

**NOTES OF THE MEETING OF THE FORMULATING
TEAM AND THE SYNCHRONIZATION TEAM OF THE
AMENDMENT BILL TO LAW 5 OF 1990
MARCH 19, 2024**

The discussion of the substance of the Bill on KSDAHE carried out by the DPR RI Commission IV Working Committee together with the Government and the Republic of Indonesia DPD was quite dynamic, however, the substance proposed by Commission IV of the Republic of Indonesia House of Representatives could still be well monitored and had been mutually agreed upon in the Panja and Timus meetings to be included in article formulation/editorial. Some of the important substances referred to include the following:

1. KSDAHE is the responsibility and obligation of the Central Government, Regional Governments (both Provincial and Regency/City), and the community.
2. There is a change in the use of nomenclature from Important Ecosystems Outside Conservation Areas to Preservation Areas, with several regulatory improvements.
3. There is a division of authority in the implementation of KSDAHE, both by the Central Government and Regional Government, namely as follows:
 - a. Natural Reserve Areas (KSA) and Nature Conservation Areas (KPA), the management of which falls under the authority of the ministry in charge of forestry;
 - b. Conservation areas in waters, coastal areas, and small islands, the management of which falls under the authority of the ministry in charge of maritime affairs and fisheries;
 - c. The management of the Preservation Area falls under the authority of the Regional Government (according to Law Number 23 of 2014).
who has the authority to create a direction map for the preservation area?
4. There is a division of authority in implementing plant and animal conservation activities, namely as follows:

- a. Conservation activities for certain wild plants and animals in marine habitats are carried out by the provisions of laws and regulations in the marine and fisheries sector.
 - b. Wild Plant and Animal conservation activities are carried out by the provisions of laws and regulations in the field of conservation of biological natural resources and their ecosystems.
5. There are regulations regarding community participation in KSDHAE, which also includes the participation of Indigenous Law Communities.
6. There are better and clearer arrangements regarding conservation funding, namely as follows:
 - a. To finance KSDAHE activities carried out by the Government and/or Regional Government, the Central Government can collect other funds outside the APBN and APBD, in the form of a trust fund.
 - b. The Central Government can provide a fair distribution of results on the utilization of Biological Natural Resources and their Ecosystems.
 - c. The Central Government can provide incentives for KSDAHE.
7. To improve the 3 Pillars in the conservation function, there are improvements to the prohibition articles which then become the basis for the imposition of sanctions in the criminal provisions chapter, namely as follows:
 - a. Ban in KSA;
 - b. Prohibition in KPA; **not in KKP3K**
 - c. Prohibition on preserving protected plants and animals; as well as
 - d. Classification of plants and animals originating from abroad whose status is protected by international regulations into protected plants and animals.
8. There are regulations regarding strengthening the authority of Civil Servant Investigators (PPNS) in the KSDAHE sector, while still referring to the applicable laws and regulations.

9. There are provisions for increasing sanctions to strengthen law enforcement to provide a deterrent effect to perpetrators of KSDAHE crimes, namely as follows:
- a. increased criminal sanctions (imprisonment or fines) in the form of the highest category of criminal sanctions (category VIII) as regulated in Law Number 1 of 2023 concerning the Criminal Code (KUHP);
 - b. additional criminal sanctions by 1/3 (one-third) if carried out using information technology facilities;
 - c. additional criminal sanctions of 1/3 (one-third) if carried out by a corporation;
 - d. the provision of additional punishment for perpetrators of KSDAHE crimes in the form of:
 - 1) costs of restoring the KSA Ecosystem and/or KPA;
 - 2) costs of rehabilitation, habituation, and release of animals to their natural habitat;
 - 3) costs for caring for plants and/or animals that cannot be returned to their natural habitat;
 - 4) payment of compensation;
 - 5) confiscation of plants and/or animals or profits obtained from criminal acts; as well as
 - 6) other additional penalties.

Several things to note regarding the revision of the Bill Concept discussed at the Drafting Team Meeting on November 27 2023 were editorial adjustments, in addition to substantive revisions as follows:

1. Proposed Changes to Article 1, namely:
 - a. replacement of the definition of Genetics with Genetic Resources; And
 - b. addition of the definition of Genetic Diversity
2. Addition of 2 (two) paragraphs to Article 9, related to the management of Preservation Areas.

3. Changes to the phrase in Article 18 regarding the mechanism for recognizing international status in the management of Natural Reserve Areas and/or certain other areas, namely as follows:
 - c.Paragraph (1): the phrase "established" is changed to 'proposed"
 - d.Paragraph (2): the phrase "determination" is changed to 'proposal"
4. Addition of 3 (three) paragraphs to Article 34 relating to the use of water for basic daily needs by the community, as a consequence of the non-re-enactment of Article 33 and Article 69 letter c of Law Number 17 of 2019 concerning Water Resources when the Law on Amendments came into force on Law Number 5 of 1990.
5. Changes to the provisions in CHAPTER IX as a consequence of the Government's proposal to change the phrase PEOPLE'S PARTICIPATION to COMMUNITY PARTICIPATION.
6. Changes to Article 39 as well as additions to Article 39A and Article 39B regarding Civil Servant Investigators (PPNS).
7. Changes to Article 40 as well as additions to Article 40A and Article 40B related to Criminal Provisions.

In this case, there are still 2 alternative arrangements for imposing sanctions, either imprisonment or a fine, namely:

- ✓ Commission IV DPR RI agreed to impose cumulative (and/or) sanctions, without setting minimum penalties, but still adjusting the categorization of sanctions as stated in Law Number 1 of 2023 concerning the Criminal Code.
- ✓ The government, including the Ministry of Environment and Forestry, as directed by the Minister of Law and Human Rights, has imposed alternative sanctions of imprisonment or fines, according to the categorization of sanctions as regulated in Law Number 1 of 2023 concerning the Criminal Code.