

**REGULATION OF THE SUPREME COURT OF  
THE REPUBLIC OF INDONESIA  
NUMBER 02 OF THE YEAR 2003  
REGARDING  
THE MEDIATION PROCEDURE IN THE COURT**

THE SUPREME COURT OF THE REPUBLIC OF INDONESIA

Considering:

- a. whereas integrating mediation in the process of civil procedure in the court can be one of effective instruments to overcome the possible accumulation of cases in the court;
- b. whereas mediation constitutes one of the faster and cheaper processes and can give disputants access to justice or satisfactory settlement of the case being faced;
- c. whereas the institutionalisation of mediation process in the court system can strengthen and maximise the function of the court in settling disputes besides the court process of adjudicatory nature;
- d. whereas Circular Number 1 of the Year 2002 regarding the Empowerment of the Court of the First Instance in Implementing Amicable Settlement Procedures (Article 130 of the Reviewed Inland Regulation/154 of the Outer-Region Regulation) is not complete and need to be perfected;
- e. whereas the prevailing civil procedure, either Article 130 of the Reviewed Inland Regulation or Article 154 of the Outer-Region Regulation, encourages disputants to undergo amicable settlement

procedure that can be intensified by integrating mediation process in the courts of the first instance;

f. whereas, while awaiting an act of parliament, and taking into account of the authority of the Supreme Court in regulating the court procedure that is yet insufficiently regulated by the law, therefore, for the certainty, order and speed in the process of amicably settling disputes between disputants in civil lawsuits, it is deemed necessary to stipulate a Supreme Court Regulation.

Taking into account of:

1. Article 28 D of the 1945 Constitution;
2. The Reviewed Inland Regulation (HIR), State Gazette of the Year 1941 Number 44 and the Regulation of Civil Procedure for Regions Outside Java and Madura (RBg), State Gazette of the Year 1927 Number 227;
3. Law Number 14 of the Year 1970 concerning the Basic Provisions of the Judiciary Power as amended by Law Number 35 of the Year 1999 concerning the Amendment to Law Number 14 of the Year 1970 concerning the Basic Provisions of the Judiciary Power, State Gazette Number 74 of the Year 1970;
4. Law Number 14 of the Year 1985 concerning the Supreme Court, State Gazette Number 73 of the Year 1985;
5. Law Number 2 of the Year 1986 concerning General Court, State Gazette Number 20 of the Year 1986;
6. Law Number 25 of the Year 2000 concerning National Development Programme, State Gazette Number 206 of the Year 2000.

DECIDES:

THE REGULATION OF THE SUPREME COURT OF THE REPUBLIC OF  
INDONESIA CONCERNING MEDIATION PROCEDURE IN THE COURT

**CHAPTER I**  
**General Provisions**

**Article 1**

In this Supreme Court Regulation, the following definitions shall have the following meanings:

1. “Deed of Amicable Settlement” means a document containing an agreement resulted from the mediation process;
2. “Mediators List” means a document containing names of mediators accredited to a court as determined by the Chairman of that court;
3. “Judge” means a sole judge or a chamber of judges appointed by the Chairman of the court of first instance to examine and adjudicate a case;
4. “Caucus” means a meeting between a mediator and one of the Parties not attended by the other party;
5. “Mediator” means a neutral and impartial party, whose function is to assist the Parties in searching for various possibilities of dispute resolution;

6. “Mediation” means a dispute resolution through the process of negotiation between the Parties facilitated by a Mediator;
7. “Parties” means two or more legal subjects in dispute and who bring their dispute to the court of first instance for determination;
8. “Mediation Procedure” means the stages of Mediation process as regulated by this Supreme Court Regulation;
9. “Public Disputes” means disputes in the field of environment, human rights, consumers protection; land and labour that involve many labours’ interests;
10. “Mediator Certificate” means a document stating that someone has passed a mediation training or education issued by an entity accredited to the Supreme Court;
11. “Mediation Process Open to Public” means that members of the community can attend or observe, or the community can have access to the information derived from the mediation process.

## **Article 2**

- (1) All civil cases brought before the court of first instance must first be settled through an amicable settlement process with the assistance of a Mediator.
- (2) In performing his function, a Mediator shall abide by a Mediator Code of Ethics and Professional Conduct.

## **CHAPTER II**

### **Pre-Mediation Stages**

#### **Article 3**

- (1) On the day of the first hearing attended by both Parties, the Judge shall obligate the Parties in dispute to firstly undergo Mediation.
- (2) The Judge is obliged to adjourn the hearing in order to give the Parties the chance to undergo Mediation.
- (3) The Judge is obliged to give explanation to the Parties about the Mediation Procedure and the costs associated therewith.
- (4) In case the Parties give authorisation to their solicitors, all decisions adopted by the solicitors must obtain written approvals from the Parties.

#### **Article 4**

- (1) Within a period of not longer than one working day after the first hearing, the Parties or their solicitors are obliged to negotiate to choose a Mediator from the Mediators List maintained by the court or a Mediator outside the list maintained by the court.
- (2) If within one working day the Parties or their solicitors cannot agree with the engagement of a Mediator listed in or not listed in the court, the Parties are obliged to choose a Mediator from the Mediators List made available by the court of first instance.
- (3) If within one working day the Parties cannot agree with the election of a Mediator from the list made available by the court, the

President of the Chamber has the power to appoint a Mediator listed in the Mediators List by issuing a Court Order.

(4) The Judge, who examines a case, either by assuming the office of President of the Chamber or a Member of the Chamber, is prohibited to act as a Mediator in the case concerned.

### **Article 5**

(1) The Mediation process engaging a Mediator not listed in the Mediators List made available by the court shall take place not longer than thirty working days.

(2) After the lapse of the period of thirty working days, the Parties are obliged to appear before the Judge in the hearing to be determined.

(3) If the Parties reach an agreement, they may request a court order containing a Deed of Amicable Settlement.

(4) If the Parties successfully reach an agreement of which court order stipulating the agreement as a Deed of Amicable Settlement is not requested, the Parties are obliged to declare the revocation of the lawsuit.

### **Article 6**

(1) Mediators listed in the court judges and non judges, who have obtained a Mediator Certificate.

(2) The court shall have at least two Mediators.

- (3) Every court shall maintain a Mediators List accompanied by the curriculum vitae and experience of the Mediators, and shall evaluate the list annually.

### **Article 7**

Mediators and the Parties are obliged to participate in the dispute settlement procedure through Mediation as provided for in this Supreme Court Regulation.

## **CHAPTER III**

### **The Mediation**

### **Article 8**

Not longer than seven working days after the election or appointment of a Mediator, the Parties are obliged to submit photocopies of documents containing the facts of the case, photocopies of the necessary documents and everything related to the dispute to the Mediator and the Parties.

### **Article 9**

- (1) Mediator is obliged to determine the schedule of meetings with a view to accomplish the Mediation process.
- (2) In the Mediation process, the Parties can be accompanied by their solicitors.
- (3) Whenever deemed necessary, Mediator can hold a Caucus.

(4) Mediator is obliged to encourage the Parties to trace and find their interests and search for various options to best settle the disputes for the Parties.

(5) With the final result being the agreement reached or no agreement reached, the Mediation process shall take place not longer than twenty-two working days as of the election or the date of the court order appointing the Mediator.

### **Article 10**

(1) With the consent of the Parties or their solicitors, Mediator can invite one or more experts in certain fields to give explanation or consideration that can assist the Parties in settling the disputes.

(2) All costs of the expert or experts shall be borne by the Parties as mutually agreed.

### **Article 11**

(1) If the Mediation results in an agreement, the Parties, with the assistance of the Mediator, must formulate in writing the agreement reached and to be signed by the Parties.

(2) The agreement must provide for a clause revoking the case or stating the end of the case.

(3) Before the Parties sign the agreement, the Mediator must review the contents of the agreement in order to avoid any agreement that is in contradictory with the law.

(4) The Parties shall reappear before the Judge on the predetermined day of hearing in order to inform the Judge of the agreement reached.

(5) The Judge can affirm the agreement in a Deed of Amicable Settlement.

### **Article 12**

(1) If within the timeframe referred to in Article 9, paragraph 5, Mediation does not result in an agreement, the Mediator is obliged to state in writing that the Mediation has failed and inform the Judge of such failure.

(2) Immediately after the receipt of such information, the Judge shall reopen the case in accordance with the prevailing rules of Civil Procedure.

### **Article 13**

(1) If the Parties fail to reach an agreement, statements and acknowledgements of the Parties expressed in the Mediation cannot be used as means of evidence in the hearing of the case or other cases.

(2) Photocopies of documents and minutes of meetings or records kept by the Mediator must be destroyed.

(3) Mediator cannot be asked to appear as witness in the hearing of the case.

#### **Article 14**

- (1) Mediation, in principle, is not open to public unless otherwise agreed by the Parties.
- (2) Mediation for public disputes is open to public.

### **CHAPTER IV**

#### **Venue and Cost**

#### **Article 15**

- (1) Mediation can be held in one of the rooms of the court of first instance or in other venues as agreed by the Parties.
- (2) The conduct of Mediation in one of the rooms of the court of first instance is free of charge.
- (3) If the Parties elect to conduct the Mediation in any other places, the costs associated with such conduct of Mediation shall be borne by the Parties as mutually agreed.
- (4) The engagement of a judge-Mediator is free of charge.
- (5) The costs of non-judge Mediator shall be borne by the Parties as mutually agreed save for poor Parties.

**CHAPTER V**  
**MISCELLANEOUS**

**Article 16**

Whenever deemed necessary, the provisions laid down in this Supreme Court Regulation can also be invoked and applied to the other tribunals, apart from the general court.

**CHAPTER VI**  
**CLOSING PROVISIONS**

**Article 17**

By the promulgation of this Supreme Court Regulation, the Circular of the Supreme Court Number 1 of the Year 2002 concerning the Empowerment of the Courts of First Instance Implementing Amicable Settlement Procedures (Article 130 of the Reviewed Inland Regulation/154 of the Outer-Region Regulation) is declared void.

**Article 18**

This Supreme Court Regulation shall take effect as of the date of its promulgation.

Promulgated in Jakarta  
on 11 September 2003  
CHIEF JUSTICE OF THE SUPREME COURT OF  
THE REPUBLIC OF INDONESIA

Signed by:  
BAGIR MANAN