



Law on the Structure and Composition of the MPR,
DPR, DPD and DPRD
(Susduk Law)

passed by the DPR on 9 July 2003

A Short Guide

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The Law on the Structure and Composition of the MPR, DPR, DPD and DPRD was passed by the DPR on 9 July 2003 after completing the joint legislation process with the Government laid down in Article 20 of the Constitution. The Law will take effect when signed by the President or in any event after 30 days. The Law lays down detailed provisions for the elected bodies as required in the amended 1945 Constitution in Articles 2(1) (MPR), 18(7) (DPRDs), 19(2) and 20A(4) (DPR), and 22C(4) (DPD), each of which requires further regulation to take place in a law. It replaces the previous susduk Law 4/1999.

The Law is the last of the four political laws which fell within the Government under the Ministry of Home Affairs to be passed (the preceding three being Political Parties, General Elections and Presidential Elections). The full set of political legislation will be completed by the Constitutional Court Law, which falls within the Government under the Ministry of Justice and Human Rights together with the Attorney-General's Office.

Major issues within the Law

1. Status of the MPR

Under the Constitution, the MPR is composed of the members of the DPR and the DPD, who serve until the new MPR members are sworn in after a general election. This formulation is unlike that of congressional systems, in which typically a Congress consists of a lower house and a senate as bodies. As a result, the Law clarifies that the MPR is a separate body and not a joint session of the DPR and the DPD.

The MPR Leadership will consist of one Speaker and three Deputy Speakers elected by and from the membership of the MPR. The MPR Leadership elected may or may not be a Chairperson of the DPR or the DPD: there is no prohibition for a member who is a member of the Leadership of the DPR or the DPD to be elected also as a member of the MPR Leadership.

The MPR under this law will no longer be an institution of a permanent nature. The Law abolishes the MPR's permanent Standing Committee (BP MPR); this body's function is replaced by a separate Leadership to call meetings, and a separate secretariat to organise MPR meetings once every five years for the swearing in of the elected President and

Vice President, and otherwise as required. The MPR may establish Ad Hoc Committees when necessary to fulfil its functions.

The authorities of the MPR are laid down in the Constitution: constitutional amendment, swearing in of the elected ticket of president and vice-president, considering a decision by the Constitutional Court that an impeachment claim against the President and/or Vice-President is admissible, and conducting elections for casual vacancies for Vice-President or double casual vacancies for President and Vice-President.

The MPR makes its own standing orders and code of ethics. The MPR will hold a meeting following each presidential election for swearing in the victors and will otherwise meet when required to fulfil its functions.

2. The DPR

The 550 elected members of the DPR are based in Jakarta and serve until the new DPR members are sworn in after a general election.

The DPR Leadership will consist of one Speaker and three Deputy Speakers elected by and from the membership of the DPR. A member of the Leadership who is convicted of an offence with a possible penalty of five years or more may not chair meetings of the DPR or act as its spokesperson during the period before the sentence becomes final and unable to be overruled by any court of appellate jurisdiction.

Three major functions of the DPR are laid down in Article 20(1) of the Constitution: legislation, oversight, and budget making. The Law further details these functions, and includes also the rights of nomination to various offices and consultation on various matters given to the DPR in a number of other Articles of the Constitution.

The DPR makes its own standing orders and code of ethics.

In the exercise of its functions, the DPR may summon officials, private citizens or private bodies to give information. Failure to comply may lead to detention for up to 15 days.

3. The DPD

The DPD consists of 4 members elected from each province, who are based in their province and live in Jakarta during DPD sessions. They

serve until the new DPD members are sworn in after a General Election.

The DPD Leadership will consist of one Speaker and two Deputy Speakers elected by and from the membership of the DPD. A member of the Leadership who is convicted of an offence with a possible penalty of five years or more may not chair meetings of the DPD or act as its spokesperson during the period before the sentence becomes final and unable to be overruled by any court of appellate jurisdiction.

Major functions of the DPD are laid down in Article 22D of the Constitution: to participate in discussion on legislation affecting various regional issues, to give considerations on the budget and on legislation on questions of tax, education and religion. In addition, other Articles of the Constitution provide that the DPD gives considerations to the DPR on candidates for the BPK and reports from the BPK. The Law further details all these functions.

The DPD makes its own standing orders and code of ethics.

Although the DPD has an oversight function in the implementation of specific legislation which falls under its authority, it does not possess the right of summons given to the DPR.

4. Legislative Procedures involving the DPD

Draft laws on regional issues originated by the DPD are submitted to the DPR and discussed between the DPR and DPD. After this is complete, the DPR and the Government conduct the usual joint discussion procedure on a bilateral basis.

Draft laws on regional issues originated by the DPR or the Government are first discussed on a trilateral basis between the DPD, the DPR and the Government. The views and opinions exchanged in this discussion are then used as input to the further stage of bilateral discussion procedure between the DPR and the Government, before the DPR's decision-making session to accept the draft legislation into law.

5. DPRD – Provincial and Kabupaten/Kota

The elected members of the DPRD are based in the provincial capital (for provinces) or within the kabupaten/kota (for kabupaten/kota) and serve until the new DPRD members are sworn in after a general election.

The DPRD Leadership will consist of one Speaker and at most three Deputy Speakers (provinces) or two Deputy Speakers (kabupaten/kota) elected by and from the membership of the DPRD. A member of the Leadership who is convicted of an offence with a possible penalty of five years or more may not chair meetings of the DPRD or act as its spokesperson during the period before the sentence becomes final and unable to be overruled by any court of appellate jurisdiction.

Three major functions of the DPRD are laid down in the Law: legislation, oversight, and budget making. The Law further details these functions. It includes also the right to propose the appointment or removal from office of the head and the deputy head of the regional executive, the right to give opinion and considerations regarding international agreements affecting the region, and the right to receive a report for information of the responsibility of the head of the regional executive in the implementation of decentralisation.

The DPRD makes its own standing orders and code of ethics.

In the exercise of its functions, the DPRD may summon officials, private citizens or private bodies to give information. Failure to comply may lead to detention for up to 15 days.

6. Rights of members of the MPR, DPR, DPD and DPRD

The Law defines the rights of members of the MPR, DPR, DPD and DPRD to participate in the work of these bodies and specifies also the rights to vote and be elected, of members' self-defence and members' immunity, of protocol and of financial and administrative support.

7. Recall and mid-term replacement of elected members

Elected members of the DPR, DPD and DPRD are replaced midterm in two circumstances: by causing a vacancy through death or resignation, and by removal from office through no longer being able to carry out the duties of office or qualified to serve, through unappealable criminal conviction for an offence carrying a possible penalty of five years or more, through breach of the prohibitions relating to membership, or through breach of the oath of office, the code of ethics or similar.

In addition, elected members of the DPR and DPRDs are replaced midterm if their party so proposes under Article 12 of the Law on Political Parties. There are three valid grounds for such a proposal: resignation from the party, withdrawal of party membership by the party, or breach of the law causing removal from office. Groups of citizens or voters may propose the removal from office of DPR or DPRD members by filing complaints to the corresponding DPR or DPRD Ethics Council, a procedure which will be regulated further in DPR or DPRD Standing Orders. Groups of citizens or voters residing in a DPD member's electoral district may propose the removal from office of a DPD member. Complaints to replace a DPD member are filed with the Provincial DPRD to be sent to DPD's Ethics Council for decision, a procedure to be regulated further in DPD Standing Orders.

Membership of the MPR is directly related to membership of the DPR or DPD and cannot separately be the subject of resignation or withdrawal.

Replacement of an elected member is a formality in the case of death, resignation, breach of prohibition, or unappealable criminal conviction as above. For DPR and DPRD members, removal is also automatic in the case of replacement on the proposal of the party. However, replacement for inability to carry out duties, lack of qualification to serve, or breach of the oath of office, code of ethics &c is subject to a hearing by the Ethics Council of the relevant elected body.

A member of the DPR or a DPRD who received more than half a quota of individual votes is replaced by the candidate with the highest individual vote not to have yet been elected. A member of the DPR or a DPRD who did not receive more than half a quota is replaced by the next candidate on the party list. A member of the DPD is replaced by the candidate with the highest individual vote not to have yet been elected.

8. Organs of the elected bodies

The MPR, in addition to its Leadership, has Ad Hoc Committees and an Ethics Council.

The DPR, in addition to its Leadership, has Commissions; the Consultative Body (Bamus); the Legislation Body (Baleg); the DPR internal management body (BURT); the Inter Parliamentary Co-operation Body (BKSAP); an Ethics Council; a Budget Committee; and other organs as required.

The DPD, in addition to its Leadership, has Ad Hoc Committees; an Ethics Council; and other committees as required.

DPRDs, in addition to their Leadership, have a Consultative Committee; Commissions; an Ethics Council; a Budget Committee; and other organs as required.

The establishment, structure, duties and authorities of all these organs are to be defined in the standing orders of the respective elected body.

9. Secretariat and expert staff

The MPR, DPR and DPD will each have a secretariat general, defined in a presidential decree (Keppres) and staffed by civil servants. The Secretary General and Deputy Secretary General are to be appointed by the President on the proposal of the Leadership of the respective elected body.

DPRDs will each have a secretariat, defined in a regional regulation (Perda) and staffed by civil servants. (Since Perda are enacted through a joint discussion process between the head of the regional executive and the DPRD, this differs slightly from the process for the DPR.) The Secretary is to be appointed by the head of the regional executive on the proposal of the Leadership of the DPRD.

Elected bodies may also have expert advisers, who form a group under the coordination of the Secretariat General (MPR, DPR or DPD) or Secretariat (DPRD).

The MPR Secretariat will undertake the functions of the DPD Secretariat General until the DPD Secretariat General is separately established.

10. Protocol and Finance of Elected Members

Protocol and financial arrangements for the Leadership and members of the MPR, DPR and DPD are regulated by each elected body together with the Government. Management of finances is undertaken by the Leadership in line with a law.

Protocol and financial arrangements for the Leadership and members of DPRDs are regulated by Government Regulation (PP).

11. Contents of Standing Orders

Standing Orders of elected bodies contain provisions and procedures for the internal management, procedures for carrying out duties and authorities, legislation procedures, and operation of the bodies. They must be consistent with other legislation and with the public interest. They are not binding on external persons or bodies without the consent of those persons or bodies.

12. Immunity

Elected members have immunity for statements made in formal meetings of the elected bodies as long as the statements are not in contravention of standing orders or the code of ethics, and does not constitute publication of material either from a meeting agreed as secret or of a state secret. Elected members cannot be replaced mid-term as a result of statements made in formal meetings of their elected bodies.

13. Prohibitions

An elected member may not simultaneously serve in another state office or as a judge, civil servant, member of TNI or Polri, official of a state or regional enterprise, or official of a body funded from the state or regional budget.

An elected member may not serve as a structural official of a private educational institution, public accountancy practice, consultancy, legal practice, notary, medical practice or similar. Structural officials who are elected must give up their position before taking office as an elected member.

14. Investigations

Criminal investigations of elected members require the prior personal written consent of the President (MPR, DPR or DPD), Minister of Home Affairs (DPRD Province) or Governor (DPRD Kabupaten/Kota). This does not apply to criminal acts of corruption or terrorism and to being caught red-handed.

15. Establishment of authorities in new regions

If a province is divided, the existing DPD members represent the successor provinces until the next General Election.

If a province, kabupaten or kota is divided, new DPRD's are set up unless there is less than 18 months remaining to the General Election. The members of the previous DPRD are transferred to new DPRD's in line with the location of their electoral district, and the new DPRD is then made up to the required number of members by reference to the results of the previous General Election.

16. Term of office of current elected bodies

The members of the current elected bodies will serve until the swearing in of the new elected members. This removes the potential problem posed by the fixed expiry of the current term of office in the previous Law.

The responsibility and timetable for convening meetings of elected bodies does not appear in the Law and is a matter left to standing orders. To enable the first DPD to be validly called, initial standing orders are being drafted by the MPR to enable the temporary leadership of the DPD to call a meeting to adopt standing orders, elect a Leadership, and hand over authority for this Leadership to assume powers and conduct the agenda of the meeting from then onwards.

17. Procedures for a casual vacancy for Vice President or a double casual vacancy for President and Vice President

Procedures for election of a Vice President by the MPR in the case of a single casual vacancy for Vice President, or for election of a President and Vice President in the case of a simultaneous double casual vacancy, do not appear in the Law. As drafted this appears to be a matter left to the MPR Standing Orders. This may not be in line with the provision of article 6A(5) of the Constitution, which requires the procedures for electing a President and Vice President to be regulated by law.