

## **PROCEDURES FOR CLASS ACTIONS**

**(Regulation of the Supreme Court of the Republic of Indonesia**

**Number 1/2002 dated 26 April 2002)**

### **THE SUPREME COURT OF THE REPUBLIC OF INDONESIA**

Considering:

- a. That the principle of simple, fast, cost-effective and transparent judicature is aimed at developing the community access to justice;
- b. That occurrences, activities or developments may cause the violation of law, which may be detrimental concurrently to the public;
- c. That it will be very ineffective and inefficient that the settlement of the violation of law, which is detrimental concurrently to the public as referred to in point (b), which involves the same fact, legal basis and defendant(s), if lodged and settled individually or jointly in one petition;
- d. That for the purpose of efficiency and effectiveness of legal proceedings, the violation of law as referred to in point (c) above class actions can be lodged, in which one or more persons suffering damages from the violation of law aforementioned lodge(s) petition(s) for himself or themselves and concurrently represent(s) a great number of people with the same fact, legal basis and defendant(s);
- e. That various laws governing the grounds for class actions and petitions using the grounds for class actions, such as Law Number 23/1997 concerning Environmental Management, Law Number 8/1999 concerning Consumers Protection and Law Number 41/1999 concerning Forestry have been enacted, but there is no rule which governs the procedures for examination, hearing and adjudicating the petitions to be lodged;
- f. That while awaiting the rule of law and taking into account of the authority of the Supreme Court in regulating the procedures for legal proceedings that have not sufficiently been regulated by the rule of law, therefore, for the purpose of legal certainty, order and acceleration in the examination, hearing and adjudication of class actions, it is deemed necessary to stipulate a Supreme Court Regulation.

Taking into account:

1. The Renewed Indonesian Regulation (HIR), State Gazette of the Year 1941 Number 44 and the Regulation of Civil Law Procedures for Regions Outside of Java and Madura (RBg), State Gazette of the Year 1927 Number 227, and Article 11 of the Constitution of the year 1945 as amended and supplemented, lastly by the Third Amendment of the Year 2001;

2. Law Number 14 of the Year 1970 concerning the Basic Rules of the Judicial Authority as amended by Law Number 35 of the year 1999 concerning the Amendment to Law Number 14 of the Year 1970 concerning the Judicial Authority;
3. Law Number 14 of the Year 1985 concerning the Supreme Court;
4. Law Number 2 of the Year 1986 concerning the General Judicature.

## DECIDES

To stipulate:

### REGULATION OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA CONCERNING CLASS ACTIONS

#### Chapter I - General Rules

##### Article 1

In this Supreme Court Regulation what is meant by:

- a. Class Action is a procedure for the submission of petitions, in which one or more persons who represent(s) a group submit(s) a petition for himself or themselves and concurrently represent(s) a great number of people with the same fact or legal basis among the representative of the group and the members of the group;
- b. Representative of the group is one or more persons who suffer from damages who submit(s) the petition and concurrently represent(s) a group of more persons;
- c. Members of the group means a group of persons in a great number who suffer from damages whose common interest is represented by the representative of the group before the court;
- d. Sub-group is a division of the members of the group in a smaller group in one petition based on the difference of level of suffrage and/or kind of damages;
- e. Notification is a notification served by the Registrar at the order of the Judge to the members of the group in any manner easy to reach by the members of the group as defined in the letter of petition;
- f. Resignation Statement means a form of written statement signed and submitted to the court and/or the plaintiff by members of the group who want to resign;
- g. Having resigned, the members of the group who have declared his resignation shall not be legally bound upon by the judgment on the class action aforesaid.

#### Chapter II - Procedures and Requirements for Class Actions

## Article 2

The petition may be submitted using the procedures for Class Actions if:

- a. The number of the members of the group is so great that it will be ineffective and inefficient if the petition is lodged individually or jointly in one petition;
- b. There are common facts or occurrence and common legal basis used of substantial nature and there is common kind of petition between the representative of the group and the members of the group;
- c. The representative of the group shall have honesty and willingness to protect the interest of the members of the group he is representing;
- d. The Judge may propose to the representative of the group to carry out a lawyer-replacement if the lawyer committed to acts contradictory to his obligation to defend and protect the interest of the members of the group.

## Article 3

(1) In addition to be in compliance with the formal requirements, the letter of petition as governed by the prevailing Law of the Civil Law Procedures must contain:

- a. The complete and clear identity of the representative of the group;
- b. The definition of the group in detail and specific even without mentioning the names of the members of the group one by one;
- c. Remarks on the members of the group as required in connection with the obligation to make notifications;
- d. The position of the case of the entire group, either the representative of the group or members of the group who are identified or unidentified to be set forth in detail;
- e. In one class action, part of the group or sub-group can be divided in several parts of the group or sub-groups if the claim is not similar in nature and the kind of damages is different;
- f. The claim for compensation must be set forth clearly in detail and contain the proposal of mechanism of or procedure for the distribution of compensation to the entire members of the group including the proposal concerning the formation of a team or panel to assist the acceleration of the distribution of compensation.

## Article 4

To represent the legal interest of the members of the group, the representative of the group shall not be required to obtain special power of attorney from the members of the group.

## Article 5

- (1) At the beginning of the court examination, the Judge shall be obliged to examine and consider the criteria of the class action as referred to in Article 2.
- (2) The Judge may give advices to the parties concerning the requirements of class actions as referred to in Article 3.
- (3) The legality of the class action as referred to in paragraph (1) shall be contained in a court order.
- (4) If the Judge decides to declare that the use of the procedures for class actions is legal, then the Judge shall, thereafter, instruct the plaintiff to submit his proposal of the model of notification to be approved by the Judge;
- (5) If the Judge decides to declare that the use of the procedures for class actions is illegal, then the examination of the case shall be stopped by virtue of a court order.

## Article 6

The Judge shall be obliged to encourage the parties to settle the case concerned amicably through a compromise, either at the beginning of the hearing or during the court examination.

## Chapter III -Notification

## Article 7

- (1) The notification to the members of the group can be made through printed and/or electronic media, government agencies such as the offices of the heads of districts, sub-districts, villages or the office of the court or directly to the members of the group concerned as long as identifiable by the Judge's consent.
- (2) The notification to the members of the group shall be made in the following stages:
  - a. Immediately after the Judge decides to declare the legality of the submission of the procedures for class actions;
  - b. At the stages of settlement and distribution of compensation when the petition is honoured.
- (3) The notification as referred to in paragraph (2) point a shall contain the mechanism of resignation statement.
- (4) The notification shall contain:
  - a. The number of the petition and the identity of the plaintiff or the plaintiffs in his/their capacity(ies) as the representative of the group and of the defendant or defendants;

- b. A brief summary of the case;
- c. An explanation on the group definition;
- d. An explanation on the implication of the participation as the members of the group;
- e. An explanation on the possibility of the members of the group being part of the definition of the group to resign from his group membership;
- f. An explanation on the timing, i.e., month, date and time of the notification of the resignation statement can be submitted to the court;
- g. An explanation on the addressee for the submission of the resignation statement;
- h. If required by the members of the group as to who and place available for the procurement of additional information;
- i. The form of resignation statement of the members of the group as per the attachment to this Supreme Court Regulation;
- j. An explanation on the amount of compensation to be submitted.

#### Chapter IV - Resignation Statement

##### Article 8

(1) After the notification is served by the representative of the group by the Judge's consent, the members of the group shall, within the timeframe to be determined by the Judge, be given an opportunity to resign from the group membership by filling out the form as per the attachment to this Supreme Court Regulation.

(2) The party who has declared to resign from the membership of the group of class action shall not, by operation of law, be bound upon by the judgment on the class action concerned.

#### Chapter V - Judgment

##### Article 9

In case the claim for compensation is honoured, the Judge shall be obliged to decide the amount of compensation in detail, the determination of the group and/or sub-group entitled, mechanism of distribution of compensation and steps to be taken by the representative of the group in the process of determination and distribution as well as the obligation to serve notifications.

#### Chapter VI - Closing Provisions

##### Article 10

Other provisions that have been regulated by the Law of the Civil Law Procedures shall prevail in addition to the provisions of this Supreme Court Regulation.

#### Article 11

This Regulation of the Supreme Court of the Republic of Indonesia shall come into effect as of the date of its stipulation.

Stipulated in Jakarta

On 26 April 2002

CHIEF JUSTICE OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA

[signed by]

BAGIR MANAN