

PRESIDENT OF THE REPUBLIC OF INDONESIA
NUMBER 7 OF 2020
ON
THIRD AMENDMENT TO THE LAW NO. 24 OF 2003
ON CONSTITUTIONAL COURT
WITH THE BLESSINGS OF THE ONE, TRUE GOD
PRESIDENT OF THE REPUBLIC OF INDONESIA

- Considering :
- a. That, the Unitary State of the Republic of Indonesia is a state of law under Pancasila and the 1945 Constitution of the Republic of Indonesia, for the purpose of realizing an orderly, clean, prosperous, and fair national and state life;
 - b. That, the Constitutional Court is an independent implementer of judicial power with a significant role in enforcing the constitution and the principle of the state of law in accordance with its authority and liability as specified in the 1945 Constitution of the Republic of Indonesia;
 - c. That, several provisions of the Law No. 24 of 2003 on Constitutional Court as amended several times, i.e. by the Law No. 8 of 2011 on Amendment to the Law No. 24 of 2003 on Constitutional Court and by the Law No. 4 of 2014 on Enactment of Government Regulation In Lieu of the Law No. 1 of 2013 on Second Amendment

to the Law No. 24 of 2003 on Constitutional Court into Law is no longer in line with the developments of legal needs of the society and state administration setting so that it needs to be amended;

d. That, under the considerations as referred to in letters a, b and c, it is deemed necessary to draft a Law on Third Amendment to the Law No. 24 of 2003 on Constitutional Court;

- In view of :
1. Article 7A, Article 7B, Article 20, Article 21, Article 24, Article 24C and Article 25 of the 1945 Constitution of the Republic of Indonesia;
 2. Law No. 24 of 2003 on Constitutional Court (State Gazette of the Republic of Indonesia No. 98 of 2003, Supplement to the State Gazette of the Republic of Indonesia No. 4316), as amended several times, most recently by the Law No. 4 of 2014 on Enactment of Government Regulation In Lieu of the Law No. 1 of 2003 on Second Amendment to the Law No. 24 of 2003 on Constitutional Court into Law (State Gazette of the Republic of Indonesia No. 5 of 2014, Supplement to the State Gazette of the Republic of Indonesia No. 5456);

With the Joint Approval of

HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

and

PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDED:

To stipulate : LAW ON THIRD AMENDMENT TO THE LAW NO. 24 OF 2003 ON CONSTITUTIONAL COURT.

Article 1

Several provisions of the Law No. 24 of 2003 on Constitutional Court (State Gazette of the Republic of Indonesia No. 98 of 2003, Supplement to the State Gazette of the Republic of Indonesia No. 4316), which has been amended several times by the Law:

- a. No. 8 of 2011 on Amendment to the Law No. 24 of 2003 on Constitutional Court (State Gazette of the Republic of Indonesia No. 70 of 2011, Supplement to the State Gazette of the Republic of Indonesia No. 5226);
- b. No. 4 of 2014 on Enactment of Government Regulation In Lieu of the Law No. 1 of 2013 on Second Amendment to the Law No. 24 of 2003 on Constitutional Court into Law (State Gazette of the Republic of Indonesia No. 5 of 2014, Supplement to the State Gazette of the Republic of Indonesia No. 5456);

shall be amended as follows:

1. Provisions of paragraph (3) and paragraph (4) of Article 4 shall be amended, paragraph (4f), paragraph (4g), and paragraph (4h) Article 4 shall be omitted, so that Article 4 shall read as follows:

Article 4

- (1) The Constitutional Court shall have 9 (nine) constitutional justices designated by the Presidential Decree.
- (2) The composition of the Constitutional Court shall consist of a Chief justice concurrently serving as a member, a Vice Chief justice concurrently serving as a member, and 7 (seven) constitutional justices.
- (3) The Constitutional Court Chief justice and Vice Chief justice shall be elected from and by the constitutional justices for a tenure period

of 5 (five) years as of the date of appointment of the Constitutional Court Chief justice and Vice Chief justice.

- (3a) The elected Constitutional Court Chief justice and Vice Chief justice as referred to in paragraph (3) may be re-elected in the same position for 1 (one) tenure period.
- (4) Before the Chief justice and the Vice Chief justice of the Constitutional Court as referred to in paragraph (3) is elected, the Constitutional Court Chief justice and Vice Chief justice election meeting shall be presided over by the oldest constitutional justice.
- (4a) The election meeting as referred to in paragraph (4) shall be attended by at least 7 (seven) constitutional justices.
- (4b) In case the meeting quorum as referred to in paragraph (4a) is not met, the meeting shall be adjourned no more than 2 (two) hours.
- (4c) In the event that the meeting adjournment as referred to in paragraph (4b) has been performed and the meeting quorum has not been met, the meeting may adopt a resolution without any quorum.
- (4d) The resolution adopted at the Constitutional Court Chief justice and Vice Chief justice election meeting as referred to in paragraph (4c) shall be performed by means of good faith negotiations to reach acclamation.
- (4e) Failing which, the resolution shall be adopted by majority vote through a voting performed in a free and confidential manner.
- (4f) Omitted.
- (4g) Omitted.
- (4h) Omitted.
- (5) Further provisions on the Chief justice and Vice Chief justice election procedures shall be set forth in the Constitutional Court Regulations.

2. The provisions of paragraph (1) Article 7A shall be amended so that Article 7A shall read as follows:

Article 7A

- (1) The clerk's office as referred to in Article 7 is a functional office that performs the judicial, administrative, technical duties of the Constitutional Court with the retirement age of 62 (sixty-two) for clerks, junior clerks and substitute clerks.
 - (2) The judicial, administrative, technical duties as referred to in paragraph (1) shall include:
 - a. Coordination of judicial technical implementation at the Constitutional Court;
 - b. Guidance and implementation of the case administration;
 - c. Guidance of technical services of judicial activities at the Constitutional Court; and
 - d. Performance of other tasks assigned by the Constitutional Court Chief justice according to the task field.
3. The provisions of letters b, d, and h paragraph (2) Article 15 shall be amended so that Article 15 shall read as follows:

Article 15

- (1) The constitutional justice shall meet the following requirements:
 - a. Possesses flawless integrity and personality;
 - b. Fair; and
 - c. Statesperson mastering the constitution and state administration.
- (2) In order to be appointed constitutional justice, in addition to meeting the requirements as referred to in paragraph (1), a constitutional justice nominee shall meet the following requirements:
 - a. Indonesian citizen;

- b. Certified as a doctor (post-graduate) with the basis of bachelor's degree (undergraduate) having the educational background of law;
 - c. Faithful to the One, True God and morally excellent;
 - d. Aged no less than 55 (fifty-five);
 - e. Physically and mentally capable in performing his/her duties and obligations;
 - f. Never been sentenced to imprisonment under a court decision having permanent legal power;
 - g. Not being declared bankrupt under a court decision; and
 - h. Having work experience in the field of law no less than 15 (fifteen) years and/or for justice nominees originating in the Supreme Court sphere, whilst serving as a high justice or as a supreme justice.
- (3) In addition to the requirements as referred to in paragraphs (1) and (2), constitutional justice nominees shall also be required to meet the administrative requirements by submitting:
- a. Statement of Undertaking to become a constitutional justice;
 - b. Curriculum Vitae;
 - c. Submitting a photocopy of legalized diploma by producing the original diploma;
 - d. Report of assets and income sources of nominees along with valid supporting documents and legalized by the competent authority; and
 - e. Taxpayer identification number.
4. The provisions of paragraph (2) Article 20 shall be amended so that Article 20 shall read as follows:

Article 20

- (1) The provisions on constitutional justice selection, election and submission procedures shall be set forth by each competent agency as referred to in Article 18 paragraph (1).
 - (2) The constitutional justice election process of the three state agency elements as referred to in paragraph (1) shall be performed through an objective, accountable, transparent, and open selection process by each state agency.
5. Heading of Section Two Chapter IV shall be omitted.
 6. Article 22 shall be omitted.
 7. Heading of Section Three Chapter IV shall be amended so as to read as follows:

Section Two

Dismissal

8. The provisions of letter d paragraph (1) Article 23 shall be amended so that Article 23 shall read as follows:

Article 23

- (1) The constitutional justice shall be dismissed honorably for the following reasons:
 - a. Death;
 - b. Resignation at one's own request submitted to the Constitutional Court Chief justice;
 - c. Aged 70 (seventy);
 - d. Omitted; or
 - e. Physical or mental illness in a continuous manner for 3 (three) months so as to be unable to perform his/her duties as evidenced by the physician's statement.

- (2) The constitutional justice shall be dismissed dishonorably if:
- a. Sentenced to imprisonment under a court decision having permanent legal power for committing any crime threatened with imprisonment;
 - b. Commits any misconduct;
 - c. Fails to attend a trial that becomes his/her duties and obligations for 5 (five) times consecutively without any valid reason;
 - d. Breaches any oath / vow of office;
 - e. Deliberately hinders the Constitutional Court to pass a decision within the period as referred to in Article 7B paragraph (4) of the 1945 Constitution of the Republic of Indonesia;
 - f. Breaches the prohibition on double job as referred to in Article 17;
 - g. No longer qualified as a constitutional justice; and/or
 - h. Breaches the Code of Ethics and the Code of Conduct for Constitutional Justices.
- (3) The request for dishonorable dismissal as referred to in paragraph (2) letter b, letter c, letter d, letter e, letter f, letter g and/or letter h shall be performed after the individual concerned is allowed the opportunity to defend himself/herself before the Honorary Council of the Constitutional Court.
- (4) The dismissal of the constitutional justice shall be stipulated by the Presidential Decree at the request of the Constitutional Court Chief justice.
- (5) The Presidential Decree as referred to in paragraph (4) shall be enacted within a period of no later than 14 (fourteen) business

days as of the date the President accepts the request for dismissal.

9. The provisions of letter b paragraph (1) and paragraph (5) Article 26 shall be omitted so that Article 26 shall read as follows:

Article 26

- (1) The Constitutional Court shall notify the competent authority as referred to in Article 18 paragraph (1) on the constitutional justice to be dismissed within a period of no later than 6 (six) months prior to:
 - a. Entering the age as referred to in Article 23 paragraph (1) letter c; or
 - b. Omitted.
- (2) Within a period of no later than 14 (fourteen) business days upon acceptance by the Constitutional Court of the Presidential Decree as referred to in Article 23 paragraph (4), the Constitutional Court shall notify the competent agency as referred to in Article 18 paragraph (1) on the constitutional justice dismissed under the provisions as referred to in Article 23 paragraph (1) letters a, b, e or paragraph (2).
- (3) The competent agency as referred to in paragraphs (1) and (2) shall submit the constitutional justice replacement to the President within a period of no later than 30 (thirty) business days upon receiving notice from the Constitutional Court.
- (4) The Presidential Decree on appointment of the constitutional justice replacement as referred to in paragraph (1) shall be enacted within a period of no later than 7 (seven) business days upon receipt of submission by the President.
- (5) Omitted.

10. The provisions of letter c paragraph (2) Article 27A shall be amended, letter d and letter e paragraph (2), paragraph (3), paragraph (4), paragraph (5), and paragraph (6) Article 27A shall be omitted so that Article 27A shall read as follows:

Article 27A

(1) The Constitutional Court shall be required to prepare the Code of Ethics and the Code of Conduct for Constitutional Justices containing the norms to be followed by each constitutional justice in the performance of his/her duties in order to maintain integrity and flawless, fair and statesmanlike personality.

(2) In order to enforce the Code of Ethics and the Code of Conduct for Constitutional Justices as referred to in paragraph (1), a Constitutional Court Honorary Council shall be formed, the membership of which shall consist of:

- a. 1 (one) constitutional justice;
- b. 1 (one) member of the Judicial Commission;
- c. 1 (one) academician having a background in the field of law;
- d. Omitted; and
- e. Omitted.

(3) Omitted.

(4) Omitted.

(5) Omitted.

(6) Omitted.

(7) Further provisions on the composition, organization and procedures of the Honorary Council of the Constitutional Court shall be set forth in the Constitutional Court Regulations.

11. Article 45A shall be omitted.

12. Article 50A shall be omitted.

13. The provisions of paragraph (2a) Article 57 shall be omitted and the elucidation of paragraph (3) shall be amended as set out in the elucidation of Article 57 so that Article 57 shall read as follows:

Article 57

(1) The Constitutional Court Decision of which injunction states that the contents of paragraphs, articles and/or sections of the law are in conflict with the 1945 Constitution of the Republic of Indonesia, such contents of paragraphs, articles and/or sections of the law shall have no binding legal power.

(2) The Constitutional Court Decision of which injunction states that said law drafting fails to comply with the law drafting provisions under the 1945 Constitution of the Republic of Indonesia, the law shall have no binding legal power.

(2a) Omitted.

(3) The Constitutional Court Decision granting the Request shall be published in the Official Gazette of the Republic of Indonesia within a period of no later than 30 (thirty) business days as of the pronouncement of the decision.

14. The provisions of paragraph (2) Article 59 shall be omitted so that Article 59 shall read as follows:

Article 59

(1) The Constitutional Court Decision on judicial review of the 1945 Constitution of the Republic of Indonesia shall be submitted to the House of Representatives, the Regional Representative Council, the President and the Supreme Court.

(2) Omitted.

15. The provisions of Article 87 shall be amended so as to read as follows:

Article 87

Upon the entry into effect of this Law:

- a. The constitutional justice currently serving as the Constitutional Court Chief justice or Vice Chief justice shall keep serving as the Constitutional Court Chief justice or Vice Chief justice until the tenure of office expires under the provisions of this law;
- b. The constitutional justice currently serving upon the promulgation of this Law shall be deemed to have qualified pursuant to this Law and terminate his/her tenure of office at the age of 70 (seventy) during the entire tenure of office of no more than 15 (fifteen) years.

Article II

This Law shall become effective as of the date enacted.

For public cognizance, it is hereby ordered the promulgation of this Law by its placement in the State Gazette of the Republic of Indonesia.

Legalized in Jakarta

On 28 September 2020

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Signed

JOKO WIDODO

Promulgated in Jakarta

On 29 September 2020

THE MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF
INDONESIA,

Signed

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 216 OF
2020

Issued as a true certified copy

THE MINISTRY OF STATE SECRETARIAT OF THE REPUBLIC OF
INDONESIA

Deputy of Law and Legislation

Signed and Sealed

Lydia Silvanna Djaman

ELUCIDATION OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 7 OF 2020
ON
THIRD AMENDMENT TO THE LAW NUMBER 24 OF 2003
ON
CONSTITUTIONAL COURT

I. GENERAL

The Constitutional Court is an independent implementer of judicial power with a significant role in enforcing the constitution and the principle of the state of law in accordance with its authority and liability as specified in the 1945 Constitution of the Republic of Indonesia.

Under Article 24C paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court is authorized to review the Law against the 1945 Constitution of the Republic of Indonesia, to decide on the dispute over the authority of a state agency of which authority is granted by the 1945 Constitution of the Republic of Indonesia, to decide on the dismissal of a political party, to decide on the dispute over the general election results, and to pass a decision on the opinion of the House of Representatives that the President and/or Vice President has allegedly committed a legal offense in the form of treason against the state, corruption, bribery, other serious crimes, or misconducts, and/or no longer qualified as a President and/or Vice President as referred to in the 1945 Constitution of the Republic of Indonesia.

Under Article 24C paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court is authorized to review the Law against the 1045 Constitution of the Republic of Indonesia, to decide on the dispute over the authority of a state agency of which authority is granted by the 1945 Constitution of the Republic of Indonesia, to decide on the dismissal of a political party, to decide on the dispute over the general election results, and to pass a decision on the opinion of the House of Representatives that the President and/or Vice President has allegedly committed a legal offense in the form of treason against the state, corruption, bribery, other severe crimes, or misconducts, and/or no longer qualified as a President and/or Vice President as referred to in the 1945 Constitution of the Republic of Indonesia.

In their developments, several provisions in the Law No. 24 of 2003 on Constitutional Court as amended several times, most recently by the Law No. 4 of 2014 on Enactment of Government Regulation In Lieu of the Law No. 1 of 2013 on Second Amendment to the Law No. 24 of 2003 on Constitutional Court into Law has also been reviewed and declared in conflict with the 1945 Constitution of the Republic of Indonesia by the Constitutional Court.

This Law is the third amendment to the Law No. 24 of 2003 on Constitutional Court. The Amendment to the Law was because there are some provisions no longer in line with the developments of legal needs of the society and the state administration setting.

Some significant subject matters in the third amendment to the Law No. 24 of 2003 on Constitutional Court, *inter alia*, the election of Constitutional Court Chief justice and Vice Chief justice, the qualifications of a constitutional justice, the dismissal of a constitutional justice, the limit of retirement age of a constitutional justice.

II. ARTICLE BY ARTICLE

Article I

Item 1

Article 4

Self-explanatory.

Item 2

Article 7A

Self-explanatory.

Item 3

Article 15

Paragraph (1)

Self-explanatory.

Paragraph (2)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Referred to as “faithful to the One, True God” shall be to perform religious teachings.

Letter d

Self-explanatory.

Letter e

Self-explanatory.

Letter f

Self-explanatory.

Letter g

Self-explanatory.

Letter h

Self-explanatory.

Paragraph (3)

Self-explanatory.

Item 4

Article 20

Self-explanatory.

Item 5

Self-explanatory.

Item 6

Self-explanatory.

Item 7

Self-explanatory.

Item 8

Article 23

Self-explanatory.

Item 9

Article 26

Self-explanatory.

Item 10

Article 27A

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Paragraph (7)

The Constitutional Court Regulations herein shall be made with the consent of the Honorary Council of the Constitutional Court.

Item 11

Self-explanatory.

Item 12

Self-explanatory.

Item 13

Article 57

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (2a)

Self-explanatory.

Paragraph (3)

The Official Gazette of the
Republic of Indonesia
(BNRI) for the Constitutional
Court decision shall be issued
by the minister conducting
governmental affairs in the
field of law.

Item 14

Article 59

Self-explanatory.

Item 15

Article 87

Self-explanatory.

Article II

Self-explanatory.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF
INDONESIA NUMBER 6554