultural property from one region to another;
- c. taking away or removing items of cultural property either in part or whole, except in case of emergency;
- d. altering the form and/or the colour or restoring items of cultural property;
- e. separating a part of any item of cultural property from the whole;
- f. getting involved in any dealing or buying or selling items of cultural property.

- (3) The execution of the provision and the granting of permission as meant in paragraph (2) shall be stipulated by Government regulations.

Article 16

The Government may seize or otherwise order the return to their original place of any items of cultural property which have been taken or otherwise removed without permission as meant in Article 15 paragraph (2) at the expense of the person or persons taking away or transferring them.

Article 17

- (1) Every activity relating to establishing a location as a site shall be done concurrently with com-

pensation for the landowner concerned.

- (2) The implementation of payment of compensation as meant in paragraph (1) is carried out in accordance with provisions in current legislation.

CHAPTER V MANAGEMENT

Article 18

- (1) Management of items of cultural property and sites shall be the responsibility of the Government.
- (2) The public, in group or individually, is involved in the management of items of cultural property and sites.
- (3) Provisions regarding the method of management of items of cultural property and sites shall be stipulated by Government regulations.

CHAPTER VI UTILIZATION

Article 19

- (1) Certain items of cultural property can be utilized for religious, social, touristic, educational, scientific, and cultural purposes.
- (2) Utilization as meant in paragraph (1) can not be undertaken in a manner which is:
 - a. contrary to the means of preservation of items of cultural property as meant in Article 15 paragraph (2);
 - b. simply and solely for the pursuit of profit either individually and/or in groups.
- (3) Provisions regarding items of cultural property which can be utilized for purposes such as those meant in paragraph (1) and the method of its utilization shall be stipulated by Government regulations.

Article 20

The Government may terminate any activity relating to the utilization of items of cultural property if the implementation of that utilization is carried out in a manner such as meant in Article 19 paragraph (2).

Article 21

Items of cultural property which at the time of their discovery are no longer used in the manner for which they were intended in their original function, are forbidden to be refunctioned again.

Article 22

- (1) Items of cultural property, or certain cultural property either movable or immovable, owned by the State or individually, may be placed in and/or treated in a museum.
- (2) Maintenance of items of cultural property which are either placed in or preserved in a museum as meant in paragraph (1) shall be stipulated by Government regulations.

Article 23

- (1) Utilization of items of cultural property by means of duplication requires permission from the Government.
- (2) Provisions for the issuance of permits as meant in paragraph (1) shall be stipulated by Government regulations.

CHAPTER VII SUPERVISION

Article 24

- (1) The Government shall undertake supervision of items of cultural property and all sites which have been determined as such.
- (2) Provisions regarding the supervision as meant in paragraph (1) is to be undertaken and shall be stipulated by Government regulations.

Article 25

Based upon the characteristics of items of cultural property, there are to be Civil Servant Investigators (PPNS) who have authority and work in accordance with current legislation.

CHAPTER VIII STIPULATION OF PENALTIES

Article 26

Whosoever intentionally damages or destroys items of cultural property and sites together with the immediate surroundings in which such property is located or brings, moves, takes away, or changes the

shape, form and/or colour, restores, or dismantles part of items of cultural property or valuable items without the permission from the Government as meant in Article 15 paragraph (1) and paragraph (2) shall be sentenced to a maximum of 10 (ten) years in prison and/or a maximum fine of Rp 100.000.000 (one hundred million rupiahs).

Article 27

Whosoever intentionally searches for items of cultural property or valuable goods of which the owner is unknown by means of excavation, diving, taking away or any other means without the permission of the Government as meant in Article 12 paragraph (1) shall be sentenced to a maximum of 5 (five) years in prison and/or a maximum fine of Rp 50.000.000 (fifty million rupiahs).

Article 28

Whosoever intentionally:

- a. fails to fulfil their obligation to register their ownership, transfer of ownership's right and removal of location as meant in Article 8 paragraph (1);
- b. fails to fulfil their obligation to report the loss or damage to items of cultural property as meant in Article 9;

- c. fails to fulfil their obligation to report the discovery or knowledge of the discovery of items of cultural property or objects which are presumed as cultural property or valuable objects of which the owner is unknown as meant in Article 10 paragraph (1);
- d. reuses any items of cultural property of which the original function has been abandoned as meant in Article 21;
- e. utilizes any items of cultural property by means of duplication without permission from the Government as meant in Article 23;

for each and every offense shall be sentenced to a maximum of 1 (one) year in prison and/or a maximum fine of Rp 10.000.000 (ten million rupiahs).

Article 29

Actions such as those meant in Article 26 and Article 27 are felonies and actions as meant in Article 28 constitute misdemeanours.

CHAPTER IX TRANSITIONAL PROVISIONS

Article 30

- (1) Whosoever at the time that this law comes into effect has not yet registered certain items of

cultural property which is owned or under his or her control in accordance with the provisions of this law, is obliged to register them with the Government within a maximum period of 2 (two) years commencing from the time this law come into force.

- (2) At the time this law comes into force all regulations for the enforcement of the "Monumenten Ordonnantie" Number 19 of the year 1931 (State Gazette of 1931 Number 238), as amended by the "Monumenten Ordonnantie" number 21 of the year 1934 (State Gazette of 1934 number 515), are declared still valid provided that they are not in contradiction with this law or not yet replaced by provisions of new regulations to implement this law or not yet replaced by provisions of new regulations to implement this law.

CHAPTER X CLOSING PROVISIONS

Article 31

At the time this law comes into effect the "Monumenten Ordonnantie" Number 19 of the year 1931 (State Gazette of 1931 Number 238), as amended by "Monumenten Ordonnantie" Number 21

of the year 1934 (State Gazette of 1934 Number 515), is declared null and void.

Article 32

This law shall take effect on the date it is promulgated.

In order that every person may be informed thereof, it is ordered that this Law is promulgated in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta
on the 21st day of March 1992
PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed

Soeharto

Promulgated in Jakarta
on the 21st day of March 1992

MINISTER/SECRETARY OF STATE OF
THE REPUBLIC OF INDONESIA

Signed

Moerdiono

STATE GAZETTE OF THE REPUBLIC OF
INDONESIA 1992 NUMBER 27

Copied in accordance with the original

CABINET SECRETARIAT OF THE REPUBLIC
OF INDONESIA
Head of the Bureau of Legal Affairs and
Legislation

Signed

Bambang Kesowo, S.H., LL. M.



LAW OF THE REPUBLIC OF INDONESIA
NUMBER 5 OF THE YEAR 1992
CONCERNING
ITEMS OF CULTURAL PROPERTY

ELUCIDATION ON
THE LAW OF THE REPUBLIC OF INDONESIA
NUMBER 5 OF THE YEAR 1992
CONCERNING
ITEMS OF CULTURAL PROPERTY



REPUBLIC OF INDONESIA
DEPARTMENT OF CULTURAL HERITAGE
JANUARY 1993

GENERAL

The 1945 Constitution, Section 32 stresses that "The Government develops the National Culture of Indonesia" and the accompanying clarification amongst other matters states that "Cultural activities must be directed towards the progress of civilisation, culture, and unification without rejecting new elements from foreign cultures which may develop or enrich our own culture and heighten the degree of humanity of the Indonesian".

The decree of the People's Consultative Assembly Number II/MPR/1988 regarding the Broad Outlines of State Policy states that "...the Indonesian culture which reflects the gloriousness of national values must be taken care of cultivated, and developed in order to strengthen the comprehension and implementation of Pancasila, to raise the quality of life, strengthen the national character, reinforce feelings of personal worth and national pride, fortify

the spirit of national unity and integrity, and be able to become the activator of the realisation of national aspirations for the future".

Based on this mandate, the Government is therefore obliged to take all necessary steps to ensure the development of the national culture.

Items of cultural property have great significance to the national culture, in particular to foster a feeling of national pride and to fortify consciousness of national identity. Therefore, the Government is obliged, based on the current legislation, to protect items of cultural property as the inheritance of the Indonesian national culture. Not all of the historic objects have meaning as items of cultural property. So far as historic remains represent items of cultural property then for the sake of preservation of the national culture, items of cultural property must be protected and preserved; and to this end, items of cultural property need to be controlled by the State as a national possession.

For the most part, items of cultural property of a nation are the results of past creativity which could become a source of pride for the nation in question. Therefore, the preservation of items of cultural property of Indonesia constitute an effort to fortify national pride and strengthen the awareness of identity as a nation based upon Pancasila. The

consciousness of national identity of any nation is greatly influenced by the knowledge of its past so that the existence of that nation at present, its projection into the future and its individual characteristic as a nation, stand upon a foundation of its own philosophy and culture.

Efforts to preserve items of cultural property are undertaken, not only to strengthen feelings of national pride and strengthen the spirit of awareness of the nation based upon Pancasila, but also for the sake of history, science, and culture as well as other utilisation within the framework of national interest.

Considering the above mentioned matters, it is necessary to utilize measures of authority, ownership, discovery, search, protection, safeguarding, management, implementation and supervision on the basis of legal regulations. As the current legislation is no longer in accordance with the above spirits, this Law concerning Items of Cultural Property has therefore been drawn up.

ARTICLE BY ARTICLE ELUCIDATION

Article 1

Sufficiently clear

Article 2

Sufficiently clear

Article 3

Confirmation regarding the scope of this law is required in order that the provisions of this law may also cover valuable items of which the owner is unknown. As the characteristics and reality of valuable items, of which the owner is unknown are close to those of items of cultural property, valuable items of which the owner is unknown are included in the regulations of this law.

Thus:

- a. Circumstances especially in connection with the search, discovery, and removal of valuable items of which the owner is unknown and which may be proved to be items of cultural property are fully subjected to this law;
- b. In the event that valuable items of which the owner is unknown are not items of cultural property, they are subjected to any regulations that are valid.

Article 4

Paragraph (1)

Controlled by the State means that at the highest level the State has the right to regulate all legal actions relating to the preservation of items of cultural property.

The above mentioned preservation is directed to matters of public interest; that is, the regulation of items of cultural property shall be able to support national development in the fields of science, education, tourism, etc.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Efforts by the Government to recover items of cultural property within the framework of authorization by the State are to be implemented by the Minister responsible for culture.

Article 5

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Article 6

Paragraph (1)

What is meant by a person is either an individual, or a legal body/foundation/society/group and the similar body. Even if item of cultural property are essentially

under the control of the State, each individual may own and have possession of specific items of cultural property in the meaning of implementing management, taking care of, or similar measures with due regard to their social function and its utilisation for education and knowledge as well as their preservation.

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

Article 7

Paragraph (1)
Sufficiently clear

Paragraph (2)
Compensation may be in the form of money or thing/goods given in lieu of money which is useful for the owner. This provision is not valid if the transfer is conducted as a grant.

Paragraph (3)
Sufficiently clear

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Article 8

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 9

The notification meant in this article shall be submitted to the institution responsible for the protection and supervision of items of cultural property, The National Police of the Republic of Indonesia, or the nearest Local Government.

Article 10

Paragraph (1)
Sufficiently clear (see clarification of Article 9)

Paragraph (2)
Research must be undertaken by an agency or institution as directed by the Minister responsible for culture.

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

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Paragraph (5)
Sufficiently clear

Article 11
Sufficiently clear

Article 12
Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 13
Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 14
Paragraph (1)
A warning as meant in this paragraph may be carried out in writing or verbally with a written note made in the appropriate visitors book.

Paragraph (2)
Sufficiently clear

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Paragraph (3)
Sufficiently clear

Article 15

Paragraph (1)
What is meant by surroundings is the area around or encircling the items of cultural property and the site, which is needed for protection, preservation, and utilisation.

Paragraph (2)
Point a
Sufficiently clear

Point b
What is meant by area in point a is the district, or municipality, second level administration area within the Region of the Unitary State of the Republic of Indonesia.

Point c
What is meant by an emergency situation in this point is any situation or condition which threatens the item of cultural property such as fire, natural disaster or other incident which may arise.

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Paragraph (3)
Sufficiently clear

Article 19

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Article 20

Sufficiently clear

Article 21

Sufficiently clear

Article 22

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 23

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 24
Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 25
Sufficiently clear

Article 26
Sufficiently clear

Article 27
Sufficiently clear

Article 28
Sufficiently clear

Article 29
Sufficiently clear

Article 30
Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 31
Sufficiently clear

Article 32
Sufficiently clear

SUPPLEMENT TO THE STATE GAZETTE OF THE
REPUBLIC OF INDONESIA NUMBER 3470



President of
the Republic of Indonesia



GOVERNMENT REGULATION
OF THE REPUBLIC OF INDONESIA
NUMBER 10 OF THE YEAR 1993
CONCERNING

**GOVERNMENT REGULATION
OF THE REPUBLIC OF INDONESIA
NUMBER 10 OF THE YEAR 1993**

OF THE REPUBLIC OF INDONESIA
CONCERNING

**IMPLEMENTATION OF LAW
NUMBER 5 OF THE YEAR 1992 CONCERNING
ITEMS OF CULTURAL PROPERTY**

Article 15,
Article 18, Article 19, Article 22,
Article 23, and Article 24 of Law
Number 5 of the year 1992 concern-
ing Items of Cultural Property, it is
necessary to regulate further about
recording, ownership, registration,
discovery, searching,
preservation, protection, utilization,
and other important



President of
the Republic of Indonesia

**GOVERNMENT REGULATION
OF THE REPUBLIC OF INDONESIA
NUMBER 10 OF THE YEAR 1993**

**CONCERNING
IMPLEMENTATION OF LAW
NUMBER 5 OF THE YEAR 1992 CONCERNING
ITEMS OF CULTURAL PROPERTY**

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering : That for the implementation of Article 5, Article 7, Article 8, Article 10, Article 12, Article 14, Article 15, Article 18, Article 19, Article 22, Article 23, and Article 24 of Law number 5 of the year 1992 concerning Items of Cultural Property, it is necessary to regulate further about control, ownership, registration, transfer, discovery, searching, preservation, protection, utilization, supervision, and other important

aspects of preservation of items of cultural property with a Government Regulation;

- Remembering : 1. Article 5 paragraph (2) of the 1945 Constitution;
2. Law number 5 of the year 1992 concerning Items of Cultural Property (State Gazette of the Republic of Indonesia 1992 number 27, Addition of State Gazette number 3470);

Has Decided

- To enact : **Government Regulation of the Republic of Indonesia concerning the Implementation of Law Number 5 of the year 1992 concerning Items of Cultural Property.**

CHAPTER I GENERAL PROVISION

Article 1

That which is meant in this regulation by:

38

1. Items of cultural property are:
 - a. Artifacts made by man, movable or immovable, individually, or in groups, or parts thereof or remains thereof, which are at least 50 (fifty) years of age, or present a specific stylistic period of at least 50 (fifty) years of age, and are considered to possess value of importance to history, science, and culture.
 - b. Natural objects which are considered to possess important value for history, science, and culture.
2. A site is a location which contains or is presumed to contain items of cultural property together with the surroundings which require safeguarding.
3. Valuable items of which the owner is unknown is non-natural items which have economical/high intrinsic value which are hidden or buried underground and at the bottom of the territorial sea of the Republic of Indonesia.
4. Minister is the minister who is responsible for cultural affairs.

CHAPTER II CONTROL, OWNERSHIP, REGISTRATION, AND TRANSFER

39

Article 2

- (1) For protection and/or preservation of items of cultural property, items which are presumed as cultural property, or valuable items of which the owner is unknown, both movable or immovable items, and sites which are in the territory of the Republic of Indonesia are controlled by the state.
- (2) Control as meant in paragraph (1) consist of regulation with respect to ownership, registration, transfer, protection, preservation, discovery, searching, utilization, management, permission, and supervision.
- (3) Regulation as meant in paragraph (2) is implemented in accordance with the provisions of the existing Government Regulation and/or other Regulations.
- (2) Items of cultural property which are owned by the state, its management of items is conducted by the minister based on this Government Regulation and/or other Regulations which are in force.
- (3) The management as meant in paragraph (2) covers care, protection, permission, utilization, supervision, and other matters related to the preservation of items of cultural property.
- (4) Decision of items of cultural property as meant in paragraph (1) a, b, and c are further regulated by the Minister.

Article 3

- (1) Items of Cultural Property which because:
 - a. they have important value for history, science, and Indonesian culture;
 - b. they have characteristics which gives particular motives and uniqueness;
 - c. they are in quantity and type limited and rare;
- (2) The certain items of cultural property as meant in paragraph (1) are items of cultural property:
 - a. which are obtained from descent or heirlooms; or

Article 4

will be based on Law Number 5 of the year 1992 on the Items of Cultural Property declared to be property of the state.

- b. of which there are sufficient numbers of any given type and a representative number are already owned by the state.
- (3) Type and number of certain items of cultural property as meant in paragraph (2) which can be possessed by a person are decided by the Minister.

Article 5

- (1) Aliens can only possess certain movable items of cultural property if there is a sufficient number of any given type and a representative number is already owned by the state.
- (2) Possession of items of cultural property as meant in paragraph (1) shall be carried out in accordance with the existing provision regulating ownership, registration system of items of cultural property, and permission.
- (3) Further provisions regarding ownership by aliens of certain movable items of cultural property are regulated by Minister.

Article 6

- (1) Whosoever owns items of cultural property is obliged to register those items.

- (2) Registration of items of cultural property is done by the government agency responsible for registration of items of cultural property in the second level administrative area where those items are located.
- (3) Registration as meant in paragraph (2) is delivered by a written letter completed with data about:
- the identity of the owner;
 - a biography of the ownership of the items of cultural property;
 - types, numbers, shape, and measure of the items of cultural property.
- (4) Registration of immovable items of cultural property, apart from obeying the provision as meant in paragraph (3), shall be completed with a map where the items of cultural property are located.

Article 7

- (1) The owner who has met the requirements as meant in Article 6, is given a registration receipt.
- (2) The registration receipt as meant in paragraph (1) is not valid if the items:
- have its ownership transferred; or

- b. are moved to another second level administration area (district).
- (3) Further provisions regarding registration of items of cultural property are regulated by Minister.

Article 8

- (1) Certain items of cultural property as meant in Article 4 paragraph (2) letter a which are owned by descent or heirlooms, its ownership or its possession can only be transferred to the legitimate heir or its ownership transferred to the State.
- (2) Transfer of ownership of certain items of cultural property to the state is submitted by the owner to the Minister complete with the data of items of cultural property that will be transferred.
- (3) In the event the transfer of ownership of specific items of cultural property to the state as meant in paragraph (2) is delivered by the heir apparent to the Minister it should include the data of the cultural property which will be transferred and an agreement among the heirs.
- (4) Transfer of ownership of certain items of cultural property as meant in paragraph (2) and

paragraph (3) except as a donation, is given an appropriate compensation to the owner.

- (5) Form and quantity of the appropriate compensation as meant in paragraph (4) is regulated by the Minister with the approval of the Minister of Finance.
- (6) Transfer of the ownership or control of certain items of cultural property as meant in Article 4 paragraph (2) letter b can be done to other persons with the following conditions;
 - a. it shall be reported to the agency where the items of cultural property are registered.
 - b. it shall be registered at the agency that is responsible for registration of items of cultural property in the second level administration area where the items of cultural property are located, if the items of cultural property are transferred to another second level administration area (district).

Article 9

In the event other persons as meant in Article 8 paragraph (6) are aliens, transfer of items of cultural property can only be done if the aliens have been living in Indonesia for 2 (two) consecutive years and have a valid stay permit.

Article 10

Further provisions regarding the requirement and procedure of transferring ownership of certain items of cultural property as meant in Article 8 and Article 9 shall be stipulated by the Minister.

Article 11

- (1) Whosoever owns or controls items of cultural property is obliged to notify the damage of items of cultural property to the agency where the items of cultural property are registered within a time limit of 14 (fourteen) days from the time such damage has occurred.
- (2) If the damage as meant in paragraph (1) cause the destruction of the items of cultural property, these items are deleted from the register.
- (3) Provisions regarding the method of deletion of items of cultural property as meant in paragraph (2) are regulated by the Minister.

Article 12

- (1) Whosoever owns or control items of cultural property is obliged to notify the loss of items of cultural property to the State Police of the Republic of Indonesia or nearest agency which is

responsible for the protection of items of cultural property within a time limit of 14 (fourteen) days from the time such a loss occurred.

- (2) Besides notifying the loss of items of cultural property to the agency as meant in paragraph (1), the owner or controller is also obliged to notify to the agency where the items of cultural property are registered.
- (3) Based on the notification as meant in paragraph (2), the agency which is responsible for the registration of items of cultural property notes the loss of the items of cultural property in the register.
- (4) If within a period of 6 (six) years the items of cultural property could not be found, the items of cultural property are deleted from the register.
- (5) Further provisions regarding the procedure of deletion as meant in paragraph (4) are regulated by the Minister.

CHAPTER III DISCOVERY AND SEARCH

Article 13

- (1) Whosoever discovers or has knowledge of dis-

covery of items of cultural property or items which are presumed as cultural property, or valuable items of which the owner is unknown, or a site, is obliged to report to the agency which is responsible for the protection of items of cultural property, the State Police of the Republic of Indonesia, or the nearest local Government, within a time limit of 14 (fourteen) days from the time of such discovery.

- (2) In the event the report of discovery as meant in paragraph (1) is submitted to the Local Government or the State Police of the Republic of Indonesia, this report is immediately forwarded to the agency which is responsible for the protection of items of cultural property or directly to the Minister.
- (3) From the moment that the above mentioned report is received, the agencies as meant in paragraph (1) immediately carried out safeguarding of the items of cultural property or the items which are presumed as cultural property or valuable items which the owner are unknown, or the site.
- (4) to decide whether the item is a cultural property or a site, a verification relating to the item shall be carried out.
- (4) Verification as meant in paragraph (4) includes

kinds, material, form/shape, measurement, value of history and culture which are done by a team and/or experts which are formed by the Minister.

- (6) Further provisions regarding verification of discovered items as meant in paragraph (4) are stipulated by the Minister.

Article 14

- (1) During the research process, items and/or location of discovery are protected in a same manner as protection of items of cultural property.
- (2) Protection as meant in paragraph (1) includes safeguarding, preservation, or maintenance, in order to avoid damage, lost and the changing in form and shape, historical value, and/or its originality.

Article 15

- (1) If the verification shows that the discovered item is an item of cultural property as meant in Article 3 paragraph (1), the item of cultural property shall be owned by the State and to the discoverer or discoverers will be given a compensation in accordance with Article 8 paragraph (5).

- (2) In the event the discovered item as meant in paragraph (1) is a movable item of cultural property, the item can be kept and/or taken care of in a museum.
- (3) If the result of the research shows that the discovered items are items of cultural property of which there are sufficient numbers of any given type, the Minister decide as items of cultural property, under the following conditions :
 - a. All items can be owned by the State by giving a compensation to the discoverer or discoverers in accordance with the provision in Article 8 paragraph (5);
 - b. Part of the items are owned by the State and the other part can be owned by the discoverer or discoverers without any compensation.
- (4) Implementation of the provisions as meant in paragraph (1), paragraph (2), and paragraph (3) are stipulated by the Minister.

Article 16

- (1) If the result of the research shows that the discovered item is not an item of cultural property, all discovered items thereof are returned to the discoverer or discoverers.

- (2) If the result of the research of items shows that ownership of the valuable items are unknown, then ownership, possession, management, and utilization are done in accordance with the existing laws and regulations.

Article 17

- (1) Without permission of the Minister every person or persons are prohibited from searching for items of cultural property, items which are presumed to be items of cultural property, or valuable items of which the owner are unknown, either underground or underwater.
- (2) Searching as meant in paragraph (1) includes excavation, diving, lifting, or any other means of searching.

Article 18

- (1) The permission to search for items of cultural property is given by the Minister to the petitioner only for the sake of:
 - a. scientific and technological research;
 - b. safeguarding and/or preservation of items of cultural property.
- (2) The petitioner as meant in paragraph (1) is :

- a. a government or private agency which deals with scientific activities;
- b. in a foundation, non government organization, or other institution as a legal body in the field of preservation of items of cultural property;
- c. a foreign agency in the field of science which meet the requirement of existing laws and regulations.

- (3) The permission request for searching items of cultural property is delivered to the Minister completed with terms of reference for searching of cultural property.
- (4) Further provisions regarding searching permission of items of cultural property is stipulated by the Minister.

Article 19

An agency or institution as meant in Article 18 paragraph (2) is obliged to report the activity and the result of searching for items of cultural property to the Minister.

Article 20

- (1) Searching for items of cultural property or valuable items for the purpose other than those

meant in Article 18, can only be done based on a permission given by the Minister.

- (2) Searching for items of cultural property as meant in paragraph (1) can only be given to the agency which has a legal entity status.

Article 21

If the result of searching for items of cultural property and valuable items as meant in Article 20 paragraph (1) is that they are items of cultural property or items which are presumed as items of cultural property, the aforesaid items are protected in accordance with this Government Regulation.

CHAPTER IV CARE AND PROTECTION

Article 22

Whosoever owns or has control over items of cultural property is obliged to take care and protect it.

Article 23

- (1) The care and protection of items of cultural property is undertaken by safeguarding, main-

tenance, and restoration.

(2) For the sake of protection of items of cultural property and the site the boundary of the site and its environment is regulated in accordance with its necessity.

(3) The site boundary and its environment as meant in paragraph (2) is decided with a zoning system which consist of a central zone, a supporting zone, and a development zone.

Article 24

(1) In the framework of preservation of items of cultural property, the Minister decides the site.

(2) Deciding the site as meant in paragraph (1) is undertaken with due regard to the existing laws and regulations.

Article 25

(1) Protection as meant in Article 23 paragraph (1) for safeguarding and taking care is done as an effort to avoid :

a. damage which is caused by natural and/or human factors;

b. transfer of ownership and control not to the eligible person/persons;
c. changing its authenticity and historical value.

(2) Further provisions regarding protection of items of cultural property shall be regulated by the Minister.

Article 26

(1) Care as meant in Article 23 paragraph (1) is undertaken by maintenance for prevention and overcoming of:

a. damage and mould caused by natural processes and biological aspect;
b. pollution.

(2) Effort of prevention and overcoming as meant in paragraph (1) is done in a manner that does not contradict the preservation principles.

(3) Further provisions regarding care shall be regulated by the Minister.

Article 27

(1) Restoration as meant in Article 23 paragraph (1) can only be done based on a written permission given by the Minister.

- (2) Restoration as meant in paragraph (1) is undertaken by paying attention to authenticity of form, material, workmanship, setting, and the historical value of items of cultural property.
- (3) Further provisions regarding permission, condition, and procedure of restoration as meant in paragraph (1) and paragraph (2) shall be regulated by the Minister.

Article 28

- (1) Whosoever owns or has control over certain items of cultural property who does not undertake his or her obligations to take care of and protect said cultural property which might be causing damage, lost or change in the historical value, science, and cultural value is given a warning.
- (2) The warning as meant in paragraph (1) can be done in writing by the Minister.
- (3) Written warnings to the person/persons are given in 3 (three) steps within the period of 90 (ninety) days.
- (4) If, within the period of 90 (ninety) days from the date of the third step warning, protection and maintenance have not been undertaken by the owner or owners, the Minister may take over the

right to protect those aforementioned items of cultural property on the expenses of the owner or controller.

- (5) If the owner or the controller of items of cultural property could not reimburse the cost which is paid by the Government, the owner or the controller can :
 - a. give the right for utilization and/or management either for a part or all items of cultural property as a compensation for care and protection of items to the Government;
 - b. transfer ownership or control of items of cultural property to the Government with a compensation in accordance with Article 8 paragraph (5).
- (6) Further provisions regarding requirement and procedure of warning and transferring of utilization and management rights as meant in paragraph (1), paragraph (2), paragraph (4), and paragraph (5) are stipulated by the Minister.

Article 29

- (1) For the sake of care and protection of items of cultural property, every person or persons is/are prohibited to destroy items of cultural property, its site, and its environment.

- (2) Including in the activities which can destroy items of cultural property and its site are:
- a. reducing, adding, changing, removing, and polluting items of cultural property;
 - b. reducing, polluting, and/or changing the function of the site.

Article 30

- (1) Whosoever can only transport items of cultural property out of the territory of the Republic of Indonesia based on a permission given by the Minister.
- (2) Permission as meant in paragraph (1) can only be given for:
 - a. research and development of science and technology;
 - b. social/culture interest;
 - c. other utilization which is regulated by the Minister.
- (3) Asking permission for transporting items of cultural property out of the territory of the Republic of Indonesia for certain interests as meant in paragraph (2) shall be petitioned by completing the data of items of cultural property, terms of reference, and its safety system.

- (3) Further provisions regarding permission as meant in paragraph (1), paragraph (2), and paragraph (3) shall be regulated by the Minister.

Article 31

- (1) Whosoever owns certain items of cultural property as meant in Article 4 paragraph (2) who will bring and transfer the items of cultural property out of the territory of the Republic of Indonesia, is obliged to obtain permission from the Minister and is undertaken in accordance with laws and regulation which are in force.
- 2) In the event a person or persons as meant in paragraph (1) is an alien, apart from fulfilling provision as meant in paragraph (1) he or she shall also fulfil provisions as meant in Article 5.

Article 32

- (1) Whosoever can only move certain items of cultural property without diminishing or reducing the historical value and utilization function, from one territory to another territory, based on permission from the Minister.

- (2) The procedure of granting permission as meant in paragraph (1) shall be regulated by the Minister.

Article 33

- (1) Each agency which is involved in safeguarding items of cultural property, which is aware that the transport or transferring of part or all items of cultural property or items which are presumed as cultural property are without any permission as meant in Article 30, Article 31, and Article 32 is obliged to detain those items.
- (2) The agency which detain items of cultural property or items which is presumed as cultural property shall immediately report to the agency which is responsible for protection of items of cultural property or directly to the Minister, for investigation.
- (3) If the investigation shows that those items are items of cultural property and without legal permission, without neglecting stipulation of penalties as meant in Article 26 Law Number 5 of the year 1992 concerning Items of Cultural Property, the respective person is obliged to return the items to the former location on his/her own expense.

- (4) Further provisions concerning of detaining and returning items of cultural property as meant in paragraph (1), paragraph (2), and paragraph (3) shall be regulated by the Minister.

Article 34

- (1) Whosoever is without permission from the Minister prohibited to :
- take or move part of or all items of cultural property;
 - changes the form, shape and/or of colour of items of cultural property;
 - separates parts of items of cultural property from its unit.
- (2) Prohibition as meant in paragraph (1) letter a and letter c is not valid, if those activities are done for safeguarding in emergency condition.
- (3) Further provisions regarding the procedure of requesting permission as meant in paragraph (1) shall be regulated by the Minister.

Article 35

- (1) Whosoever deals, sells, or trades certain items of cultural property as meant in Article 4 paragraph (2) letter b as a commercial activity is obliged to

- (2) The procedure of granting permission as meant in paragraph (1) shall be regulated by the Minister.

Article 33

- (1) Each agency which is involved in safeguarding items of cultural property, which is aware that the transport or transferring of part or all items of cultural property or items which are presumed as cultural property are without any permission as meant in Article 30, Article 31, and Article 32 is obliged to detain those items.
- (2) The agency which detain items of cultural property or items which is presumed as cultural property shall immediately report to the agency which is responsible for protection of items of cultural property or directly to the Minister, for investigation.
- (3) If the investigation shows that those items are items of cultural property and without legal permission, without neglecting stipulation of penalties as meant in Article 26 Law Number 5 of the year 1992 concerning Items of Cultural Property, the respective person is obliged to return the items to the former location on his/her own expense.

- (4) Further provisions concerning of detaining and returning items of cultural property as meant in paragraph (1), paragraph (2), and paragraph (3) shall be regulated by the Minister.

Article 34

- (1) Whosoever is without permission from the Minister prohibited to :
- take or move part of or all items of cultural property;
 - changes the form, shape and/or of colour of items of cultural property;
 - separates parts of items of cultural property from its unit.
- (2) Prohibition as meant in paragraph (1) letter a and letter c is not valid, if those activities are done for safeguarding in emergency condition.
- (3) Further provisions regarding the procedure of requesting permission as meant in paragraph (1) shall be regulated by the Minister.

Article 35

- (1) Whosoever deals, sells, or trades certain items of cultural property as meant in Article 4 paragraph (2) letter b as a commercial activity is obliged to

own a trading licence in accordance with the provisions of laws in force.

- (2) A trading licence as meant in paragraph (1) is given after obtaining a recommendation from the Minister.
- (3) Whosoever does the activity as meant in paragraph (1) is obliged to report periodically specific items of cultural property traded, to the agency responsible for registration of items of cultural property.

CHAPTER V UTILIZATION

Article 36

- (1) Utilization of items of cultural property can be undertaken based on a permission given by the Minister.
- (2) Utilization as meant in paragraph (1) can only be given for religious, social, tourism, educational, scientific, and/or cultural purposes.
- (3) Utilization of items of cultural property for purposes as meant in paragraph (2) is done with paying attention to the social function and preservation of items of cultural property.

- (4) To obtain utilization permission, respective person or persons is/are obliged to submit a request to the Minister together with terms of reference of the utilization of items of cultural property.
- (5) Based on the result of observation and appraisal of the terms of reference, the Minister can give utilization permission of items of cultural property.
- (6) If in implementing the utilization of items of cultural property it is proved :
 - a. to be not in accordance with the given permission;
 - b. contrary to the means of preservation of items of cultural property;
 - c. used in pursuit of profit for either individual and/or groups;
 - d. that because of its condition, the items of cultural property is impossible to be utilized any more;the Minister can stop the utilization activity of the respective items of cultural property.
- (7) Stopping the utilization due to the provision as meant in paragraph (6) can cause the termination of the permission.
- (8) Further provisions regarding utilization permission of items of cultural property shall be regulated by the Minister.

Article 37

- (1) With respect to items of cultural property which are still utilized for religious purposes, the community can still be utilized and take care of them in accordance with their function.
- (2) Utilization and taking care as meant in paragraph (1) are undertaken with due regard to the preservation of the items of cultural property.

Article 38

Items of cultural property which at the time of their discovery are no longer used in the manner for which they were intended in their original function, are forbidden to be utilized in their original function.

Article 39

- (1) Utilization of items of cultural property by means of duplication can only be undertaken with the Minister's permission.
- (2) Request for permission is submitted to the Minister together with a written approval from the owner of the items of cultural property.

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- (3) The owner of the duplication licence of items of cultural property is obliged to give a special mark on each duplication item.
- (4) Further provisions regarding granting permission and the procedure for marking is regulated by the Minister.

Article 40

- (1) In the framework of keeping, taking care, safeguarding, and utilization of movable items of cultural property or certain items of cultural property, which are either owned by State or a person, they can be stored and taken care of in a museum.
- (2) Regulations regarding museums, including keeping, taking care, safeguarding, and utilization of museum collections in the form of items of cultural property, are stipulated separately.

CHAPTER VI DEVELOPMENT AND SUPERVISION

Article 41

- (1) The Minister is responsible for developing the management of items of cultural property

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- (2) Development of management as meant in paragraph (1) includes :
 - a. development of owner or controller of items of cultural property in relation to the arrangement of care, protection, and utilization;
 - b. development of community participation in preserving items of cultural property.
- (3) Development can be undertaken through:
 - a. guidance and counselling;
 - b. giving assistance by experts or other forms of assistance;
 - c. increasing community participation.
- (4) Further provisions regarding development of management of items of cultural property shall be regulated by the Minister.

Article 42

- (1) Community participation in preservation or management of items of cultural property can be done by individuals or legal entities, foundations, associations, groups, or similar kinds of institutions.
- (2) Community participation as meant in paragraph (1) can be in the form of giving information, seminars, fund raising, and other activities for the

sake of protection and taking care of items of cultural property.

Article 43

- (1) The Minister is responsible to supervise the preservation of items of cultural property and is conducted integrally among the respective government institutions or with the community.
- (2) Implementing supervision as meant in paragraph (1) is regulated by the Minister or the head of the relevant agency, either individually or together in accordance with their respective duty and function.

CHAPTER VII OTHER PROVISIONS

Article 44

- (1) Every planning for development which can possibly cause :
 - a. the pollution, moving, damaging, changing, disappearing or destroying the historical value of items of cultural property;
 - b. the pollution and changing of the site and its environment;shall be reported to the Minister in advance.

- (2) The report as meant in paragraph (1) is delivered in writing and completed with an analytical study concerning the environmental impact.
- (3) Based on the respective archaeological study of the development planning, the Minister after consulting with the other Minister or the head of the respective government agency, can state:
 - a. definitely defend the existence of the items of cultural property and the sites;
 - b. suggest to make changes in the development plan;
 - c. move the items of cultural property from the site;
 - d. agree to continue the respective planning activities, or;
 - e. delete the items of cultural property and the site from the register.
- (4) Implementing provisions as meant in paragraph (1), paragraph (2), and paragraph (3) letter b shall be regulated by the Minister.

CHAPTER VIII PROVISIONS OF PENALTIES

Article 45

- (1) Whosoever intentionally violates the provisions as meant in Article 27, Article 29, Article 30,

Article 31, Article 32, and Article 34 shall be sentenced based on the provision of Article 26 of Law number 5 of the year 1992 concerning Items of Cultural Property.

- (2) Whosoever intentionally violates the provision as meant in Article 17 shall be sentenced based on the provision in Article 27 of Law number 5 of the year 1992 concerning Items of Cultural Property.
- (3) Whosoever fails to fulfil their obligations as meant in Article 6, Article 11, Article 12, Article 13, Article 38, and Article 39 shall be sentenced based on the provision in Article 28 of Law number 5 of the year 1992 concerning Items of Cultural Property.

CHAPTER IX TRANSITIONAL PROVISION

Article 46

At the time this Government Regulation comes into force, all provisions which regulate control, ownership, registration, transfer, discovery, searching, care, protection, utilization, development, and supervision of items of cultural property, items which are presumed as items of cultural property and sites, and provision for searching valuable items are still valid as far as they are not contrary or

have not been replaced based on this Government Regulation.

**CHAPTER X
CLOSING PROVISION**

Article 47

This Government Regulation shall take effect on the date it is promulgated. In order that every person may be informed thereof, it is ordered that this Government Regulation is promulgated in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta
on the 19th day of February 1993
PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed

Soeharto

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Promulgated in Jakarta
on the 19th day of February 1993

MINISTER / SECRETARY OF STATE OF
THE REPUBLIC OF INDONESIA

Signed

Moerdiono

STATE GAZETTE OF THE REPUBLIC OF
INDONESIA 1993 NUMBER 14

Copied in accordance with the original

CABINET SECRETARIAT OF THE REPUBLIC
OF INDONESIA
Head of the Bureau of Legal Affairs and Legislation

Signed

Bambang Kesowo S.H., LL. M.

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ELUCIDATION ON
THE GOVERNMENT REGULATION OF
THE REPUBLIC OF INDONESIA
NUMBER 10 OF 1993
CONCERNING IMPLEMENTATION OF
INDONESIAN LAW NUMBER 5 OF 1992



General

ELUCIDATION ON as one of the
THE GOVERNMENT REGULATION
OF THE REPUBLIC OF INDONESIA
NUMBER 10 OF THE YEAR 1993
CONCERNING
IMPLEMENTATION OF INDONESIAN LAW
NUMBER 5 OF THE YEAR 1992

Protection of cultural heritage, as one of the preserve, constitutes a vital part of the national character and identity of a nation. The efforts to preserve items of cultural property bears great significance in the context of developing and promoting history, science, culture, and other fields. The purpose of the Law is to regulate the

The Law of the Republic of Indonesia number 5 of 1992 concerning Items of Cultural Property has given guidance for regulating of the possession, ownership, discovery, searching, protection, preservation, management, utilization, and controlling of items of cultural property. Apart from the above mentioned direction, several articles of the Law also confer a mandate for further regulation of the problems through Government Regulations.

ELUCIDATION ON
THE GOVERNMENT REGULATION OF
THE REPUBLIC OF INDONESIA
NUMBER 10 OF 1993
CONCERNING IMPLEMENTATION OF
INDONESIAN LAW NUMBER 5 OF 1992

General

Protection of cultural property as one of the preservation efforts for the national heritage, constitutes an initiative for improving the national character and foster feelings of national pride. The efforts to preserve items of cultural property bears great significance for the sake of developing and promoting history, science, culture, and other utilizations in enhancing the national culture for the purpose of national interest.

The Law of the Republic of Indonesia number 5 of 1992 concerning Items of Cultural Property has given guidance for regulating of the possession, ownership, discovery, searching, protection, preservation, management, utilization, and controlling of items of cultural property. Apart from the above mentioned direction, several articles of the Law also confer a mandate for further regulation of the problems through Government Regulations.

Based on this mandate this Government Regulation is prepared to describe, clarify, and guide the rules concerning possession, ownership, registration, transferring of rights, discovery, searching, protection, preservation, management, utilization and controlling, and other matters related to the preservation of items of cultural property.

Although several provisions in the law mandates that each above mentioned matter need to be regulated by a Government Regulation, however, for the purpose of having a comprehensive regulation, matters who related to each other should be regulated through this Government Regulation.

For the sake of regulating the protection and preservation arrangement of cultural property, either concerning its possession, ownership, registration, transfer of rights, discovery, searching, preservation, or utilization of items of cultural property, this government regulation, always pays attention to the rights and obligations as well as the interest, of the owner or the community.

Protection and preservation of cultural property here, does not only deals with the man made object as mentioned in Article 1, point 1 a, the Law of the Republic of Indonesia number 5 of 1992 concerning Items of Cultural Property, but also includes natural heritage which has an important value for history,

science, and culture, such as fossils of ancient man or animal, meteorit object, etc.

In accordance with the above, this Government Regulation is not only dealing with the protection and preservation of cultural property, but also give guidance to the procedure and requirements of ownership, possession, and moving the cultural property outside of the Republic of Indonesia.

Considering the importance of utilization of items of cultural property for the interest of religious purposes, therefore this Government Regulation also regulates implementation of its utilization based on the principle of preservation and protection of items of cultural property as regulated in this Government Regulation.

ARTICLE BY ARTICLE ELUCIDATION

Article 1
Sufficiently clear

Article 2
Paragraph (1)
The legal territory of the Republic of Indonesia in this paragraph covers all the Indonesian jurisdiction.

The control of the items of cultural property by the State does not prevent the possibility of the Government i. e. the Minister, to determine regulations for searching, management, licensing, and controlling of cultural property, items that is presumed as cultural property or valuable items of which the owner is unknown located within the exclusive economic zone and which will be implemented based on the regulations in force.

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Article 3

Paragraph (1)
Items of cultural property that shall be owned by the state in this paragraph, is determined not merely depending on the physical appearance of the object, but determined based on the high cultural value and nation history, rarely and/or limited kind of items and has specific characteristic representing its period.

Paragraph (2)

The current effective regulation in this paragraph is such as the regulation related to building construction.

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Article 4

Paragraph (1)

The ownership of items of cultural property is a civil right that can be transferred through inheritance, heirlooms, or other means. Although the above ownership of items of cultural property is a civil right, however transferring ownership or possession to others should always pay attention to the provisions regulated in Law of the Republic of Indonesia number 5 of 1992 concerning Items of Cultural Property or other regulations in force. Ownership of items of cultural property by any person should take into consideration its social function and it is intended that the items of cultural property which is owned by a person could be utilized not only for the sake of private interest but also public interest, such

as for the purpose of scientific, education, and other public interests.

Paragraph (2)

What is meant by certain items of cultural property here are the cultural properties which are not included as the cultural property meant in Article 3 paragraph (1) of this Government Regulation.

Paragraph (3)

What is meant by kinds of items of cultural property are varieties of items of cultural property.

Article 5

Paragraph (1)

Sufficiently clear

Paragraph (2)

Provisions of permission meant here are for example, stay permits, permission for bringing items of cultural property outside of the legal territory of the Republic of Indonesia.

Paragraph (3)

Sufficiently clear

Article 6

Paragraph (1)

Sufficiently clear

Paragraph (2)

Registration is an activity to register movable or immovable items of cultural property including their site, in order to do an inventory of items of cultural property for preservation, management planning, care and protection, and its utilization.

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Article 7

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 8

Paragraph (1)

Certain items of cultural property meant in this paragraph can only be transferred of its ownership and/or its controllship to the legal heir apparent or to the State, and is meant to avoid any transfer of its ownership/ controllship of the items of cultural property to other than its legal heir apparent to the State.

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

Paragraph (5)
Sufficiently clear

Paragraph (6)
Sufficiently clear

Article 9

Please refer to the explanation of Article 5 paragraph (2) of this Government Regulation.

Article 10

Sufficiently clear

Article 11

Paragraph (1)
Sufficiently clear

Paragraph (2)
Damage that cause the destruction of the cultural property may occur due to a disaster both natural disaster as well as due to men or other factors.

Paragraph (3)
Sufficiently clear

Article 12

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Paragraph (4)

Using the 6 (six) months limit for deleting from the list of cultural property is based on the system on superannuation of theft, as regulated in Article 78 paragraph (1) of the Penal Code within that period it is not impossible that cultural property could be

found again. If it is rediscovered after the expiration date, the items of cultural property should be re-registered.

Paragraph (5)
Sufficiently clear

Article 13

Paragraph (1)
The nearest local Government Official in this article means the head of the village, district, or the regent. The deadline which is limited to at least 14 (fourteen) days is intended to give opportunity to the reporter also to avoid lost or damage of the rediscovered object by irresponsible persons.

Paragraph (2)
Sufficiently clear

Paragraph (3)
Protection measure in this article means activities for guarding and/or protecting discovered object in order not to be removed, damage, or lost from the place of discovery before being any researched by the agency responsible for research of items of cultural property.

Paragraph (4)
Research as meant in this Article may be in the form of rescue research, and/or pure research on items of cultural property according to its situation and condition.

Paragraph (5)
Sufficiently clear

Paragraph (6)
Sufficiently clear

Article 14

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 15

Paragraph (1)
Sufficiently clear

Paragraph (2)
Rediscovered movable items of cultural property can be kept in a Museum if it is not part of a unity or group of cultural property. If it is part of a unity or group of cultural property the items should be returned back

to its unity or its group, or for the sake of its safety is kept in a Museum.

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

Article 16

Paragraph (1)
Sufficiently clear

Paragraph (2)
The respective legal provision meant in this Article is such as Article 587 of the Penal Code.

Article 17

Paragraph (1)
Land and water as meant in this Article is under the ground and under the water in the territory of the Republic of Indonesia.

Paragraph (2)
Sufficiently clear

Article 18

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Paragraph (3)
The term of reference should contain among others a description concerning the purpose, location of searching, number and specification of man power, equipment and other supporting matters used.

Paragraph (4)
Sufficiently clear

Article 19

Sufficiently clear

Article 20

Paragraph (1)
Sufficiently clear

Paragraph (2)
Included in the legal entity meant in this Article are foundations, associations, organizations and other similar groups.

Article 21

The result of research when searching for cultural property and valuable objects may conclude that the object is an item of cultural property. Yet often the result of research on

searching valuable object is just predicted as cultural property and therefore it should be protected in the same manner as cultural property.

Article 22

Sufficiently clear

Article 23

Paragraph (1)

Sufficiently clear

Paragraph (2)

The borders of the site are determined based on the original border, if it still exist, or if it is not so, it is considered based on the local geotopographical condition such as the slope of the hill, river, valley, etc. or the feasibility view for appreciating the form or value of the item of cultural property. Surrounding borders of the site are determined according to the need of protection or development of utilities of the items of cultural property as a tourism object.

Paragraph (3)

Zoning system as meant in this paragraph is determining the zone area of the site which is based on the need of the cultural property for the purpose of protection.

The zoning system may consist of a sanctuary zone as the main zone of the archaeological site, a buffer zone as the area around the site for preserving the site, and a development zone, which is the area around the buffer zone or main zone which can be developed for the purpose of social facilities, economy, and culture which is not contrary to the principle on preservation of items of cultural property.

Article 24

Paragraph (1)

Determination of a site can be conducted. If in a certain area there are several archaeological sites nearby and interrelated in their space, history, and archaeological aspects.

Paragraph (2)

Effective legislation meant in this paragraph are such as provisions on zoning, environment, mining, industry, etc., so that there will be no conflict in regulating items of cultural property with other interests and/or it will not give any side impact to the surrounding community.

Article 25

Paragraph (1)

Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 26

Paragraph (1)

Preservation of items of cultural property is conducted by daily maintenance or conservation if technically needed for preventing damage and/or deterioration of cultural property because of natural influences and in accordance with the preservation of items of cultural property. Biotic agents are environmental factors consisting of living beings such as organic growth, animal, or human; whereas natural factors are non-biotic factors i. e. geotopography, climate, natural disaster such as fire disaster, land sliding, earthquake etc. Pollution on cultural property is not wanted, as it will promote the deterioration and degradation process of cultural property.

Paragraph (2)

Preservation principles including authenticity of the design, material, workmanship and setting, for maintaining its historical and cultural value.

Paragraph (3)

Sufficiently clear

Article 27

Paragraph (1)

Sufficiently clear

Paragraph (2)

Restoration is a series of activities which is intended to reconstruct the original architecture of the items of cultural property for strengthening the structural condition if technically needed, based on technical archaeological/historical principles for the purpose of preservation of items of cultural property. The activities of restoration include dismantling, reconstruction, rehabilitation, and consolidation.

Paragraph (3)

Sufficiently clear

Article 28

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)
Sufficiently clear

Paragraph (6)
Sufficiently clear

Article 29

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 30

Paragraph (1)
Sufficiently clear

Paragraph (2)
What is meant as for the sake of social interest in this paragraph can be a. o. in the form of exhibition, cultural diplomacy, exchange of information, etc.

Paragraph (3)
Protection measure as meant in this paragraph includes packing, transporting, and guarantee of the safety of the items of cultural property.

Paragraph (4)
Sufficiently clear

Article 31

Paragraph (1)
The legal provisions meant in this paragraph are such as provisions for exporting the object, tax regulation, etc.

Paragraph (2)
Sufficiently clear

Article 32

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 33

Paragraph (1)
Detaining of cultural property or which is presumed as cultural property, is conducted if the object is going to be transferred either between areas or outside the area of the Republic of Indonesia and there is a suspicion that it does not have complete document of permission for transfer.

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

Article 34

Paragraph (1)
Sufficiently clear

Paragraph (2)
Emergency condition as meant in this paragraph is the condition which threaten the safety and preservation state of the cultural property, such as fire, cultural disaster, or other similar conditions.

Paragraph (3)
Sufficiently clear

Article 35

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Paragraph (3)
The obligation for reporting is intended to monitor the traffic of cultural property. See also the explanation on Article 8 paragraph (6) of this Government Regulation.

Article 36

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Paragraph (3)
See explanation of Article 4 paragraph (1) of this Government Regulation

Paragraph (4)
Sufficiently clear

Paragraph (5)
Sufficiently clear

Paragraph (6)
Sufficiently clear

Paragraph (7)
Sufficiently clear

Paragraph (8)
Sufficiently clear

Article 37

Paragraph (1)
The provision in this Article is intended for the respective community, so that it can

carry out its religious activity in a better situation not disturbed in its activity, during the religious procession as well as in the preservation of the site.

Paragraph (2)
Sufficiently clear

Article 38

Although it is prohibited to be re-functioned as it was, however it may be still possible for further utilization, as far as it is not contrary to the important value of the cultural property, by means such as for tourism, research, scientific development, history, and culture.

Article 39

Paragraph (1)
Utilization by duplicating cultural property as meant in this paragraph does not decrease the obligation to always be based on the provisions as mentioned in Law Number 6 of 1982 concerning Copyrights which had been amended by Law Number 7 of 1987 concerning Modification on Law Number 6 of 1982 concerning Copyrights.

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

Article 40

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 41

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

Article 42

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 43

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Article 44

Paragraph (1)
Sufficiently clear

Paragraph (2)
Analytical studies concerning the environmental impact (AMDAL) correlating plans of development and the items of cultural property, is particularly focused on the study of the development impact to cultural and social aspects in connection with the preservation of items of cultural property.

Paragraph (3)
Sufficiently clear

Paragraph (4)
Sufficiently clear

Article 45

Paragraph (1)
Sufficiently clear

Paragraph (2)
Sufficiently clear

Paragraph (3)
Sufficiently clear

Article 46

Provisions as meant in this Article are for example provisions such as meant in Presidential Degree of 1989 concerning the National Committee for Lifting and Utilizing of Valuable Objects or other related implementing provisions.

Article 47

Sufficiently clear

**SUPPLEMENT TO THE STATE GAZETTE OF THE
REPUBLIC OF INDONESIA NUMBER 3516**