



THE PRESIDENT REPUBLIC OF INDONESIA

**LAW NUMBER 5/1974 REPUBLIC OF INDONESIA
CONCERNING BASIC PRINCIPLES ON ADMINISTRATION IN THE REGION**

**WITH THE BLESSING OF ALMIGHTY GOD
THE PRESIDENT OF THE REPUBLIC OF INDONESIA**

- Considering :
- a. that Law Number 18/1965 concerning Basic Principles on Regional Administration (State Gazette Number 83/1965, Supplement State Gazette Number 2778), is not more in line with the development of the situation, so that it must be amended;
 - b. that the Constitution of 1945 is the source of Law for the whole State's apparatus;
 - c. that in line with the character of the Unitary State of the Republic of Indonesia, the status of the Regional Government should be uniformed as far as possible;
 - d. that to secure the execution of a well run Administration, it is necessary to classify the territory of the Unitary State of the Republic of Indonesia in large and small territories, which are autonomous as well as having an administrative character;
 - e. that in the frame of stepping up the implementation of development scattered throughout the Country and in maintaining the political stability along with the unity of the Nation, a harmonious relationship between the Central Government and the Regional Government on the basis of a divided Unitary State, shall be guided to the implementation of a real and responsible autonomy of the Region which may secure the progress and development of the Region implemented simultaneously with deconcentration.
 - f. that the implementation of the Administration in the Region, besides that it is based upon the principle of decentralization and deconcentration it may also be implemented on the basis of the principle of Co-Administration.

- g. that it is necessary to determine a Statute concerning Basic Principles on Administration in the Region, to regulate that what has been mentioned above.

- Recollecting :
1. Articles 5 paragraph (1), 18 and 20 paragraph (1) of the Constitution of 1945;
 2. Stipulation Number IV/MPR/1973 of the People's Consultative Congress of the Republic of Indonesia concerning The Broad Lines of the State's Policy;
 3. Stipulation Number V/MPR/1973 of the People's Consultative Congress of the Republic of Indonesia on the reorientation of results consisting of Stipulations of the Provisional People's Consultative Congress of the Republic of Indonesia;
 4. Law Number 10/1964 concerning a Statement that the Jakarta Municipality shall be permanently the Capital City of the State of the Republic of Indonesia under the name Jakarta (State Gazette Republic of Indonesia Number 78/1964, Supplement State Gazette Republic of Indonesia Number 2671);
 5. Law Number 6/1969 concerning a Statement of in validness of several Laws and Government Regulations in lieu of Act (State Gazette Republic of Indonesia Number 37/1969, Supplement State Gazette Republic of Indonesia Number 2901);
 6. Law Number 16/1969 concerning Structure and Status of the People's Consultative Congress, House of Representative and the Regional House of Representative (State Gazette Republic of Indonesia Number 59/1969; Supplement State Gazette Republic of Indonesia Number 2915).

With the approval of the Parliament of the Republic of Indonesia.

DECIDED:

- Stipulated : LAW CONCERNING BASIC PRINCIPLES ON ADMINISTRATION IN THE REGION.

CHAPTER I GENERAL PROVISIONS

Article 1 Intended in this Statute with

- a. Central Government, hereafter mentioned as the Government, is an apparatus of the Unitary State of the Republic of Indonesia consisting of the President and his Assistants;
- b. Decentralization is a transfer of services of Administration from the Government or from an upper Regional Government to a lower Regional Government to become Regional services;
- c. Autonomy of the Region means the right, the authority and the obligation to manage the Region according to the existing statutes;
- d. Co-Administration means that the lower Regional Government executes services instructed by the Government or upper Regional Government with responsibility to the Instructing Government.
- e. The Autonomous Region, shall hereafter mentioned as the Region, is a social law unity which has certain stipulated boundaries, which has the right, is authorized and responsible to manage its own services in the frame work of the Republic of Indonesia as a Unitary State, in accordance with the prevailing regulations;
- f. Deconsentration is a delegation of authority from the Government or Head of the Territory or Head of the Vertical Office of the Government to its government officials;
- g. Administrative Territory shall hereafter mentioned as Territory, is a working area of the Government's Apparatus which executes the implementation of general Administration in the Region;
- h. A Vertical Office is an Apparatus of the Department or Government Institutions non Department which has a working area in the Territory concerned.
- i. An authorized authority is an authority who is authorized to approve, to revoke and to postpone Regional Regulations or Decisions of the Head of Region, that is for the Regional Government of the first level by the Minister of the Interior, and for the Regional Government of the second Level by the Governor Head of Region, in line with the prevailing regulations;
- j. Services of General Administration are public service covering fields of security, law and order, politics, coordination, control and other Government services which are not included in the Regional Services.
- k. The Police of Administration is an Apparatus of the Territory with the task to assist the Head of the Regional Administration in the organization and establishment of an Administration especially in the implementation of authority, task and responsibility in the field of General Administration;

**CHAPTER II
DIVISION OF TERRITORY**

Article 2

To organize and establish an Administration, the territory of the Unitary State of the Republic of Indonesia shall be divided into Autonomous Regions and Administrative Territories.

**CHAPTER III
AUTONOMOUS REGION**

**Part One
ESTABLISHMENT AND STRUCTURE**

Article 3

- (1) In the framework of the implementation of the decentralization principle shall be organized and established Region of the first Level and Region of the second Level.
- (2) Development and progress of autonomy shall further be based on the political, economical, social cultural conditions and defense and National security.

Article 4

- (1) A Region shall be set up and established with regard to conditions of economical strength, number of population, space of area, defense and National security and other conditions which enabled the Region to implement development, to manage political stability and unity of the Nation in the framework of implementation of a real and responsible Autonomy in the Region.
- (2) The set up, the name, the capital city, the boundaries, the right and competency of services and initial capital of the Region as intended in paragraph (1) of this article, shall be stipulated by Statute.
- (3) Revision of boundaries not causing abolishment of a Region, and alteration of name and relocation of its capital city shall be provided by Government Regulation.

Article 5

A Region may be abolished through a Statute if it is evident that the requirements as intended in article 4 paragraph (1) of this Statute are not fulfilled anymore in such a way that this Region is not able to manage its own services.

Article 6

The Capital City of the Republic of Indonesia Jakarta, with regard to its growth and development may possess an organization structure of Administration in its territory with another form which shall be in accordance as far as possible with the stipulations in this Statute, which shall be stipulated by law.

Part two AUTONOMY OF THE REGION

Article 7

The Region has the right, is authorized and is obligated to organize and manage its own services in accordance with the prevailing regulations.

Article 8

- (1) Additional transfer of government services to the Region shall be stipulated by Government Regulation.
- (2) Additional transfer of government services as intended in paragraph (1) of this article, along with apparatus, equipment and budget.

Article 9

A government services which has been transferred to the Region may be revoked through a regulation of the same level.

Article 10

- (1) To submit recommendations to the President on items as intended in articles 4, 5, 8 and 9 of this Statute, an Advisory Board of The Autonomous Region shall be established.
- (2) The regulations concerning the Advisory Board of the Autonomous Region shall be stipulated by Statute.

Article 11

- (1) The stress of Autonomy in the Region should be put on the Region of the second Level.
- (2) Implementation of the stipulation as intended in paragraph (1) of this article shall be provided by Government Regulation.

Part Three CO-ADMINISTRATION

Article 12

- (1) The Government may assign the Regional Government to execute Co-Administration by Statute.
- (2) The Regional Government of the first Level may assign the Regional Government of the second Level to the implementation of Co-Administration services, through a Regional Regulation.
- (3) Transfer of Co-Administration services as intended in paragraphs (1) and (2) of this article shall be furnished with its financing.

Part Four REGIONAL GOVERNMENT

Article 13

- (1) The Regional Government consists of the Head of the Region and the Regional House of Representative.
- (2) For the execution of the Regional Administration a Secretariat of the Regional Government and its Regional House of Representative shall be established.

Part Five HEAD OF REGION

Section I Appointment and Dismissal

Article 14

As Head of Region may be appointed Indonesian Citizens who fulfill the following requirements, he has:

- a. to be devoted the Almighty God,
- b. to hold faithfully to the PANCASILA and the 1945 Constitution,
- c. to hold faithfully to the State and the Government,
- d. never been involved directly as well as indirectly in any activity committing treason to the Unitary State of the Republic of Indonesia which is based on PANCASILA and the 1945 Constitution like the Communist movement G. 30 S./PKI and – or other prohibited Organization.
- e. to devote himself to the service of Country and Nation,
- f. to possess personality and Leadership,
- g. to possess an integrity,
- h. to be honest,
- i. to be intelligent, capable and skilled,
- j. to be just,
- k. not been deprived the right to vote is not revoked on the basis of Court Decision which has become final,
- l. to be physically and mentally healthy,
- m. to be at least 35 (thirty five) years old for Head of Region of the first Level and 30 (thirty) years old for Head of Region of the second Level.
- n. to be able and to have enough experience in the field of Administration,
- o. to possess knowledge equal to an Academic Graduate or at least followed an education which is similar to a Bachelor study for Head of Region of the first Level and to possess knowledge equal to an Academic Graduate or least having followed an education which is similar to a Senior High School for Head of Region of the second Level.

Article 15

- (1) The Head of the Region of the first Level shall be nominated and elected by the Regional House of Representative from amongst 3 (three) candidates at least and at most 5 (five) candidates which has been discussed and agreed together between the Leadership of the Regional House of Representative/Leadership of the Factions with the Minister of the Interior.
- (2) The result of elections as intended in paragraph (1) of this article shall be proposed by the Regional House of Representative concerned to the President through the Minister of the Interior at least 2 (two) candidates of which one of them should be appointed.
- (3) The procedure of the implementation of the stipulation as intended in paragraph (1) of this article shall be provided by a regulation of the Minister of the Interior.

Article 16

- (1) The Head of Region of the second Level shall be nominated and elected by the Regional House of Representative from at least 3 (three) and at most 5 (five) candidates, which has been discussed and agreed together between the Leadership of the Regional House of Representative/ Leadership of the Factions with the Governor Head of Region.
- (2) Result of elections as intended in paragraph (1) of this article shall be proposed by the Regional House of Representative concerned to the Minister of the Interior through the Governor Head of Region from at least 2 (two) candidates of which one of them should be appointed.
- (3) The procedure of the implementation of the stipulation as intended in paragraph (1) of this article shall be provided by a regulation of the Minister of the Interior.

Article 17

- (1) The head of Region shall be appointed for a term of 5 (five) years counted from the date of installation and may be re-appointed for 1 (one) time of his following term of office.
- (2) The head of Region is a State Official.

Article 18

- (1) Before holding his office the Head of Region shall take an oath/make a solemn promise and shall be installed by:
 - a. The President if it is a Head of Region of the first Level.
 - b. The Minister of the Interior if it is a Head of Region of the second Level.
- (2) The President may assign the Minister of the Interior to swear in and install the Head of Region of the first level on behalf of the President.
- (3) The Minister of the Interior may assign the Governor Head of Region to swear in and to install the Head of Region of second Level on behalf of the Minister of the Interior.
- (4) The structure of words of the oath/solemn promise as intended in paragraph (1) of this article, is as follows: ‘I swear/solemnly promise, that I, to be appointed as Head of Region, shall not give or promise of give anything in the future to anyone whomsoever, directly, or indirectly under what name or what kind of pretext.

I swear/solemnly promise, that I shall perform or not perform anything during my office, shall never accept a promise or a gift, directly or indirectly from whomsoever.

I swear/solemnly promise, that I shall fulfill my obligation as Head of Region as correctly and honestly as possible, that I shall be devoted to and shall defend the PANCASILA as a basis of the ideology of the State, that I shall always defend the 1945 Constitution and all Regulations of the prevailing Statutes for the State of the Republic of Indonesia.

I swear/solemnly promise, that I in the performing of my office or my work, shall always more emphasize the interest of the State and the Region than my own interest, or that of another person or another group and shall enhance the honour of the State, the Government, the Region and the prestige of a State Official.

I swear/solemnly promise, that I shall endeavor to do my utmost best to support to step up the prosperity of the Indonesian people in general and especially to set up the prosperity of the Indonesian People in the Region and shall be faithful to the Nation and Unitary State of the Republic of Indonesia”.

- (5) The Standing Order of swearing in and the installation of Head of Region is provided by a Government Regulation

Article 19

Status, financial status and other official right of a Head of Region area provided by a Government Regulation.

Article 20

A Head of Region is prohibited:

- a. deliberately perform activities causing damage to the interest of the State, the Government, the Region and or the People;
- b. to participate in an enterprise
- c. to perform other work which is yielding profit for oneself in matters which are directly related to the Region concerned;
- d. to become a lawyer or an attorney at law in a lawsuit before the Court.

Article 21

A Head of Region resign or shall be dismissed by an official who is entitled to appoint, because:

- a. of death;
- b. of a request offered by himself;
- c. of termination of office and a new Head of the Region has been installed;
- d. of violation of oath/solemn promise as mentioned in article 18 paragraph (4) of this Law;

- e. of not fulfilling any requirement as mentioned in article 14 of this Law;
- f. of violating the stipulation as mentioned in Article 20 of this Law;
- g. of other reason.

Section 2

Right, Authority and Obligation.

Article 22

- (1) The Head of Region conducts the right, authority and obligation of the leader of the Regional Administration.
- (2) In conducting the right, authority and obligation of the Regional Administration, The Head of Region is according to hierarchy accountable to the President through the Minister of the Interior.
- (3) In conducting the right, authority and obligation, the Head of Region is obliged to render a statement concerning his accountability to the Regional House of Representative at least once a year, or if he considers it is necessary, or when requested by the Regional House of Representative.
- (4) A guidance relating to the presentation of the statement concerning the accountability be decided by the Minister of the Interior.

Article 23

- (1) The Head of Region represents his Region in and outside the court.
- (2) When he considers necessary the Head of Region may designate one or more attorney to represent him.

Part Six VICE HEAD OF REGION

Article 24

- (1) The Vice Head of Region of the first Level shall be appointed by the President out of official fulfilling the requirements.
- (2) With the consent of Regional House of Representative without the medium of election, the Governor Head of Region nominates a candidate for Vice Head of Region to the President through the Minister of the Interior.
- (3) The Vice Head of Region of the second Level is appointed by the Minister of the Interior in the name of the President out of official fulfilling the requirements.
- (4) With the consent of the Regional House of Representative without the medium of election, the Regent/Mayor of Municipality nominates a candidate for Vice

Head of Region of the second Level to the Minister of the Interior through the Governor Head of Region.

- (5) Filling the office of a Vice Head of Region is done according the necessity.
- (6) The Vice Head of Region is a State Official.
- (7) The prescriptions meant in the articles 14, 19, 20 and 21 of this statute are also applicable to the Vice Head of Region.
- (8) Administering the oath/solemn promise of and installing the Vice Head of Region are done by the Minister of the Interior in the name of the President for the Vice Head of Region of the first Level, and by the Governor Head of Region in the name of the Minister of the Interior for the Vice Head of Region of the second Level.
- (9) The procedure of implementing the prescription meant in the paragraphs (2) and (4) of this article is furtherly regulated by a Regulation of the Minister of the Interior.

Article 25

- (1) The Vice Head of Region assist the Head of Region in implementing the latter's daily task and competency in accordance with the directives stipulated by the Minister of the Interior.
- (2) In absence of the Head of Region, the Vice Head of Region performs the daily task and competency of the Head of Region.

Article 26

A Regulation of the Minister of the Interior stipulates a regulation concerning the official who represents the Head of Region in absence of the Head of the Vice Head of Region.

Part Seven

REGIONAL HOUSE OF REPRESENTATIVE

Section 1

General

Article 27

Formation, membership and leadership of the Regional House of Representative as well as the oath/solemn promise, term of membership and prohibition order for its members of having dual functions are regulated by statute.

Article 28

- (1) The financial position of the Chairman, Vice Chairman and Members of the Regional House of Representative are regulated by Regional Regulation.
- (2) The rules of protocol concerning the position of the Chairman, the Vice Chairman and the Members of the Regional House of Representative shall be regulated by Regional Regulation.
- (3) The Regulation meant in paragraphs (1) and (2) of this article shall be made in accordance with the directives by the Minister of the Interior.
- (4) The Regional Regulation meant in the paragraphs (1) and (2) of this article becomes effective after having been approved by the competent official.

Section 2 RIGHT AND OBLIGATION

Article 29

- (1) In order to be capable of executing its function, the Regional House of Representative has the right:
 - a. of regional budget;
 - b. of enquiry,
 - c. to ask for information,
 - d. to make amendments,
 - e. of motion,
 - f. of initiative,
 - g. of investigation.
- (2) The procedure of implementing the prescription meant in paragraph (1) letter a up to and including letter f of this article, shall be regulated in the Standing Order of the Regional House of Representative in accordance with the directives stipulated by the Minister of the Interior.
- (3) The procedure of implementing the right of investigation meant in paragraph (1) letter g of this article, shall be regulated by statute.

Article 30

The obligation of the Regional House of Representative consists of:

- a. defending, safeguarding and practicing PANCASILA and the Constitution of 1945.
- b. honouring highly and executing consequently the Broad Lines of State's Policy, the Decisions of the People's Consultative-Congress and obeying all existing legal Regulations.
- c. concurrently with the Head of Region composing the Regional Budget and Regional Regulations in the interest of the Regional Government with the limits of competency allotted to the Regional Government of Executing Regulations of which the execution is allotted to the Regional Government.
- d. observing the aspiration and promoting the standard of living of the People and adhering to the Government's development program.

Section 3
SESSION OF THE REGIONAL
HOUSE OF REPRESENTATIVE

Article 31

- (1) The Regional House of Representative shall hold session at least 2 (two) times a year.
- (2) Besides what is meant in paragraph (1) of this article , at the request of at least one fifth of the total Members or at the request of the Head of Region, the Chairman shall summon the Members to a session within 1 (one) month after the request has been received.
- (3) The Regional House of Representative shall hold a session after the Chairman has summoned.
- (4) The implementation of the prescription meant in paragraph (1) and (2) of this article shall be regulated in the Standing Order of the Regional House of Representative.

Article 32

- (1) The session of the Regional House of Representative are essentially open to the public.
- (2) At the request of the Head of Region, or at the request of at least one fifth of the total Members or when considered necessary by the Head of the Regional House of Representative, a closed session may be held.
- (3) A closed session is capable of making decision, except concerning:
 - a. the Regional Budget and its account,
 - b. the estimation, alteration and abolishment of tax and retribution,
 - c. lending and borrowing money and guarantying loans,
 - d. Regional Enterprises,
 - e. putting out to contract of work, buying and selling goods and putting out to contract for transportation without inviting a public tender,
 - f. abolishment partly or wholly of tax rebate,
 - g. agreement on peaceful settlement of a civil lawsuit,
 - h. the election of the Chairman and the Vice Chairman and the installation of new members of the Regional House of Representative.
- (4) All persons present at a closed session are obligated to keep secret all matters which have been dealt with and this obligation lasts continuously for both Members and officials/workers who in whatever way are familiar with the case until the Council discharges them.

Article 33

- (1) Members of the Regional House of Representative could not be prosecuted before the Court on account of statements made in a session of the Regional House of Representative either in an open session or in a closed one, presented orally or in writing to the Head of Region or to the Government, except if with those statements he causes to leak out matters which have been agreed upon in a closed session unanimously to be kept secret or subjects meant by the prescriptions concerning publication of State's secret in BOOK II CHAPTER I of the PENAL CODE.
- (2) The procedure of police action against Members of the Regional House of Representative shall be regulated by statute.

Article 34

- (1) The Standing Order of the Regional House of Representative shall be settled by the Decision of the Regional House of Representative in accordance with the directives stipulated by the Minister of the Interior.
- (2) The Standing Order meant in paragraph (1) of this article becomes effective after having been approved by the competent official.

Section 4

Prescription in case the Regional House of Representative cannot perform its Function and Obligation.

Article 35

- (1) When it is obvious that the Regional House of Representative of the first Level neglects or because of some facts is not able to perform its function and obligation so that it may injure the Region or the State, the Minister of the Interior after having heard the advice of the Governor head of Region, determines how the right, the competency and the obligation of the Regional House of Representative should be executed.
- (2) For the Region of the second Level determining the procedure meant in paragraph (1) of this article is done by the Governor Head of Region, after having heard the advice of the Regent/Mayor of Municipality concerned.

Section 5

SECRETARIAT OF THE REGIONAL HOUSE OF REPRESENTATIVE

Article 36

- (1) The secretariat of the Regional House of Representative is a staff function aiding the Head of the Regional House of Representative in implementing its task and obligation.
- (2) The establishment, organizational structure and the formation of the secretariat of the Regional House of Representative shall be regulated by the Regional Regulation in accordance with the directives stipulated by the Minister of the Interior.
- (3) The Regional Regulation meant in paragraph (2) of this article, is valid after having open approved by the competent official.

Article 37

- (1) The secretariat of the Regional House of Representative is headed by a secretary of the Regional House of Representative.
- (2) The secretary of the Regional House of Representative of the first Level shall be appointed by the Minister of the Interior out of Government Officials who fulfill the requirement.
- (3) The Governor Head of Region nominates a candidate secretary of the Regional House of Representative of the first Level, to the Minister of the Interior, with the consent of the Regional House of Representative, without election procedures.
- (4) The Secretary of the Regional House of Representative of the second Level shall be appointed on behalf of the Minister of the Interior by the Governor Head of Region, from amongst the Government Officials fulfilling the requirements.
- (5) The Regent/Mayor Head of the Municipality nominates a candidate Secretary of the Regional House of Representative of the second Level to the Governor Head of Region, with the consent of the Regional House of Representative, without election procedure.
- (6) Requirements and implementation procedure of the stipulation meant in paragraphs (2), (3), (4) and (5) of this article shall be regulated through a Regulation of the Minister of the Interior.

Part Eight REGIONAL REGULATION

Article 38

The Head of Region with the approval of the Regional House of Representative, stipulates the Regional Regulations.

Article 39

- (1) Regional Regulation and-or Decisions of the Head of Region may not be in contravention with the general interest and statutes of Regional Regulations of a higher level.
- (2) Regional Regulations may not regulate matters already provided for, in regulations of statutes or Regional Regulations of a higher level.
- (3) Regional Regulations may not regulate matters belonging to a Region of a lower level.

Article 40

- (1) Regional Regulations promulgated and published in Regional Gazette concerned.
- (2) Regional Regulation has legal force and is binding after promulgated in the Regional Gazette concerned.
- (3) Regional Regulations which does not need to be confirmed comes into force on the date determined in the Regional Regulation concerned.
- (4) Regional Regulations requiring confirmation comes into force on the date of promulgation or on the date determined in the Regional Regulation concerned.
- (5) Regional Regulations requiring confirmation may not be promulgated before confirmation has been achieved or before the termination of period determined for the confirmation.

Article 41

- (1) A Regional Regulation of the first Level and a Regional Regulation of the second Level may contain a stipulation of imprisonment for utmost 6 (six) months or of a fine of utmost Rp. 50.000,- (fifty thousand rupiah) with or without confiscating certain goods on behalf of the State, except if provided otherwise in the statutes.
- (2) The Regional Regulation meant in paragraph (1) of this article, is valid after confirmed by the competent official.
- (3) The penal offence meant in paragraph (1) of this article is a contravention of the Law.

Article 42

- (1) A Regional Regulation may contain a stipulation concerning compulsory charges to maintain the law, wholly or partly, which shall be paid by the transgressor.
- (2) The Regional Regulation meant in paragraph (1) of this article, is valid after confirmed by the competent official.

Article 43

- (1) Investigation and prosecution towards contravention of stipulations of Regional Regulations, shall be executed by the investigation and prosecution apparatus in line with the prevailing statutes.
- (2) Regional officials assigned to investigate transgressions on contravention of stipulations of Regional Regulations may be appointed through a Regional Regulation

Article 44

- (1) The form of a Regional Regulation shall be determined by the Minister of the Interior.
- (2) The Regional Regulation shall be signed by the Head of Region and countersigned by the Chairman of the Regional House of Representative.

Article 45

The Head of Region may create a Decision to execute Regional regulations or services in the frame work of Co-Administration.

Part Nine REGIONAL ADVISORY BOARD

Article 46

- (1) In the Region shall be established a Regional Advisory Board which members are the Leadership of the Regional House of Representative and elements of the Factions not represented yet in the Leadership of the Regional House of Representative.
- (2) The Board meant in paragraph (1) of this article has the task to give recommendations to the Head of Region.
- (3) The set up, the number of Members and the working method of the Board meant in paragraphs (1) and (2) of this article shall be regulated by the Minister of the Interior.

Part Ten SECRETARIAT OF THE REGION

Article 47

- (1) The Secretariat of the Region is a staff element assisting the Head of Region in the execution of the Regional Administration.

- (2) The set up, organizational structure and the personnel of the secretariat of the Region shall be determined through a Regional Regulation in line with the directives of the Minister of the Interior.
- (3) The Regional Regulation meant in paragraph (2) of this article, comes into force after approved by the competent official.

Article 48

- (1) The secretariat of Region shall be conducted by a Secretary of the Regional Government.
- (2) The Secretary of the Regional Government of the first Level shall be appointed by the Minister of the Interior from amongst the Government Officials who fulfill the requirements, and who are nominated by the Governor Head of the Region after he has heard the recommendations from the Leadership of the Regional House of Representative.
- (3) The Secretary of the Region of the second Level shall be appointed by the Governor on behalf of the Minister of the Interior from amongst the Government Officials who fulfill the requirements, and who are nominated by the Regent/Mayor Head of the Municipality after he has heard the recommendations from the Leadership of the Regional House of Representative.
- (4) Requirements and implementation procedure of the stipulation meant in paragraphs (2) and (3) of this article shall be regulated through a Regulation of the Minister of the Interior.
- (5) If the Secretary of Region is unable to perform his task, the task of the Secretary of the Region shall be executed by an official appointed by the Head of Region.

Part Eleven REGIONAL SERVICE DIVISION

Article 49

- (1) The Regional Service Division is an executive element of the Regional Government.
- (2) The set up, organizational structure and the personnel of the Regional Service shall be determined through a Government Regulation in line with the directives of the Minister of the Interior.
- (3) The Regional Regulation meant in paragraph (2) of this article, comes into force after approved by the competent official.

Part Twelve PERSONNEL

Article 50

- (1) Appointment, dismissal, suspension, salary, pension, half-pay and other matters concerning the legal status of a Regional Official, shall be regulated through a Regional Regulation in line with the directives stipulated by the Minister of the Interior.
- (2) The Regional Regulation meant in paragraph (1) of this article, comes into force after approved by the competent official.

Article 51

- (1) A Government Official of a Department may be assigned to assist at a Regional Government office through a Decision of the Minister at the request of the Head of Region concerned.
- (2) In the Decision meant in paragraph (1) of this article, shall be regulated the requirements and the job description of the Government Official concerned with regard to the apparatus of the Region as far as deemed necessary.

Article 52

- (1) An Official of a Region of the first Level may be assigned to assist at a Regional Government office of the second Level through a Decision of the Head of the Region of the first Level, at the request of the Head of Region of the second Level concerned.
- (2) In the Decision meant in paragraph (1) of this article shall be regulated the requirements and the job description of the Regional Official concerned with regard to the apparatus of the Region of the second Level as far deemed necessary.

Article 53

All officials, both Government officials and officials of a Region assigned at a Regional Government office are sub-ordinate to the Head of the Region concerned.

Article 54

- (1) Personnel management of the officials of a Region shall be regulated by the Head of Region in line with the existing laws.
- (2) Personnel management of the Government Officials assigned at a Regional Office shall be regulated through statutes.

Part Thirteen REGIONAL FINANCE

Section I

Regional Revenue

Article 55

Source of Regional Revenue are:

- a. Original revenue of the Regional Government consisting of:
 1. revenue from the regional tax,
 2. revenue from regional retribution,
 3. revenue from regional Enterprises,
 4. miscellaneous legal regional revenue,
- b. revenue originating from subsidy from the Government consisting of:
 1. subsidy from the Government,
 2. other contributions regulated by statutes.
- c. other legal revenues.

Article 56

A tax from the Government may be transferred through a statute to Region.

Article 57

The financial relationship between the Government and the Regional Government and the Regional Government shall be regulated by Statute.

Article 58

- (1) Basic stipulation on regional tax retribution shall be decided by Statute.
- (2) The levy of tax and retribution of the Region shall be stipulated by Regional Regulation.
- (3) The Regional Regulation meant in paragraph (2) of this article shall become effective after approved by the competent official, according to a procedure stipulated by statute and is not allowed to be made retroactive.
- (4) Tax rebate and exemption from regional tax and-or regional retribution can only be executed on the basis of a Regional Regulation.

Article 59

- (1) A Regional Government may set up a regional Enterprise of which the execution and maintenance shall be done based upon the principle of cost accounting.
- (2) Basic stipulations on regional Enterprises shall be decided by Statute.

Article 60

- (1) Undertakings as a source of regional revenues may be set up through a Regional Regulation.
- (2) The Regional Regulation meant in paragraph (1) of this article, becomes effective after approved by the competent official.

Article 61

- (1) The Head of Region with the approval of the Regional House of Representative may make Decisions to lend money to and to borrow money from to extend and to guarantee loans, as revenues or as regional expenses.
- (2) In the Decision of the Head of Region meant in paragraph (1) of this article, shall also be stipulated the source of payment of interest and installments of the loan and the procedure of payment.
- (3) The Decision meant in paragraph (2) of this article, becomes effective after approved by the Minister of the Interior.

Section 2

Management, Accountability and Control on Regional Finance and Properties

Article 62

- (1) The Head of Region conducts the management, the accountability and the financial Control of the Region based on Regional Regulations and statutes of a higher level.
- (2) Regional money is kept in the Regional Treasury or Regional Bank for development.
- (3) As long as there is no Regional Treasury or Regional Bank for Development, the Minister of Finance may on behalf of the Regional Government charge certain Government Treasury or Government Banks at the request of the Regional Government to execute the operations concerning receipt, deposit, payment or transfer of money, securities and other goods for the interest of the Region.

Article 63

- (1) Regional properties used for public interest may not be sold, the rights on those properties shall not be conferred to another party, shall not be used as security

- or pledged, except through a Decision of the Head of Region with the approval of the Regional House of Representative.
- (2) The sale and conveyance as meant in paragraph (1) of this article may only be executed publicly, unless it is determined otherwise as intended in a Decision of the Region in paragraph (1) of this article.
 - (3) The Head of Region may stipulate Decisions with the approval of the Regional House of Representative concerning:
 - a. remission of claim of the Region, partly or wholly;
 - b. agreement on the peaceful settlement of civil lawsuits;
 - c. other legal proceedings, relating to properties or rights of the Region.
 - (5) The Decisions meant in paragraph (1), (2) and (3) of this article are valid after confirmed by the Minister of the Interior.

Article 64

- (1) The budget year of the Region is the same as the budget year of the State.
- (2) Each year, at the latest 3 (three) months after the State's Budget has been determined for a certain year, the Regional Budget shall be determined through a Regional Regulation.
- (3) Each year, at the latest 6 (six) months after the State's Budget has been determined, the accounts of the Regional Budget of the previous budget year shall be determined through a Regional Regulation.
- (4) The Regional Government shall use the budget of the previous year as a basis for its financial administration, if the competent official has not confirmed or promulgated the Regional Budget yet at the beginning of the budget year concerned.
- (5) The Regional Government is obliged to defray the expenditures of the routine budget with its own revenues.
- (6) The Regional Budget and its alterations, as long as not authorized yet by the Budget concerned, shall be executed after having been confirmed by the competent official.
- (7) The authorization or rejection of the Regional Budget may be conducted per item or wholly.
- (8) Prescriptions shall be regulated through Government Regulations concerning the procedure of:
 - a. the estimation of the Regional budget;
 - b. the management, accountability and control on regional finance;
 - c. composing accounts of the Regional Budget.
- (9) The procedure of executing the prescriptions meant in paragraph (8) of this article shall further be regulated through a Regulation of the Minister of the Interior.

Part Fourteen
COOPERATION AND CONFLICT BETWEEN
REGIONAL GOVERNMENT

Article 65

- (1) Several Regional Governments may enact Joint-Regulations to regulate jointly the interests of their territories.
- (2) The Joint-Regulations meant in paragraph (1) of this article, as well as the alterations and abolishments, are valid after confirmed by the competent official.
- (3) Incase no consensus concerning the alterations and abolishments meant in paragraph (2) of this article, has been achieved, a decision shall be made by the competent official.
- (4) The Minister of the Interior shall stipulate Regulations to promote the implementation of cooperation between the Regional Government.

Article 66

- (1) A conflict among Regional Governments of the first Level and between Regional Government of the first Level and a Regional Government of the second Level and a conflict among Regional Governments of the second Level not located in the same Region of the first Level shall be settled by the Minister of the Interior.
- (2) A conflict among Regional Governments of the second level located in same Region of the first Level, shall be settled by the Governor Head of the Region concerned.

Part Fifteen
GUIDANCE

Article 67

The Minister of the Interior conducts guidance in the execution of the Administration in the Region to achieve the utmost efficiency and effectiveness of the autonomous as well as the Co-Administration task.

Part Sixteen
CONTROL

Section I
Preventive Control

Article 68

Regional Regulations and Decisions of the Head of Region concerning certain matters, shall only be valid after confirmed by the competent official through a government Regulation.

Article 69

- (1) Regional Regulations or Decisions of Head of the Region requiring confirmation, may be executed after confirmed by the competent official, or of after 3 (three) months since the receipt of the Regulations/Decisions mentioned above, no decision has been made by the competent official.
- (2) The period of 3 (three) months meant in paragraph (1) of this article may be prolonged by the competent official with another 3 (three) months, notifying the Regional Government concerned, before the period mentioned in paragraph (1) of this article expires.
- (3) The rejection of the confirmation of the Regional Regulation and–or the Decision of the Head of the Region meant in paragraph (1) of this article, shall be notified by the competent official of the Regional Government concerned, and motivated.
- (4) The Region concerned, may within 1 (one) month commencing from the receipt of the refusal submit its objections concerning the refusal as stated in paragraph (3) of this article, to a higher authority than the one who has disapproved.

Section 2 Repressive Control

Article 70

- (1) Regional Regulations and–or Decisions of the Head of the Region which are contradictory to the public interest, laws or Regional Regulations of a higher level, shall be suspended or nullified by the competent official.
- (2) If the Governor Head of Region does not exercise his right to suspend or nullify a Regulation of a Region of the second Level, and–or Decision of the Head of the Region of the second Level in line with the stipulation meant in paragraph (1) of this article, the suspension and–or nullification shall be done by the Minister of the Interior.
- (3) The nullification of a Regional Regulation and–or a Decision of the Head of Region meant in paragraph (1) and (2) of this article because of incompatibility with the public interest, laws or Regional Regulation of a higher level, causes the nullification of all consequences of the Regional Regulations and–or the Decision of the Head of the Region concerned, as long as they could still be nullified.

- (4) A motivated Decision concerning suspension or nullification meant in paragraphs (1) and (2) of this article, shall be notified to the Head of the Region concerned within a period of 2 (two) weeks after the date of the Decision.
- (5) The duration of the suspension stated in the Decision meant in paragraph (4) of this article, may not exceed 6 (six) months, commencing the moment of their suspension, the Regional Regulation and–or the Decisions of the Head of the Region concerned are not valid.
- (6) If within the period of 6 (six) months the suspension is not followed by a decision of nullification, the Regional Regulation and–or Decision of the Head of Region shall become effective again.
- (7) The Decision concerning the nullification meant in paragraphs (4) and (6) of this article, shall be published in the Official Gazette of the Republic of Indonesia and–or in the Regional Gazette concerned.

Section 3 General Control

Article 71

- (1) The Minister of the Interior conducts general control on the operation of the Regional Administration.
- (2) The Minister of the Interior or an official designated by him, conducts investigation and inspects all matters concerning the operation of the Regional Administration, concerning services of the Autonomous Administration as well as of Co-Administration.
- (3) The Decision meant in paragraphs (1) and (2) of this article, applies also to the Governor Head of the Region towards a Regional Government of the second Level.
- (4) It is in the interest of the general control, that the Regional Government is obliged to supply data and provide explanation or statements required by the officials meant in paragraphs (2) and (3) of this article.
- (5) The Minister of the Interior or the Governor Head of Region may take measures as deemed necessary towards objections to provide statements meant in paragraph (4) of this article.
- (6) The procedure of general control meant in paragraph (1) of this article, shall be regulated through a Regulation of the Minister of the Interior.

CHAPTER IV ADMINISTRATIVE TERRITORY

Part One ESTABLISHMENT AND DIVISION

Article 72

- (1) In the frame work of the implementation of the principle of deconcentration, the territory of the Unitary State of the Republic of Indonesia is divided in to territories called Provinces and the Capital city of the State.
- (2) The Territory of a Province is divided into territories called Regencies and Municipalities.
- (3) A Territory of a Regency and Municipality is divided into Districts.
- (4) If considered necessary in line with the growth and development progress of a Territory of a Regency, an Administrative City may be set up which administration shall be determined by Government Regulation.

Article 73

If considered necessary, the Minister of the Interior may appoint an Assistance Governor, an Assistance Regent or an Assistance Mayor of Municipality with a certain territory of activity in the frame work of deconcentration.

Article 74

- (1) The name and boundaries of Region of the first Level are the same as the name and boundaries of a Territory of province or of a Capital city of the State.
- (2) The name and boundaries of Region of the second Level are the same as the name and boundaries of a Territory of the Regency or Municipality.
- (3) The Capital city of Region of the first Level is capital city of a Territory of the Province.
- (4) The Capital city of Region of the second Level is the capital city of a Territory of the Regency.

Article 75

Without diminishing the provisions in article 74 of this Statute, the set up, name, boundaries, predicate, capital city and abolishment of other Territories shall be regulated by Government Regulations.

Part Two HEAD OF TERRITORY

Article 76

Each Territory is ruled by a head of Territory

Article 77

The Head of the Territory of:

- a. A Province and the Capital city of the State is called a Governor;
- b. A Regency is called Regent;
- c. A Municipality is called Mayor of the Municipality;
- d. An Administrative City is called a Mayor;
- e. A District is called chief of District.

Article 78

In the execution of his function the Head of a Territory:

- a. Of a District is responsible to the Head of Regency or Municipality or Administrative City concerned;
- b. Of an Administrative City is responsible to the Head of Regency concerned;
- c. Of a Regency or a Municipality is responsible to the Head of the Province concerned;
- d. Of a Province or Capital City of the State is responsible to the President through the Minister of the Interior.

Article 79

- (1) The Head of Region of the first Level is ex officio the Head of the Territory of Province or Capital City of the State.
- (2) The Head of Region of the second Level is ex officio the Head of the Territory of Regency or Municipality.
- (3) Stipulations concerning appointment and dismissal of Head of an Administrative City and Head of a District is provided by a Regulation of the Minister of the Interior.

Article 80

The Head of Territory as a Representative of the Government is the Single Authority in the field of Administration within his territory i.e., managing the Administration, coordinating the development and promoting the social life in all aspects.

Article 81

Competency, task and obligation of Head of the Territory are:

- a. to maintain law and order in his territory in line with the policy of law and order decided by the Government;
- b. to execute all endeavors and activities in the field of edification of the unity of the Nation in line with the policy as stipulated by the Government;

- c. to coordinate all the activities of the Vertical Offices and between the Vertical Offices and the Regional Services Divisions, both in planning as well as in the implementation to achieve utmost efficiency and effectiveness;
- d. to guide and to supervise the execution of the Regional Administration;
- e. to endeavor continuously in order that all Statutes and Regional Regulations shall be executed by Government Services and by the Services of the Regional Administration and the Officials in charge with, and to take all measures necessary to guarantee the smooth execution of the Administration;
- f. to execute all tasks of the Administration which with –or on the basis of statutes are designated to him;
- g. to execute all tasks of Administration not included in the task of an another service.

Article 82

- (1) The Vice Head of the Region of the first Level is ex officio a Vice Head of the Province or Capital city of the State and is called a Vice Governor.
- (2) The Vice Head of the Region of the second Level is ex officio a Vice Head of Regency or Municipality and is called Vice Regent or Vice Mayor of the Municipality.

Article 83

- (1) Police actions to the Head of a Province/Capital city of the State may only be executed with the approval of the President.
- (2) Matters excluded from the stipulations meant in paragraph (1) of this article are:
 - a. caught in the very act of a crime;
 - b. suspected of a crime threatened with the death penalty;
 - c. suspected of a crime as described in BOOK II of the PENAL CODE, CHAPTER I.
- (3) Police actions as mentioned in paragraph (2) of this article shall be reported to the Attorney General or to the Minister of Defense/Supreme Commander of the Armed Forces at the latest within a period of 2 (two) times 24 (twenty four) hours, who on his turn has to report to the President at the latest within a period of 2 (two) times 24 (twenty four) hours.
- (4) Police actions to other Head of the Territory shall be reported first to a higher ranking Head of a Territory of the official concerned.
- (5) Police actions mentioned in paragraph (4) of this Article have to be reported at the latest within 2 (two) times 24 (twenty four) hours to a higher ranking head of the Territory of the official concerned, if it concerns matters mentioned in paragraph (2) of this Article.

Part Three

SECRETARIAT OF TERRITORY

Article 84

- (1) The Regional Secretariat is the Secretariat of the Territory.
- (2) The Regional Secretary is ex officio the Secretary of the Territory.
- (3) Without diminishing the provisions meant in paragraph (1) of this article, the organization structure and personnel of the other Secretariats of Territory and the appointment and dismissal of its officials shall be regulated by the Minister of the Interior.

Part Four VERTICAL OFFICES

Article 85

- (1) In the execution of his function, the Head of a Vertical Office is sub-ordinates to the coordination of the Head of the Territory concerned.
- (2) The execution of the provisions meant in paragraph (1) of this article, is regulated by a Government Regulation.

Part Five POLICE OF ADMINISTRATION

Article 86

- (1) A Police Force of Administration is set up to assist the Head of the Territory in carrying out General Administration.
- (2) Status, task, right and competency of the Police Force of Administration meant in paragraph (1) of this article, is regulated by a Government Regulation.
- (3) The organizational structure and personnel of the Police Force of Administration meant in paragraph (1) of this article is regulated by the Minister of the Interior.

Part Six FINANCING

Article 87

- (1) Expenditures of the activities of the Head of the Territory, Secretariat of the Territory and the Police Force of Administration will be covered by the budget of the Department of the Interior.
- (2) The Secretariat of the Territory meant in paragraph (1) of this article, is the secretariat of the Territory mentioned in article 84 paragraph (3) of this Statute.

CHAPTER V RURAL ADMINISTRATION

Article 88

The organization of the Rural Administration is regulated in a Statute.

CHAPTER VI OTHER PROVISIONS

Article 89

Basic regulations concerning organization and cooperation of the Government apparatus in the Region is regulated by Government Regulations.

Article 90

The structure of the organization of the Regional Government and the Territorial Government shall be stipulated by the Minister of the Interior.

CHAPTER VII TRANSITIONAL PROVISIONS

Article 91

At the moment when this Statute becomes effective:

- a. The Region of the first Level and the Region of the second Level which are entitled to manage their own services based upon Law Number 18/1965 concerning Basic Principles on Regional Administration, are the Region of the first Level and the Region of the second Level meant in article 3 of this Statute.
- b. The Head and the Vice Head of the Special Region of Yogyakarta at present are Head of Region and Vice Head of Region pursuant this Statute with the predicate Head of the Special Region of Yogyakarta and Vice Head of the Special Region of Yogyakarta, who are not tied to a term of office, requirements and procedures of appointment as the other Heads or Vice Heads of the Region.
- c. All implementation regulations which have decided before of declared effective based upon Law Number 18/1965 concerning Basic Principles on the Regional Administration, which are not in contravention with this Statute, are still effective as long as they are not abolished or amended based on this Statute.
- d. As long as not an implementation regulation has been determined based upon this Statute and no provisions have been made for implementation as mentioned under letter c of this article, instructions, directives or guidance available or

which shall be provided by the Minister of the Interior as long as they are not contravening this Statute, shall be followed;

- e. The Head of the Region and his apparatus existing at the moment when this Statute came into force, shall continue to execute their task except provided otherwise based upon this Statute.

Article 92

Without diminishing the provision mentioned in article 91 letter a of this Statute, at the moment when this Statute became effective:

- a. names and boundaries of Region of the first Level meant in Law Number 18/1965 concerning Basic Principles on the Regional Administration, are also the names and boundaries of the Provinces or Capital City of the State as meant in article 74 paragraph (1) of this Statute.
- b. names and boundaries of Region of the second Level meant in Law Number 18/1965 concerning Basic Principles on the Regional Administration, are also the names and boundaries of the Regencies or Municipalities as mentioned in article 71 paragraph (2) of this Statute:
- c. The Capital City of the Region of the first Level meant in Law Number 18/1975 concerning Basic Principles on the Regional Administration, are also the Capital Cities of the Provinces mentioned in article 74 paragraph (3) of this Statute;
- d. The Capital City of the Region of the second Level meant in Law Number 18/1965 concerning Basic Principles on the Regional Administration, are also the Capital Cities of the Regencies mentioned in article 74 paragraph (4) of this Statute;
- e. The now existing Districts, are the Districts meant in article 72 paragraph (3) of this Statute.

CHAPTER VIII CLOSING PROVISIONS

Article 93

At the moment this Statute becomes effective, the following statutes are not valid:

- a. Law Number 18/1975 concerning Basic Principles on the Regional Administration (State Gazette Republic of Indonesia Number 83/1965, Supplement State Gazette Republic of Indonesia Number 2778);
- b. All provisions contravening to and or not, in line with this Statute regulated in other laws.

Article 94

This Statute comes into force on the date of promulgation.

So that every person may take cognizance, the present Statute shall be published by inserting same in the State Gazette of the Republic of Indonesia.

**Enacted in Jakarta
on the twenty third day of July 1974
THE PRESIDENT OF THE REPUBLIC
OF INDONESIA**

(signed)

**(S O E H A R T O)
General of the Indonesian Army**

**Promulgated in Jakarta
on the twenty third day of July 1974**

**THE MINISTER/SECRETARY OF
STATE OF THE REPUBLIC OF INDONESIA**

(signed)

(SOEDHARMONO, S.H.)

**STATE GAZETTE OF THE REPUBLIC OF INDONESIA,
YEAR 1974, NUMBER 38.**

ELUCIDATION

ON

LAW NUMBER 5/1974 OF THE
REPUBLIC OF INDONESIA

Concerning

BASIC PRINCIPLES ON
ADMINISTRATION IN THE REGION

I. GENERAL ELUCIDATION

1. Basic Principles:

a. This Law is called “Law concerning Basic Principles On Administration in the Region” because in these Law is regulated the basic rules of Administration in the Autonomous Regions and the basic rules of the function of the Government in the Region; comprehending these law is regulating the basic rules of Administration on the principle of decentralization and the principle of Co-Administration in the region.

b. As it is acknowledged, the Government together with the “Gotong Royong” Parliament area assigned by the Provisional People’s Consultative Congress to revise Law Number 18/1965 re Law of the Basic Principle on the Regional Administration.

This assignment is mentioned in the Stipulation of the Provisional People’s Consultative Congress Number XXI/MPRS/1966 re the Granting of an Extensive Autonomy to the Region.

As an implementation of this assignment by the Provisional People’s Consultative Congress, the Government together with the “Gotong Royong” Parliament were able to produce Law Number 6/1969 re the Declaration of invalidness of several Laws and Government Regulations in lieu of Act among others Law Number 18/1965.

In Law Number 6/1969 is decided that Law Number 18/1965 as included in – Appendix III i.e. Laws no longer valid, but the declaration of invalidness of the law concerned shall be at the time when the new Law becomes effective.

c. Through the Stipulation of the People’s Consultative Congress Number V/MPR/1973 re Observation of the Stipulation of the Provisional People’s Consultative Congress Republic of Indonesia, Stipulation of the Provisional People’s Consultative Congress

Number XXI/MPRS/1966 re Granting Extensive Autonomy to the Regions is declared invalid, because the topic has been taken over by the Broad Lines of the State's Policy.

- d. The Basic Principles regarding the implementation of the Autonomy in the Region have been stipulated in the Stipulation People's Consultative Congress Number V/MPR/1973 re Broad Lines of the State's Policy as follows:

“In the frame to speed up the implementation of development throughout the Country, and to build up political stability and unity of the Nation, the harmony of relationship between the Government and the Regions on the basis of the perseverance of the Unitary State, shall be aimed at the implementation of a real and responsible Autonomy of the Region which may guarantee the progress and development of the Regions, and shall be implemented together with deconcentration”.

From these basic principles stipulated by the People's Consultative Congress may be taken out several substances as a guidance for the composition of this Law like for instance:

- (1) The principle of Autonomous Regions;
 - (2) the aim for granting autonomy to the Regions;
 - (3) directives for granting autonomy to the Regions;
 - (4) realization for granting autonomy together with deconcentration.
- e. The principle which is used is not anymore “a true and extensive autonomy” but “an autonomy which is true and responsible”. So the principle of a real or true autonomy is still the basic principle for realization of granting autonomy to the Regions. While the word “extensive” is not used any more, because the experience so far about the use of this word caused the inclination of thought, which may be dangerous for the perseverance of the Unitary State and is not in harmony with the aim and purpose for granting autonomy to the Regions in line with the principles as stipulated in the Broad Lines of the State's Policy. The words “true” and “responsible” may be more clear in the following explanations.
- f. The aims and purpose for granting autonomy to the Regions have been explained in the Broad Line of the State's Policy which is development oriented. Development here is regarded as the development in an extensive sense, which will cover all aspects of livelihood and subsistence.
Essentially the Autonomy of the Region is more an obligation than a right, i.e. an obligation of the Region to participate and speed up to development as a mean to achieve the prosperity of the People which shall be accepted and realized with full responsibility.
- g. The Broad Lines of the State's Policy have stressed the stipulations which shall be observed in the realization of a Real and responsible Autonomy in the Region. These stipulation include follows:
- (1) They shall be in harmony with the political aspiration and the Unity of the Nation;
 - (2) They shall assure a harmony of relationship between the Government and the Region on the basis of the perseverance of a Unitary State.
 - (3) They shall guarantee the progress and development of the Region.

From these directives may be observed a clear picture of the principle of a real and responsible Autonomy in the Region, in the sense that a granting of autonomy to the Region shall be based on factors, calculations and measures or decisions of policy which shall truly guarantee that the Region concerned is able to take care of their services. Responsible in the sense that the granted autonomy shall be truly in line with the aim, i.e. to speed up the development throughout the Country harmoniously and not contradictory with the granted directives in harmony with the political aspiration and the Unity of the Nation, to guarantee the harmony of relationship between the Government and the Region and to guarantee the progress and development of the Region.

It is understood that the wording “a most extensive autonomy” is not in line with the spirit of the directives especially in connection with the Unity of the Nation and the perseverance of the Unitary State.

- h. The fourth substance is the granting of autonomy to the Regions, executed simultaneously with deconcentration. This policy is a very good one and principally differs from the policy laid down in the Elucidation of the Stipulation of the Provisional People’s Consultative Congress Number XII/MPRS/1966, where deconcentration is mentioned as only a complement even so with the predicate “vital”. With the principle of a real and responsible autonomy, the principle of deconcentration is not only a complement or a completion but has the same importance in the organization of the Administration in the Region.

The choice whether a public service in the Region will be done by the apparatus of the Government (on the principle of deconcentration) or shall it be transferred to the Region as an autonomous service (on the principle of decentralization) is based especially on the efficiency and effectiveness of the execution of the public service concerned. Considering the 1945 Constitution that our State is an Unitary State, the legislation of the Law regarding Basic Principles on Administration in the Region and in the implementation of all kinds of effort and activities of the Government shall be always in line with the principle of the Unity of the Republic of Indonesia.

- i. Of those explanations mentioned above it is clear that the Administration in the region regarding to this Law shall be in concordance with the following principles:
 - (1) the realization of granting autonomy to the Region shall be to support the aspiration to struggle of the People, that is strengthening the Unitary State and to step up the prosperity of the Indonesian People;
 - (2) the granting of autonomy to the Region shall be a real and responsible autonomy;
 - (3) the principle of decentralization shall be implemented together with the principle of deconcentration, and given also the opportunity to implement the principle of Co-Administration.
 - (4) the granting of autonomy to the Region shall emphasize the aspect of harmony as it aim beside the aspect to become democratic;

- (5) the aim of granting autonomy to the Region is to step up the efficiency and effectiveness of the Administration in the region, especially in the implementation of the development and the services to the community and also to step up the political stability and the Unity of the Nation.

2. Division of Territory

- a. Article 18 of the Constitution of 1945 prescribes the division of territory of the Unitary State of the Republic of Indonesia. Article 18 among others reads as follows: “The division of the Territory of Indonesia into large and small territories together with the structures of their Administrations, shall be prescribed by Statute”.
- Elucidation of Article 18 among others reads as follows: “As the Indonesian State is a “Unitary State”, therefore Indonesia shall not have a region in its territory which can also be called “ a state”. The Territory of Indonesia shall be divided in provinces and these provinces shall again be divided in smaller territories.
- These Territories have an autonomous character (Regional- and local social legal entities) or have a sheer administrative character, all shall be prescribed by Statute.
- b. From the contents and spirit of Article 18 of the 1945 Constitution together with the elucidation mentioned above it is clear that the Government is obliged to carry out a policy of decentralization and deconcentration in the field of constitutional Law. As a consequence of this principle mentioned above it is distinctly stated in this Statute concerning the existence of Autonomous Regions and Administrative Territories.
- c. Regions formed on the basis of the decentralization principle are called Autonomous Regions henceforth called “Region” which in this Law are mentioned Region of the second Level. While Territory formed on the basis of the principle of deconcentration are called Administrative Territories, henceforth called in this Law “Territory”. The Territories are formed in a vertical way and appeared as a work-area of the government apparatus executing General Administration in the territory.
- The forming of territories in a vertical way is to step up the control in securing a smooth implementation of the Administration.

3. Principles of execution on Administration

- a. General
- It was clear above that as a consequence of article 18 of the Constitution of 1945 and afterwards elucidated in the Broad Lines of the State’s Policy. The Government is obliged to execute the principle of decentralization and deconcentration in executing the Administration in the Region. Besides the principles of decentralization and deconcentration this Law also gives the Basis of several rules in the Administration of the Region based on the principle of Co-Administration.
- b. Decentralization
- Public services which are already transferred to the Region in the field of decentralization principle, are basically the full competency and responsibility of the Region. In this

matter the whole initiative is transferred to the Region, connected with the decision of policy, planning, implementation, as well as the aspects of financing.

Also the Apparatus for the execution of the Region, that is primarily the regional services.

c. Deconcentration

As not all public services could be transferred to the region on the principle of decentralization, several public services in the regions are executed by the Government on the principle of deconcentration. Public services which are transferred by the Government to its authorities in the region on the principle of deconcentration are still the responsibility of the Government concerning planning, implementation as well as the financing. The execution elements are principally the Vertical Office of the Government coordinated by the Head of Region in his capacity as an apparatus of the Government, but the policy of executing deconcentration shall be fully determined by the Government.

d. Co-Administration

As already mentioned, not all public services could be transferred to the region to become their regional services. So some public services are still the services of the Government. But it is very hard for the Government to execute all the public services in the regions, which are still its competency and responsibility on the principle of deconcentration, keeping in mind the limited apparatus of the Government in the regions. Also observed from the view of efficiency and effectiveness it is not responsible if all the services of the Government in the regions shall be executed by their own apparatus in the regions, as it needs much energy and a great deal of expenses.

Besides, considering the aspects, several services are very difficult to execute properly without the help of the Regional Government concerned.

Based on these consideration this Law gives the opportunity to execute several public services in the region to the principle of Co-Administration.

4. Autonomous Region

a. Autonomy of Region.

(1) The aim for granting autonomy to the region is to give opportunity the region concerned to organize and manage their own regional services to step up the efficiency and the effectiveness of the Administration in the scheme of the public services and the realization of development. To be able to execute this aim it is necessary to give the region the authority to execute several public services as its own regional services.

(2) In the framework to step up the services to the Public and the realization of development, this Law gives the accentuation of autonomy to the region of the second Level has more directly contact with the Public and knows better the need and aspirations of the people.

- (3) The transfer of public services to the region shall be done in stages in accordance with the situation and ability of the region concerned.

By so doing the contents of autonomy varied between the regions.

- (4) Although several services have been transferred to the region as a realization of the principle of decentralization, the final responsibility of those services are still in the hands of the Government.

Therefore, services which area already transferred as regional services can be with drawn by the Government, if necessary for instance, if a certain service has been expanding in such a way that it involves a large scope of interest, it would be more correct to be managed directly by the Government or the region of higher Level.

- (5) As a consequence of the principle of a clear and responsible autonomy, this Law opens a possibility to abolish and Autonomous regions. As mentioned before that granting autonomy to a Regional Government is to step up the effectiveness and the efficiency the execution of the Administration, primarily in the service to the Public and the implementation of the development programme.

If after having been encouraged and guided and also given the greatest opportunity, a region is not able to manage its own regional services and is only dependent from the subsidy of the Government, then it is only just, that such a region shall be abolished.

- (6) As a consequence of a Unitary State and so simplify the Regional Administration, this Law strives as far as possible after uniform regulations regarding the administration of the Regional Government.

b. Advisory Board of the Autonomous Region.

- (1) The services of the Autonomous Regions are not static, but developing and changing. This is particularly caused by the emerging and developing – situation in the society itself.

Regarding to that, as has been explained above this Law gives the opportunity to increase gradually the transfer of services to the region, but on the contrary it gives also the opportunity to withdraw a service which has already been transferred to the region.

It is even also possible to abolish a certain region and to establish new region.

- (2) The existence of an Advisory Board of the Autonomous Regions, which consists of several Ministers and presided by the Minister of Interior, is decided through the Law, and it gives opinions and advises to the President regarding the abovementioned cases.

- (3) In the cases of article 4 and 5 of this Law, social and political powers shall be invited to hear their opinions.

c. Regional Finance

To be able to manage its own services properly, the region shall be furnished with the necessary funds.

But keeping in mind that it is not possible to give the region all sources of funds.

The region is obliged to furnish its own sources of funds on the basis of existing Laws.

d. Regional Government.

(1) In this Law is decided that the Regional Government consists of the Head of the Region and the Regional House of Representative. Such a construction guarantees a harmonious cooperation between the Head of the Region and the Regional House of Representative to achieve an orderly Administration in the Region.

(2) Thus, in the execution of the Regional Administration there is a clear division of task and an equal status between the Head of the region and the Regional House of Representative, i.e. the Head of the region shall preside the executive and the Regional House of Representative shall act in the legislative field.

According to this Law the preparation of a Regional Regulation shall be executed together by the Head of the Region and the Regional House of Representative. Regional Regulations which have been made together and have been approved by the Regional House of Representative concerned shall be confirmed and signed by the Head of the Region and contra signed by the Chairman of the Regional House of Representative.

(3) It is necessary to emphasize here, that although the Regional House of Representative is an element of the Regional Government, the Regional House of Representative may not interfere in the executive field, without diminishing its-rights according to this Law.

The executive field is the full competency and responsibility of the Head of the Region.

e. Head of Region

(1) A Head of Region has two functions, i.e. a function as the Head of an Autonomous Region who conducts the set up and the organization and is fully responsible for the functioning of the Regional Administration and a function as Head of Territory who organizes the overall Administration which is the responsibility of the Government in the region.

From this explanation it is clear, how important and extensive task is of Head of the region. To appoint a Head of Region shall be considered with care, so that it can fulfill the requirements of both functions. As a Head of Territory, he shall have a knowledge in the field of Administration. As Head of an Autonomous Region, it is necessary for him to have the support of the People of the Region he rules.

(2) The procedure of nomination, election and appointment of a Head of Region as stipulated in article 15 and 16 of this Law are meant to fulfill the requirements of the two functions of the Head of Region.

(3) Parallel to this construction this Law decided that a Head of Region hierarchically is responsible to the President through the Minister of the Interior. This is in accordance with the position of the President as the highest executive responsible in the execution of the Administration in the whole territory of the State and observed from the principal aspects of organization and management, it is just that the Head of Region has only one line of responsibility, so the Head of Region is not responsible to the Regional House of Representative.

Nevertheless, the Head of Region is obligated to give a statement of responsibility concerning the execution of Administration of his region to the Regional House of Representative, so that the Regional House of Representative as one of the elements of the Administration may always follow and supervise the way Administration in the region.

In giving mentioned above statement the Head of the Region shall observe the regulations of articles 62, 63, and 64 of this Statute.

In this matter, the Regional House of Representative may give their views in accordance with their rights as stipulated in article 29 of this Statute.

(4) It has been explained, that the Head of Region is responsible to the President hierarchically through the Minister of the Interior.

The word “through” does not mean that the Minister of the Interior has only to submit the statement of responsibility of the Head of the Region to the President, but the Minister of the Interior as assistant to the President shall evaluate these statement or responsibility of the Head of Region, shall take actions if deemed necessary according to his competency and report to the President concerning principle and important matters.

f. Vice Head of Region

Keeping in mind the extensive tasks faced by the Head of the Region in his function as the Head of the Administrative Territory as well as the Head of the Autonomous Region it is basically necessary to have a functionary of a Vice Head of Region. Keeping in mind the different conditions of the Region, the execution of the assignment of the office of a Vice Head of Region shall be done according to the necessary.

A Vice Head of Region is appointed out of officials on the basis of the existing regulations.

g. The Regional House of Representative

(1) In order to be able to execute its function as a representative of the People, the Regional House of Representative has been given certain rights, i.e.:

- (a) of regional budget;
- (b) of inquiry for every Member;
- (c) of asking for information;
- (d) of amendments;
- (e) of motion;
- (f) of initiative;
- (g) of investigation.

- (2) The rights abovementioned are to make it possible for the Regional House of Representative to execute its function.

To evade un-coordinated interpretation, the means to execute those rights are regulated in the standing order of the Regional House of Representative in line with the directives as stipulated by the Minister of the Interior.

Especially concerning the right to investigate is stipulated in this Statute. It is deemed necessary, as the right to investigate has a large scope of consequences. By giving the right of Initiative to the Regional House of Representative, the Bills of the Regional Regulations are not only prepared by the Head of Region but it may also be prepared by the Regional House of Representative.

h. Secretariat of the Region

- (1) The Secretariat of a Region of the first Level is integrated with the secretariat of the Province or the Capital City of the State and the secretariat of a Region of the second Level is integrated with the secretariat of the Regency or Municipality.

Therefore, the Secretariat of the Region is secretariat which is assisting the Head of Region, and the Head of Territory.

With the integration of this secretariat efficiency and effectiveness in the execution of services may be expected and also unnecessary un-coordinated actions.

- (2) The secretariat of a Region has a staff function, as a staff the secretariat of the Region executes general staff functions.

Keeping in mind the large scope and multitude aspects of duties of a staff, therefore for the implementation is need ability, skill, experience and utmost dedication.

A staff function is a career function, therefore the official assigned to that staff function must be an official who can be relied on, who meets the requirements and has certain qualifications based on the existing regulations for government officials.

As a staff function is a career function, the Secretary of Region is also a career functions. In other words, the Secretary of Region is not elected, but shall be appointed from amongst Government Officials who the requirements after having heard the recommendations of the Leadership of the Regional House of Representative. Meant with “after having heard the recommendations of the Leadership of the Regional House of Representative aforementioned shall submit its recommendations to the Head of the Region after having heard/asked the opinions of the Factions.

l. Regional Service Division

- (1) The Regional Service Divisions are executive units of the Regional Government. Regional service divisions are services which are the responsibility of the Region.

The set up of a regional service division to execute services which are still the competency of the Government and not yet transferred to the Region through a Statute or Government Regulation as to become services of their regional services shall not be justified.

(2) In the execution of their function, the regional service division are fully under the supervision of-and are responsible to the Head of Region.

j. Regional Enterprise

A Regional Enterprise is an enterprise established by the Region to develop the Regional economy and to increase the revenue of the Region. With regard to that, a regional enterprise shall be based on the principle of a sound cost-accounting or in other words a regional enterprise shall execute its activities with utmost efficiency and effectiveness.

In this event it is necessary to prevent the inclination to a system of state's ownership and monopoly as has been stipulated in the Broad Lines of the State's Policy.

5. Administrative Territory

a. General

To realize the provisions concerning "the administrative territory and sich" as intended in the elucidation of article 18 of the 1945 Constitution, this Statute clearly regulated items related to the Administrative Territory.

b. The Head of Territory

(1) The Head of a Territory at all levels acts as a representative of the Government and is the Single Authority in the field of Administration in the territory, except in the fields of defense and security, justice, foreign affairs and in the monetary field in the sense of printing money, to fix the currency rate etcetera. He is obliged to manage the Administration, to coordinate the planning and the execution of the development programme, to promote the existence of the community in all aspects. In other words, the Single Authority is the Government's Administrator, the Development's Administrator, and the Community's Administrator.

As a representative of the Government and Single Authority, the Head of Territory is the highest official in his Territory in the field of Administration, apart from the question of rank.

(2) The competency, task and obligation of a Head of Territory are:

(a) To maintain Law and order in a Territory:

i. Law and order is a situation where the Government and the People may execute their activities in a secure, orderly and regular way.

Law and order may be disturbed by several reasons and conditions among others:

- violation of the Law which caused a disturbance of security and order in the community;
- disasters, natural disasters as well as disasters caused by human beings;
- factors in the field of economy and finance.

ii. To maintain and to take care of this Law and order to achieve order in the community is the task, the obligation and the responsibility of the Government. Therefore, the Government shall stipulate the policy to maintain and to take care of law and order throughout the Territory of the State, included the mobilization of the security apparatus.

- iii. Regarding the extensive territory of the State and to guarantee quick and duly measures, it is necessary to give some competency to the Head of territory in regular times, in the frame-work of executing the policy to maintain and to take care of law and order, in his territory e.g.:
 - the competency to regulate and to promote Law and order in the community;
 - the competency to regulate activities to prevent calamities;
 - the competency to regulate activities in the political, economical and social-cultural fields.

- iv. If a violation of the law and order occurred or is presumed, the Head of territory in accordance with the aspects, the reality and the form of violation may decide a policy to eliminate or to prevent such a violation. This policy may be of a preventive or a repressive nature.

It is of a preventive nature for instance if there is- or there will be a certain activity (a fair, a conflict between groups, etc.) which is presumed to cause a violation of the Law and order of the community, the Head of Territory shall decide a policy to eliminate the probable causes which have stirred up the violation.

It is a repressive nature for instance if a disaster occurs, how to protect and to safeguard the inhabitants from the calamity (whether the inhabitants need to be evacuated or not etc.), how to safeguard their properties, to give medical treatment etc.

- v. Before the Head of Territory decides his policy, he is obliged to confer with the leadership of the Boards/the security services in his Territory to evaluate the situation jointly. For this purpose a special Board shall be established, presided by the Head of Territory and the members are the Territorial Commander/Commander/Chief of the Armed Forces who are in command in that Territory.

- vi. The execution of the policy decided by the Head of Territory shall be secured by the State's security apparatus.

The security of the execution of policy shall be based on decisions/regulations and the valid Doctrines concerning the Execution of Duty and those concerning shall report to the Head of Territory as the holder of the policy to maintain law and order in his Territory.

- (b) To guide the State's ideology, the internal politics and unity of the Nation.
 - i. The Indonesian Nation has a philosophy and ideology called PANCASILA, but our experience so far proved, that there are groups which always try to tempt and to deviate the PANCASILA and the Constitution of 1945. In spite of that, owing to the truth and superiority of the PANCASILA philosophy and ideology, all temptations and deviations towards- and from the PANCASILA could be smashed at the end. With regard to that, it is the responsibility and

obligation of the whole State's apparatus at all levels to safeguard and to implement the PANCASILA and the Constitution of 1945.

- ii. A just and prosperous society based on the PANCASILA as mentioned in the preamble of the 1945 Constitution, may only be achieved by executing an overall development plan, while development could be executed properly, if a stable and firm internal political situation has been created.
To create a stable and firm internal political situation is one of the important duties of the Government.
- iii. In connection with the situation that the Indonesian Nation has a "Bhineka Tunggal Ika" character (meaning Unity in Diversity) the efforts to maintain the Unity of the Nation is a condition sine guenon to be planned properly and to be realized in stages and continuously.
- iv. The execution to maintain the State's ideology, the internal politics and the unity of the Nation in the regions, are the task, the obligation and the responsibility of the Head of Territory, in line with the policy as stipulated by the Government.

(c) The Coordination of the Vertical Offices.

- i. The Vertical Offices are the apparatus of the Departments or non-Departmental Institutions which are located in the regions to execute a part of Departmental services or non-Departmental Institutions concerned.
- ii. In practice between services executed by each Vertical Office, also between services executed by the Government and the Vertical Offices is a very close relation.
Therefore, to achieve utmost efficiency and effectiveness it is necessary that the execution of those services shall be coordinated properly.
The authority in charge and responsible for the coordination is the Head of Territory.
With regard to mentioned above matter, the Vertical Offices in the execution of their duties are sub-ordinate to the Head of the Territory as a representative of the Government.
Regarding aforesaid matter the Vertical Offices are obliged to report all programmes and activities, supply the requested information/data, explanations and obey the general rules designated by the Head of Territory.
- iii. In coordinating the activities of the Vertical Offices, also between the Vertical Offices and the Regional Administration, the Head of Territory shall always observe and shall not contravene the Regulations of the Statute in force.

(d) Guidance and supervision to the Regional Government.

- i. Guidance and supervision in the management of the Regional Administration is also the task of the Head of Territory, beside it is the task of the Government.

ii. These guidance and supervision shall be executed in line with the regulations in force.

(e) To promote an orderly Administration.

Efforts shall always be made in order that Laws and regional government and the officials concerned.

This is the task of the Head of Territory at all Levels. In this connection the Head of Territory is entitled to take necessary steps in line with his competency.

(f) The execution of other task.

Besides the task mentioned above, the Head of Territory shall execute Administration tasks assigned to him through or based on regulations of statutes and also other task which are neither the task of a Government Office nor of a Regional Government.

(3) Police Action

Regarding the important status Head of Province/Capital City of the State, to secure his integrity, police action to a Head of Province/Capital City of the State shall be specially regulated.

c. The Secretariat of the Territory

(1) Concerning the secretariat of the Province, the Capital city of the State, the Regency and the Municipality vide the elucidation of the regional secretariat.

(2) The secretariat of the District and the Administrative City shall be stipulated by the Minister of the Interior.

6. Control

a. General

In each organization, especially in a Government organization, the function of control is very important, because control on is an effort to secure the harmony between the execution of Administration duties by the regions and by the Government and to secure the smooth, efficient and effective execution of the Administration.

b. General Control

General Control is a kind of supervision done by the Government on all kinds of activities of the regional Government to secure a proper Regional Administration. General Control on regional Government is done by the Minister of the Interior and Governor/Regent/Head of the Municipality as representative of the Government in the region concerned.

c. Preventive Control.

(1) Preventive control contains the principle the regional regulations and Decisions of the Head of the Region concerning certain matters are valid after approval by the official in charge, i.e.

(a) The Minister of the Interior for regional regulations and Decisions of the Head of the Region of the first Level;

- (b) The Governor Head of the region for regional regulations and Decisions of the Head of the Region of the second Level.
- (2) Regional regulations or Decisions of the Head of the Region which need approval before they become effective are in principle:
 - (a) those which provide binding regulations for the People containing an authoritative order, a prohibition, a necessity to act or to omit and other regulations especially directed to the Public;
 - (b) those which contain penal provisions as fines and imprisonment for certain transgressions determined by regional regulations;
 - (c) impose a burden upon the People, e.g. tax or regional retribution;
 - (d) decisions which shall be known by the Public, because they are connected with the People's interest e.g. : to borrow money from-and to land money to, guarantee loans, establish regional enterprises, to decide and-to after the regional budget decide the regional budget account, arrange the salary of the officials etc.
- d. Repressive Control
 - (1) Repressive control is executed to all regional regulations and Decisions of the Region.
 - (2) Repressive control is in the form of a postponement or an abolishment of a regional regulation or a Decision of a Head of Region which is in contravention with the general interest and regulations of higher ranking statutes. Postponement and abolishment is executed by a competent official.

II. ELUCIDIATION CONCERNING THE ARTICLES

Article 1

This article stresses the meaning of several terminologies used in this statute with the intention of equalizing the conception concerning those terminologies, so that in so doing may be avoided misunderstanding in the explanations.

Who are meant by Assistance of the President in letter a of this article are Assistance as meant in article 4 paragraph (2) and article 17 paragraph (1) of the Constitution of 1945.

Article 2

What is meant by the word "territory" (small letter "t") in this article is territoire as meant in the elucidation of article 18 of the Constitution of 1945.

Article 3

Paragraph (1) **Self explanatory**

Paragraph (2)

Which are meant by further growth and development are the growth and the development of the autonomy either concerning the number or the level in the sense of the capability of growing aside, upwards and down-wards.

Article 4

In order to determine the boundary meant in paragraph (2) of this article, each statute founding Region shall be supplied with a map which may indicate justly as far as possible the geographical location of the Region concerned accordingly, also concerning the alteration of the boundaries of the Region and the foundation or alteration of the boundaries of the Territory.

Article 5 **See general elucidation**

Article 6

Jakarta as a Capital-city of the State of the Republic of Indonesia stipulated in statute Number 10/1964 (State Gazette Republic of Indonesia Number 78/1964) has characteristics and needs different from other Region of the first Level. The rapid growth and development requires a governmental structure ensuring the greatest efficiency and effectiveness. Accordingly, this article provides the possibility that Jakarta as a Capital-city of the State has in its territory a governmental structure different from other Region of the first Level, which shall be adjusted as far as possible to the prescriptions in this statute, of this the administration shall be stipulated by a separate statute.

Article 7 **See general elucidation**

Article 8

Paragraph (1) **See general elucidation**

Paragraph (2)

Additional transfer of governmental service to the Region should be accompanied by apparatus, equipment, and sources of funds, so that accordingly the transferred governmental services might be executed properly.

It should be noticed, that an additional transfer of the governmental services to the Region some times does not require the transfer of the apparatus, e.g. when the Region concerned is already provided with or the apparatus has previously been transferred.

For instance some items in the field of agriculture have been transferred to a Region to become items of its regional services.

Transfer of governmental services should be done simultaneously with the transfer of its apparatus, e.g. the People's Agricultural Services.

In the event an additional transfer of items in the field of agriculture may occur in the future, then a transfer of its apparatus is not necessary, as it was previously within the Region.

Article 9 up to and including 13 **See general elucidation**

Article 14 **Self explanatory**

Article 15

The President in appointing the Head of Region from among the candidates nominated by the Regional House of Representative, is not committed to the number of votes achieved by each candidate individually, as this is a prerogative of the President.

Article 16

The Minister of the Interior, in this case acting in the name of the President, is not committed of the number of votes achieved by each candidate individually.

Article 17

The term of office of Head of Region is 5 (five) years counted from the date of installation. If the term of office expires he may be appointed again for the next term of office of 5 (five) years. When his second term of office expires he may not be re-appointed as Head of Region for a third term of office in that Region.

Article 18

Taking the oath by followers of certain religious may be preceded by mentioning the words the Almighty God, according to their respective religious. For instance for a follower of the Islamic Religious it is preceded by the words: “Demi Allah” which means: In the Name of God Almighty.

Article 19 **Self explanatory**

Article 20

The purpose of creating prohibitions for the Head of Region inserted in this article is to omit the possibility in stimulating the Head of Region to contradict his task and responsibility as Head of Region.

Article 21 **Self explanatory**

Article 22 **See general elucidation**

Article 23

Paragraph (1)

It is proper that the Head of the Region as leader and highest responsible authority shall act as representative of the Region in all matters resulting from the implementation of his Administration, either in or outside the Court.

Paragraph (2)

The Head of Region; if deemed necessary, may appointed one or more attorney to represent him in certain cases, either in or outside the Court, regarding the multiple task as Head of Region.

The designation of an attorney should be done officially according to the existing procedure.

Article 24 and 25 **See general elucidation**

Article 26

The Minister of the Interior shall appoint an official who represents the Head of Region and Vice Head of Region through this article in the event both officials are absent, to avoid a vacuum in the leadership of a regional Administration.

Article 27

Meant as statute in this article is Statute number 16/1969 as long as not yet amended or substituted.

Article 28 to and including 31 **Self explanatory**

Article 32

Paragraph (1)

The sessions of the Regional House of Representative are open to the public in line with the ideals of the PANCASILA Democracy so the people may directly follow all matters discussed in the sessions.

Paragraph (2)

Closed session may be held if the items to be discussed are secret in nature.

Paragraph (3) **Self explanatory**

Paragraph (4)

Those present, at closed sessions and deliberately caused to leak items discussed in those sessions before the Council have released them for publication may be prosecuted before the Court in conformity with the existing laws.

Article 33

This Article regulates freedom of objective and useful opinion and which indeed should be ensured in a PANCASILA Democratic State.

However, the Members of the Regional House of Representative are obligated to uphold the ethical code which implied the principle that an item which should be kept secret may not leak out.

Paragraph (2)
See the elucidation of article 83

Article 34
Self explanatory

Article 35

It must be avoided that the State or the region concerned shall suffer losses in executing the Regional Administration. The Regional Government e.g. the Head of Region and the Regional House of Representative execute the Regional Administration.

If Head of Region neglects his duties so that he may inflict losses on the State or the Region, administrative measures may be taken towards him.

If the Regional House of Representative neglects its duties, such measures could not be taken. Therefore to solve this problem it is necessary to determine the procedure how to manage the right and competency of the Regional House of Representative.

Article 36
Self explanatory

Article 37

The appointment of the Secretary of the Regional House of Representative from amongst Government Officials is to be done in accordance with the existing regulations on personnel affairs and should be within the personnel's formation of the Regional Secretariat.

Article 38 and 39
Self explanatory

Article 40

The promulgation of a regional regulation according to a legal procedure is a prerequisite for the regional regulation to have legal force and to be binding.

The legal procedure of promulgation is the promulgation conducted by the Secretary of the Region by publishing the regional regulation in the Regional Gazette, with the understanding that a regional regulation in advance requires the confirmation of the competent official to be valid and may be promulgated after the regional regulation has been enacted.

The placing of regional regulation in a newspaper or publication in another way such as through radio and television, is not a promulgation but a mere publication so that it has no legal force and is not binding.

Article 41
Self explanatory

Article 42

Coercive measurements executed by the executive authority to uphold the law in this state is called “to enforce the law” or “to enforce the safeguarding of the law”.

The enforcement of the law is considered already implied in the right of the executive authority of executing laws and regional regulations, so that it is not necessary to give a written law as basis concerning the right of the executive to execute coercion as considered necessary in executing the regional regulation.

Therefore it is not necessary to make provisions in this article on that matter. Only charge of costs paid by the Region to enforce the law which shall be borne partly or wholly by the transgressor, shall be regulated.

Law enforcement is generally a taking away or an abolishment, a prevention, an executing or correction of something created, provided, executed, neglected or abolished which is contracting the Law.

It should be stressed, that law enforcement is only valid if the coercion is used to uphold the law.

Coercion should directly be aimed at the recovery of a legal situation or the prevention of an illegal event. The coercion should be preceded by a written order of the executive to the transgressor.

Only if the transgressor does not observe the order, shall be taken coercive measures.

The official executing the coercive upholding of the law should be distinctly given that task.

Since the coercive upholding of the law may generally result in a loss or suffering, the coercive upholding of the law should be executed in very urgent cases in a manner proportionate to the seriousness of the transgression.

Article 43 and 44
Self explanatory

Article 45

Since the Head of Region is the executive authority, the execution of the regional regulations shall be conducted by the Head of Region if the regional regulation concerned does not designate another executive. The Head of Region shall also execute Co-Administration as assigned to that Region.

A decision of the Head of Region or a regional regulation may be created to execute Co-Administration.

Article 46

The Regional Advisory Board as meant in this article is a board which is assigned to advise the Head of Region on matters of implementation of Regional Administration, whether requested or not. In order that the Board mentioned above may be able to give useful recommendations to the Head of Region, it is allowed to follow continuously the development of the Region, in the sense of not interfering directly with implementation problems of Administration. It should be obvious enough that the Board mentioned does not have the status and competency as the Administrative Board for Routine matters or Regional Administrative Council which have ever existed.

Article 47 **Self explanatory**

Article 48

What is meant be “after having heard the recommendation of the Leadership of the Regional House of Representative” is that the meant Leadership of the Regional House of Representative conferred its recommendation to the Head of Region after having/heard/asked the opinion of the Factions.

Article 49 **Self explanatory**

Article 50 to and including 54

The execution of the prescriptions in the articles 50 to and including 54 should be adjusted to the existing laws.

Article 55

The Regional Source of Revenues is divided into 3 (three) groups, e.g.

- a. original revenues of the Region;
- b. revenues originating from the contribution of the Government;
- c. other legal revenues.

Concerning “other legal revenues” may be stressed, that included in this group are regional revenues originating from other sources than meant in letters a and b, for instance contribution from third parties to the Region and others.

Article 55 to and including 60
Self explanatory

Article 61

The Head of Region has the right to borrow from, to lend money to guarantee loans, which shall be determined by a Decision of the Head of Region.

The said Decision of the Head of Region should be approved previously by the Regional House of Representative which shall be contained in a Decision of the Regional House of Representative.

The said Decision of the Head of Region either for Region of the first Level or for Region of the second Level, requires the confirmation of the Minister of the Interior, to be valid.

The reason why the said Decision of the Head of Region is put under the direct preventive control of the Minister of the Interior is because conducting the right to borrow money from, to lend money to and to guarantee loans are of important significance and have great consequences, for they are likely to be a burden for the People, not only for one generation but possibly also for several generations.

In the Decision of the Head of Region shall also be determined the sources to meet the obligation of paying interest and installments, as well as the manner of payment.

The Decision of the Head of Region is so important that according to article 32 paragraph (3) of this statute, the decision to conduct the right to borrow money from, to lend money to and to guarantee loans must not be taken in a closed session of Regional House of Representative.

Article 62
Self explanatory

Article 63
Self explanatory

Article 64

The regional budget is of important significance, because the regional budget:

- a. stipulates the number of taxes to be imposed on the People of the Region concerned.
- b. constitutes a means to create a real and responsible autonomy.
- c. gives gist and significance to the Regional Government in general and the Head of the Region in particular, since the budget gives the whole policy of the Regional Government.

- d. constitutes a means to execute control on the region with a procedure which is more simple and efficient.
- e. constitutes an authorization to the Head of the Region within certain limits.

Accordingly the regional budget should be set up properly and considered accurately by observing priorities and the execution should be aimed at objectives in an efficient and effective manner.

Since the budget year of the State is the same as that of the region and the region is only able to set up its Budget after the amount of subsidy to be received has been known, in practice the setting up procedure and the confirmation as well as the promulgation of the regional budget may only be executed several months after the beginning of the budget year. However the preparations may already be done before. As long as this process proceeds, the activities of the region requiring financing proceeds constantly. For that reason the prescription of this article is required.

Article 65 **Self explanatory**

Article 66

Actually it is proper that a higher authority shall take actions and make decisions to settle conflicts arising among authorities which are sub-ordinates to it.

Conflicts may arise between:

- a. A Region of the first Level and another Region of the first Level;
- b. A Region of the first Level and a Region of the second Level located within the territory of the Region of the first Level, mentioned;
- c. A Region of the first Level and a Region of the second Level in another Region of the First Level;
- d. Two Regions of the second Level within the territory of a Region of the first Level.
- e. Two Regions of the second Level located not in the same territory of a Region of the first Level.

Conflicts meant under letter a, b, c and e shall be settled by the Minister of the Interior, whereas the conflict meant under letter d shall be settled by the Governor concerned. Conflicts meant in this article are certainly conflicts relating to Administration thus belonging to public law, because conflicts belonging to civil law fall obviously under the jurisdiction of the Court.

Article 67 **Self explanatory**

Article 68 to and including 72 **See general elucidation**

Article 73

Considering the extensive task of the Head of Territory in executing the general Administration, especially in supervising the Regional Administration, the Minister of the Interior is entitled in the framework of deconcentration to appoint an Assistance of the Governor, an Assistance of the Regent or an Assistance of the Mayor of Municipality.

Article 74

The purpose of this article is to stress that the territory of a region of the first level is also the territory of a Province or Capital city of the State. Accordingly, name and boundaries of a Region of the first Level are also the name and the boundaries of a Province, of the Capital city of the State. In this connection the capital city of Region of the first Level is also the capital city of the Province.

This conception is also applicable to a Region of the second Level.

Article 75

Meant with “predicate” in this article is the predicate of another Territory, i.e. territories not covered by article 74, e.g. District and Administrative City.

Article 76 to and including 79 Self explanatory

Article 80 and 81 See general elucidation

Article 82 Self explanatory

Article 83

Meant with police action is a summon in connection with a penal offence which involves a Head of the Territory of a Province/Capital city of the State. This summon contains an interrogation about penal offence, questions about detention and arrest, search and confiscation. Procedural regulation of the Police action against the Head of the Territory of a Province/Capital city of the State mentioned particularly, does not mean that the Head of a Territory of the Province/Capital city of the State has the right of immunity against legal prosecution.

Article 84 and 85
Self explanatory

Article 86
Paragraph (1) and (2)
Self explanatory

Paragraph (3)

The Organizational Structure and personnel of the Police Force of Administration shall be determined by the Minister of the Interior after having heard judgment of the Minister of Defense and Security/Commander of the Armed Forces.

Article 87 and 88
Self explanatory

Article 89

This article determines, that the basic principles concerning organizational structure and cooperation between Government apparatus in the region shall be stipulated by the Government Regulation.

This is considered important, because virtually the task and competency of the government apparatus in the region are closely related one with another.

Through this regulation a collision of authority and un-coordinated action in the execution may be avoided.

Article 90

In the interest of an efficient and effective execution of the Administration and in the framework to attempt unification of organization as far as possible, it is necessary to establish Regional Government organization pattern as well as Government apparatus in executing the general Administration in the region. This organization pattern shall be determined by the Minister of the Interior, observing the different region situation.

Article 91 and 92
Self explanatory

Article 93

Despite the fact that Law Number 18/1965 has been abolished, but the predicate “Special Region of Aceh” is still effective, with the stipulation that the execution of Administration in

the Province of the Special Region of Aceh mentioned before, is the same as the execution of Administration in other Region of the first Level with the competency to manage its own regional services in line with Law Number 24/1956 i.e. covering Administrative items as follows:

- a. Burial of corpses;
- b. Deep well;
- c. Nuisance Act;
- d. Fabrication and sale of ice and other carbon hydrate commodities;
- e. Off-shore fishery;
- f. Communication and overland traffic;
- g. Mining of minerals not mentioned in article 1 of the “Indische mynwet” (Indonesian Law on Mining);
- h. Forestry.

Beside this, through several Government Regulations have also been transferred the following Administrative services:

- a. People’s Agriculture, Government Regulation Number 47/1951 jo. Law Number 24/1956;
- b. Cattle (stock)breeding/livestock, Government Regulation Number 48/1951 jo. Law Number 24/1956;
- c. Fresh-water fishery, Government Regulation Number 49/1951 jo. Law Number 24/1956;
- d. Education and Culture, Government Regulation Number 65/1951 jo. Law Number 24/1956;
- e. Health, Government Regulation Number 51/1952 jo. Law Number 24/1956;
- f. Public Works, Government Regulation Number 18/1953 jo. Law Number 24/1956;
- g. Small Scale Industry, Government Regulation Number 12/1954 jo. Law Number 24/1956 jis. Government Regulation Number 23/1962, Government Regulation Number 39/1964;
- h. Forestry, Government Regulation Number 64/1957;
- i. Sea-water Fishery, Government Regulation Number 64/1957;
- j. People’s Rubber, Government Regulation Number 64/1957;
- k. Social guidance and improvement Government Regulation Number 5/1958;
- l. People’s Housing, Government Regulation Number 6/1958;
- m. Labor’s Welfare, Government Regulation Number 14/1958;
- n. Road Traffic, Government Regulation Number 6/1958;

- o. General Administration, Law Number 6/1959;
- p. Government Enterprises and Projects, Government Regulation Number 7/1964.

Article 94
Self explanatory

SUPPLEMENT STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 3037.

Translator's Note

This is a translation from the Indonesian language into English of Law Number 5/1974 of the Republic of Indonesia concerning Basic Principles on Administration in the Region.

In the execution of this translation, every effort has been made to stay as close as possible to the Indonesian text of Law Number 5/1974 of the Republic of Indonesia concerning Basic Principles on Administration in the Region as they now stand.

This English-language version is made as readable and understandable as possible and is meant for those who do not understand the Indonesian language.

Where any doubt exists, reference should be made to the reader to the original legislation. In matters of interpretation the law as written in Indonesian will always be the final authority.

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