

**ORGANIC ACT ON OMBUDSMEN,  
B.E. 2560 (2017)**

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**Maha Vajiralongkorn Bodindradebayavarangkun**

Given on the 24<sup>th</sup> Day of December B.E. 2560;

Being the 2<sup>nd</sup> Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to have an Organic Act on Ombudsman;

This Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 26 in conjunction with section 32, section 33, section 34 and section 37 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

Justification and necessity in relation to the restriction of rights and liberties of persons prescribed by this Organic Act on Ombudsman is to effectively enhance performance of duties for public interests for the Ombudsman. Promulgation of this Organic Act is, therefore, in conformity with prescribed condition in section 26 of the Constitution of the Kingdom of Thailand;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

**Section 1.** This Organic Act is called the “Organic Act on Ombudsmen, B.E. 2560 (2017)”.

**Section 2.** This Organic Act shall come into force as from the day following the date of its publication in the Government Gazette.

**Section 3.** The followings shall be repealed:

- (1) Organic Act on Ombudsmen B.E. 2552 (2009);
- (2) Office of the Ombudsman Act B.E. 2552 (2009);
- (3) Announcement of the National Peace and Order Council No. 24/2557 Re: Continuing Enforcement of this Organic Act dated 23<sup>rd</sup> Day of May B.E. 2557 (2014), only for the specific part relating to the Organic Act on Ombudsmen B.E. 2552 (2009);

(4) The Order given by the Head of the National Peace and Order Council No. 23/2560 Re: the Measure to Solve Problem on Continuity of Position Holding by Officials in Constitutional Independent organs dated 5<sup>th</sup> Day of April B.E. 2560 (2017) only for the specific part relating to the Ombudsmen.

**Section 4.** In this Organic Act:

“Ombudsman” includes the Chief Ombudsman;

“By-law” means Royal Decree, Ministerial Regulation, Notification of Ministry, ordinance of a local administration, rule or any other provision which is of general application and not intended to be addressed to any specific case or person;

“Government agency” means Ministry, Sub-Ministry, Department or Government agency called by any other name and ascribed the status as Department, Regional administration, local administration, State enterprise, Public organization or any Government agency and shall include agency exercising or entrusted to exercise the administrative power or carry out administrative acts;

“State enterprise” means State enterprise under the law on budgetary procedure;

“State official” means a government official, official or employee performing duties in a Government agency and an official under the law on local administration and shall include a member of committee or a member of a sub-committee, a person or a group of persons exercising or entrusted to exercise the administrative power or carry out administrative acts;

“Office” means the Office of the Ombudsman;

“Secretary-General” means the Secretary-General of the Office of the Ombudsman;

“Competent Official” means the Secretary-General, an official and an employee of the Office and a State official appointed by the Ombudsman to perform any duty under this Organic Act.

**Section 5.** In the case where this Organic Act has not prescribed otherwise for having a letter or a document submitted to; or informing any person specifically, if the person has been informed by a letter sent to the domicile or the registered address under the law on Civil Registration, it shall be considered that the information has been submitted in accordance with this Organic Act. In the case where this Organic Act prescribes for public announcement or publicizing, it shall be regarded that an announcement or publicizing through an information technology system or otherwise any other system with convenient public access is conducted in accordance with this Organic Act.

In the case where this Organic Act provides that the Ombudsman or the Secretary-General shall have the power to issue orders in certain cases. Should there not be any specific prescription for the procedure, the Ombudsman or the Secretary-General shall thereby issue a regulation, notification or order, as the case may be. If the spirit of such regulation, notification or order is for public enforcement, it shall be published in the Government Gazette and shall also be publicized as mentioned in paragraph one. Should any regulation, notification or order prescribe a working procedure, the Ombudsman or the Secretary-General shall explicitly determine a timeframe for each step.

**Section 6.** In performing duties, the Ombudsman shall provide mutual cooperation and assistance to all independent organs. In the case where the Ombudsman is of the opinion that a person commits a unlawful act which falls in the scope of duties and powers of another independent organ, the Ombudsman shall thereby notify the relevant independent organ in writing to take further action in accordance with its duties and powers without delay.

In the case where the Ombudsman is of the opinion that any matter in the scope of duties and powers may also fall under the jurisdiction of another independent organs, he or she shall therefore seek consultation with such relevant independent organ to establish a joint action plan for a non-repetitive and effective performance of duties of each independent organ.

In collaboration with the aforementioned procedure in paragraph two the Chief Ombudsman shall have the authority to invite a Chairperson of other independent organs to a consultation meeting to determine a joint action plan which every independent organ shall comply with.

**Section 7.** The Chief Ombudsman shall perform any duty under this Organic Act.

## CHAPTER 1

### Ombudsman

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**Section 8.** There shall be three Ombudsmen appointed by the King with the advice of the Senate among the following persons:

(1) two persons of knowledge, expertise and experiences pertaining public administration, having been a Director-General of or an equivalent Head of a Government agency; or a Head of a State agency at least comparable to a Department as prescribed by the Selection Committee; and holding such position for a period of not less than five years;

(2) one person having experiences in the operation for the benefits of the Public for a period of not less than twenty years.

Nature of experiences and operations for the public interests as referred in (2) shall be in line with the announcement issued by the Selection Committee, mainly based on the purpose to bring in qualified persons with experiences for better performing duties as the Ombudsman.

**Section 9.** Apart from the specific qualifications prescribed in section 8, the Ombudsman shall possess the following qualifications:

- (1) being of Thai nationality by birth;
- (2) being of not less than forty five years of age, but not over seventy years old;
- (3) having graduated with not lower than a Bachelor degree or its equivalent;
- (4) being of apparent integrity; and
- (5) being of healthy conditions to enhance effective responsible performance.

**Section 10.** The Ombudsman shall not be under any of the following prohibitions:

(1) being or having been a judge of the Constitutional Court or a person holding any position in an independent organ;

- (2) being of narcotic addiction;
- (3) being bankrupt or having been dishonest bankrupt;
- (4) being an owner or a shareholder of a newspaper or otherwise any mass media;
- (5) being a priest, an ascetic person, a novice or a monk;
- (6) being under an election right withdrawal irrespective of whether the case becomes final or not;

(7) being an insane or mentally disabled person;

(8) being under temporary prohibition of right to run for an election or being under withdrawal of right to run for election;

(9) being sentenced by a judgment to a term of imprisonment and being detained by a warrant of the Court;

(10) having been expelled from a Government agency, a State agency or a State enterprise on the ground of corruption or deemed corruption or malfeasance in the official service;

(11) having been ordered by a final judgment or an order of the Court that his or her assets shall devolve upon the State on the ground of unusual wealthiness or having been ordered by a final judgment for imprisonment due to a commitment of an illegal practice under the Corruption Prevention and Suppression Law;

(12) having been ordered by a final judgment for conducting mal-practices against an official or a justice position or an illegal practice under the laws on offences committed by officials of State organizations and agencies or offences relating to properties committed by corruption against the Criminal Code, offences against borrowings which are regarded as public cheating and fraud; the law on Narcotic Drugs committed as a producer, an importer, an exporter or a trader; the law on Gambling committed as a host or master of lottery gamble; the law on Prevention and Suppression of Human Trafficking; or the law on Prevention and Suppression of Money Laundering;

(13) having been sentenced by a final judgment for committing corruption in a general election;

(14) being under a prohibition to hold any political position;

(15) having been vacated from office by a judgment of the Constitution Court on the ground of proposing an amendment, or taking any action otherwise that lead to a direct or an indirect involvement of a member of the Parliament, a senator or a committee in budgeting expenditure;

(16) having been vacated from office by a judgment of the Supreme Court or the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for being a person of unusual wealthiness, or committing corruption against duty or intentionally conduct or misuse a power against the Constitution or a law or critically violate ethical standards;

(17) having been sentenced to a term of imprisonment by a final judgment, except for an offence committed through negligence or a petty offence;

(18) being or having been a member of the House of Representatives, a Senator, a political official or a member of a local council or a local administrator during the last ten years prior to the date of nomination;

(19) being or having been a member or a person holding a position of a political party during the last ten years prior to the date of nomination;

(20) being a civil servant holding a permanent position and receiving salary;

(21) being an official or employee of a State agency, a State enterprise, or a local administration or being a board member or an advisor to any State agency or State enterprise;

(22) being a person holding a position in a partnership or an organization carrying out business for sharing profits or incomes; or being an employee of any person;

(23) earning a living with any freelance or self-employment;

(24) being of violating behavior, critically against or not in conformity with ethical standards.

**Section 11.** In the case of where it is necessary to select a qualified person to be appointed as the Ombudsman, the Selection Committee comprising of the following members shall be in power;

(1) President of the Supreme Court is the Chairperson;

(2) Speaker of the House of Representatives and the leader of the Opposition Party are members of the Committee;

(3) President of the Supreme Administrative Court is a member of the Committee;

(4) Persons appointed by the Constitutional Court and an Independent organ which is not an Ombudsman among qualified persons under section 8 and section 9, and not being under a prohibition under section 10 nor having held any position in the Constitutional Court or an Independent organ – one from each organ - shall be members of the Committee.

The Secretary-General of the Senate shall be the Secretary of the Selection Committee and the Secretariat of the Senate shall be the administrative unit of the Selection Committee.

To appoint qualified persons according to (4), the Constitutional Court and an Independent organ which is not the Ombudsman shall nominate the qualified persons within twenty (20) days as of the date being informed by the Secretary-General of the Senate. The selection shall be made among persons with impartiality, integrity and comprehensive understanding of Ombudsman's missions. The selected person shall be the person receiving more than one-half of the votes given by the total existing judges of the Constitutional Court or a member of the Selection Committee from an Independent

organ, as the case may be. Whereas no one receives more than one-half of the votes, another round of vote is required. In the case where there are more than two nominated persons in the second round of vote, the two persons receiving the highest numbers of votes shall be proposed for the re-selection. In the case where there are more than two persons reaching an *ex aequo* result with the highest numbers of votes, the persons with the *ex aequo* result shall therefore draw lots to determine the top two candidates. In this round of vote, should no one receives more than one-half of the total existing judges of the Constitutional Court or member of the Selection Committee from an Independent organ, as the case may be, a new selection procedure shall be organized. In the re-selection round, the nominated persons of the first round of selection shall not be allowed to run for the candidacy.

In the case where there is not any member of the Selection Committee under (2) or those in (4) do not reach the required number for any possible reason or the selection timeframe as prescribed in paragraph three has ended before the nomination, the remaining Selection Committee shall exercise its duties and powers. During the period of time, it shall be assumed that the existing composition and number of the members of the Selection Committee is equal to the existing number.

The Selection Committee under (4) shall be in term until the date prior to the specific date of a new Ombudsman selection, except that there is the case of re-selection or additional selection according to section 12 paragraph four, section 13 paragraph two and paragraph three and section 14. The aforementioned members of the Selection Committee shall vacate office prior to their terms in case of death, resignation, being disqualified or being under a prohibition.

A person who is appointed as a member of the Selection Committee under (4) shall not serve as a member of the Selection Committee of the Constitutional Court or of other Independent organs at the same period of time.

The Chairperson and the members of the Selection Committee shall serve as officials under the Criminal Code.

**Section 12.** For selection of the Ombudsman, the Selection Committee shall seek mutual consultation to identify the person of reliable responsibility, bravery to perform the duties and being publicly recognized by his or her ethical conducts, including appropriate attitudes to achieve missions. In addition to a vacancy announcement, the Selection Committee shall be able to select among other generally qualified persons with

his or her consent. For the benefits of this circumstance, the Selection Committee shall conduct an interview or request the person to provide his or her opinion on duties and powers of the Ombudsman or any other appropriate approaches as a part of the consideration process.

The selection procedure shall be in an open nature. Each member of the Selection Committee shall provide a note informing reasons for the selection.

A person qualified for the selection shall receive two-third of the total votes from the remaining members of the Selection Committee.

In the case where there is not any person receiving the number votes as prescribed in paragraph three; or there is/are, but the amount does not reach the required number, there shall be another round of vote for those receiving less than two-third of the total votes. Should the required number still have not reached the specified amount for the selection, there shall be another round of vote. Should the last round of vote not have acquired a sufficient number of persons for the selection, another round of selection procedure shall be arranged to complete the lacking number.

**Section 13.** The selected candidates to serve as the Ombudsman shall receive approval from the Senate for not less than half of the given votes by the existing members of the Senate.

In the case where the Senate disapproves any candidate, an arrangement for the re-selection in replacement of the person shall be set and name of the selected candidate shall be proposed for further approval by the Senate. The person having been disapproved by the Senate as aforementioned shall not be allowed to run for the candidacy in this round of re-selection.

When a candidate receives approval from the Senate - in the case where the Chief Ombudsman vacates office upon expiration of his or her term – the candidate receiving the approval shall jointly convene with the remaining Ombudsman/Ombudsmen, if any, to select one person among themselves to be appointed as the Chief Ombudsman for which the Senate shall be informed of the selection result. Should a number of the persons receiving the approval do not meet the requirement, but with addition of the remaining Ombudsman, if any, it is equal to the number of two persons, there shall be a meeting to select one person among themselves to serve as the Chief Ombudsman. Once the King appoints the person, the Ombudsman shall continue to perform his or her duties. During the period of time, it shall be assumed that the composition of Ombudsmen



is equal to the existing number. The additional selection shall be taken place soonest to complete the required number.

The President of the Senate shall proceed with the proposal to request for an appointment of the Chief Ombudsman and the Ombudsmen by the King and shall countersign for the Royal command.

**Section 14.** The person receiving approval from the Senate to be appointed as the Ombudsman who has not vacated office according to Section 10 (20) (21) or (22) or is performing a professional practitioner under Section 10 (23) shall submit an evidence of resignation or dismissal from the aforementioned profession to the President of the Senate within the specified timeframe which shall be prior to the submission of the name list for the appointment of the Ombudsman by the King. Should the person fail to submit the evidence within the timeframe, he or she shall be deemed to have abdicated the position and the re-selection procedure shall then be conducted.

**Section 15.** In the case where there is any problem regarding qualifications or characteristics under prohibitions of an applicant or a selected candidate, it shall be duties and powers of the Selection Committee to make consideration. The decision given by the Selection Committee shall be final.

To propose a matter to the Selection Committee for consideration as provided in paragraph one shall be in accordance with the determined principles and procedures set up by the Selection Committee.

Decision making shall be in an open voting manner.

The legislations stipulated in paragraph one, paragraph two and paragraph three shall be enforced in the case concerning disqualification for being under a prohibition of a member of the Selection Committee, *mutatis mutandis*. However, the member of the Selection Committee accused for being disqualified or being under a prohibition shall not be allowed to participate in any meeting for consideration and decision making.

**Section 16.** The Chairperson of the Selection Committee and its members shall be entitled to receive meeting fees and other honorariums as identified by the President of the Senate. The meeting fees shall be paid for each attendance of the meetings at the rate of not less than one-half of the monthly fees received by the Chairperson or the members of the Parliamentary Civil Servants Committee, in accordance with the law on Parliamentary Civil Servants, as the case may be.

**Section 17.** The Ombudsman shall hold office for a term of seven years as from the date of appointment by the King and shall only hold office for only one term.

In the case where the Ombudsman has completed his or her term, he or she shall continue to perform duty until there is an appointment of a newly qualified Ombudsman.

**Section 18.** Apart from the vacation of the office upon the expiration of the term, the Ombudsman shall cease to hold office in the following cases:

- (1) death;
- (2) resignation;
- (3) being disqualified under section 8 or section 9 or being under a prohibition under section 10.

The Chief Ombudsman who vacated office shall also cease to hold office as the Ombudsman.

Should there be a problem whether any Ombudsman has vacated office pursuant to (2) or (3) or not, it shall be duties and powers of the Selection Committee to make decision. The decision given by the Selection Committee shall be final.

In the case where there is not the Chief Ombudsman or where the Chief Ombudsman is not capable to perform his or her duties, the Ombudsman with the highest seniority shall, thereby, act on behalf of the Chief Ombudsman.

When an Ombudsman vacates office prior to expiration of his or her term and there has not been an appointment of the new Ombudsman for the replacement, the remaining Ombudsmen shall continue to perform their duties. Should there be only one Ombudsman holding office, he or she shall not be able to exercise power or perform any duty under Section 26, except for the case of a necessary emergency which requires urgent actions or otherwise a serious loss may occur.

In the case where an Ombudsman vacates office at the expiration of his or her term, the selection process shall be organized to select a new Ombudsman for the replacement within one hundred and twenty (120) days prior to the date of his or her expiration. Should an Ombudsman, however, vacate the office for other causes of reasons, the selection process shall be conducted within ninety (90) days as of the date of the office vacancy.

**Section 19.** In case where there is a petition with reasonable supporting evidence indicating that any Ombudsman shall vacate office upon section 18 (2) or (3), the Secretary-General of the Senate shall submit the matter to the Chairperson of the Selection

Committee within five (5) days as of the date of receiving the petition. The Selection Committee shall then complete its consideration by a majority of votes without delay. In the case of a tie vote, one vote casted by the Chairperson of the Selection Committee shall determine the final consideration.

The evidence under paragraph one shall be in accordance with consideration of the Selection Committee.

**Section 20.** In the case where the Ombudsman has to refrain from his duty due to an accusation for which the Supreme Court of Justice or the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions accepted for prosecution and there only less than two Ombudsmen remain, the President of the Supreme Court of Justice and the President of the Supreme Administrative Court shall jointly appoint a qualified person who is not under a prohibition to temporarily perform duties of the Ombudsman in order to complete the number of three Ombudsmen. The appointed person, thereby, shall perform duties as an interim Ombudsman until the *ex officio* Ombudsman returns to his or her duty or until a person for replacement is appointed.

**Section 21.** The Ombudsman shall be on duty full time. His or her performance of duties and use of powers shall be conducted with integrity, fairness, courage and impartiality for discretion. Performance of duties of the Ombudsman shall be strictly under the ethical standards. During the office term, the Ombudsman cannot attend any training under any study course or project - except one that is organized especially for the Ombudsman by a resolution of the Ombudsmen.

**Section 22.** The Ombudsman shall have the following duties and powers:

- (1) to provide recommendation to relevant Government agencies to revise a law, regulation or order or working procedure which causes a grievance or unfairness to the public or causes an unnecessary or unreasonable burden to the public;
- (2) to conduct a fact-finding investigation in the case where a person encounters a grievance or unfair treatment due to a failure to perform in compliance with the law or a performance beyond duties and powers as prescribed by law of a Government agency or a State official in order to provide recommendation to a relevant Government agency to eliminate or deter such grievance or unfairness;
- (3) to report to the Cabinet on failure to conduct in compliance with Chapter V of the Constitution on Duties the State;

(4) to perform any other duties and powers as prescribed in this Organic Act or law.

To perform in compliance with duties and powers as prescribed in paragraph one, the Ombudsman shall aim to provide support and consultation to ensure that Government agencies and State officials perform duties with effectiveness; to eliminate discrimination; to share benefits to all people equally; and to eradicate or to deter a grievance or unfairness caused by a Government agency towards the public.

In taking action under (1) or (2), should there be any case involving violation of human rights, the Ombudsman shall submit the matter to the National Human Rights Commission for further actions. In order to eliminate repetition of the performance of duties, the Ombudsman and the National Human Rights Commission shall jointly seek consultation and establish a principle to guide future framework thereby.

**Section 23.** In the performance of duties as prescribed in Section 22 (1) (2) or (3), the Ombudsman may submit a case to the Constitutional Court or the Administrative Court for the following cases:

(1) if any provision of any law begs the question of constitutionality, the case together with his or her observation thereon shall be submitted to the Constitutional Court. The Constitutional Court shall proceed with its consideration on the case without delay which shall be in accordance with the Organic Act on the Constitutional Court Procedures;

(2) if any rule, order or action of a Government agency or a State official begs the question of constitutionality or legality, the case together with his or her opinion shall be submitted to the Administrative Court. The Administrative Court shall proceed with its consideration without delay pursuant to the Act on Establishment of Administrative Courts and Administrative Court Procedure;

**Section 24.** In the performance of duties under this Organic Act, the Ombudsman shall have following powers:

(1) to specify a correlated working procedure of the Ombudsman to ensure a swift and non-repetitive approach that shall not deprive independency of the Ombudsman in performing duties;

(2) to issue a regulation to determine a rule and a procedure on whistle-blowing, submission of complaints, facts-finding investigation and consideration practices inclusive of a regulation on authorizing an official to conduct a brief fact-finding investigation to be reported to the Ombudsman;

(3) to issue a regulation to determine a rule on payment of expenditures, daily allowances and travel expenses for a person travelling to provide an opinion or a statement and a performance of duties of officials;

(4) to issue other regulations or announcements under this Organic Act.

To issue a regulation under (2) and (4), there shall not be in any manner that imposes an unnecessary procedure, causes delay or ineffective performance of the Ombudsman or an official inclusive of bringing an inappropriate burden on the public; nor any characteristic that aims to accuse a Government agency or a State official. In regards to whistle-blowing or submission of complaints, it shall be proceeded with the objective to facilitate a swift and smooth complaint submission procedure to the Ombudsman. There shall not be in any manner to force revealing of identification of a whistle-blower or a complainant – except that it is a request to eliminate or to suppress a grievance or unfairness specifically encountered by an individual for which such revealing shall be useful for further contact to acquire more information or to report the investigation results.

**Section 25.** In the performance of duties under this Organic Act, the Ombudsman, when necessary, shall have following powers:

(1) to request a Government agency, a State official or a person to give, in writing, a statement of fact or opinion in concerning with its performance or to give a statement of fact orally or to submit any related object, document, proof or evidence for consideration;

(2) to enter into any dwelling or premise for fact-finding or collecting related evidence. In the case where the dwelling or premise is not in the possession of any Government agency and the owner or possessor does not give consent, the inspection shall be conducted only with a warrant of the Court.

In taking action as specified in paragraph one, the Ombudsman may assign an official to carry out the duty on his or her behalf - except for the issuance of orders pursuant to (1) where only the Secretary-General or the Deputy Secretary-General shall have the authority which shall be in accordance with the regulation as determined by the Ombudsman.

An action taken under (2) shall be carried out in front of an owner or a responsible person thereof or a concerned individual of the premise. Should any of those persons cannot be identified, such action shall be carried out in front of at least two other individuals who have been requested for being witnesses. For such situation, the owner or

the responsible person of the premise or concerned individual shall facilitate the aforementioned performance of duties with required cooperation.

**Section 26.** The Ombudsman shall convene to reach a mutual consultation and agreement for the following cases:

- (1) appointment of officials to perform duties under this Organic Act;
- (2) consultation with other independent organs or the National Human Rights Commission in accordance with section 6 and section 22 paragraph three;
- (3) recommendation provided for an amendment of laws in accordance with section 22 (1);
- (4) submission of reports to the Cabinet in accordance with section 22 (3);
- (5) submission of matters to the Constitutional Court or the Administrative Court in accordance with section 23;
- (6) report on cases of non-compliance with observation or recommendation given by the Ombudsman or submission of cases for consideration by the Cabinet in accordance with section 33, section 34 and section 39;
- (7) submission of cases to the National Anti-Corruption Commission, the Office of Public Sector Anti-Corruption Commission or the State Audit Office in accordance with section 36 (3)
- (8) issuance of the Principle of Ethics in accordance with section 43;
- (9) prescription of qualifications, experiences and expertise of the Secretary-General which shall be beneficial for the operation of the Office in accordance with section 45;
- (10) specification of activities which affect the operation of missions of the Ombudsman in accordance with section 48;
- (11) submission of the budget proposal pursuant to section 49 and granting approval for annual budget inclusive of granting approval for expenditures of the Office in accordance with section 50;
- (12) consideration for receipt of an asset that may affect impartiality of performance of the duties of the Office in accordance with section 51;
- (13) issuance of an order, a notification or any other matters for which this Organic Act prescribes to be in accordance with a resolution or an approval by the Ombudsmen;
- (14) any other matters jointly agreed by the Ombudsmen.

**Section 27.** In the case where it is required to obtain any information or to conduct study, the Ombudsman shall request the Office to hire a person or an institute with qualified knowledge and expertise to proceed with such matter as deemed necessary. Should there be any unavoidable circumstance, a sub-committee shall be established to act on his or her behalf with concern of achieving effective and worthwhile results. Prior to the aforementioned hiring or appointment, the Ombudsman shall clearly determine objectives, achieving outcomes and duration of the performance of duties.

Hiring principles and procedures and remuneration for a person or an institute; or an appointment of a sub-committee and its vacation of office, remuneration and fringe benefits and performing procedure of the sub-committee shall be in accordance of the orders specified by the Ombudsman.

**Section 28.** No person shall disclose information enabling identification of a whistleblower, a complainant inclusive of information from implementation of this Organic Act, except that the aforementioned disclosure is required for the performance of duties and powers or in accordance with a law or an order of the Court.

A person who prepares and publicizes a report according to section 35 and 39 with good faith shall not be subjected to both civil and criminal liability, administrative penalty or disciplinary penalty.

**Section 29.** The Ombudsman and the officials who perform their duties under this Organic Act shall be recognized as officers under the Criminal Code.

**Section 30.** Salary, emolument and fringe benefit provided for the Ombudsman shall be in accordance with the law on such matter. The Ombudsman shall receive a meeting attendance fee per one meeting in an equal amount as received by a committee member pursuant to the Royal Decree on Meeting Attendance Fees for Committee Members.

The Ombudsman shall be entitled to monthly entertaining allowance in a lump sum as regulated by the Ministry of Finance in an amount of not less than an emolument of the Chief Ombudsman or of the Ombudsman, as the case may be.

**Section 31.** The Ombudsman who has been in the office for at least one year shall be entitled to a pension paid in a lump sum when vacating office for any of the following reasons:

- (1) completion of his or her term;
- (2) death;
- (3) resignation;
- (4) being at seventy years of age

Calculation for the pension shall be based on the salary scale under section 30 multiplied by years of holding the office for which a fraction of the year shall be counted as one full year.

Entitlement of the pension is a specific individual right and cannot be transferred, except for the case of death which shall be passed on to his or her spouse and declared heir. Should the death have been by or during the performance of duties, the person shall receive the pension twice as much to the pension amount as specified in paragraph two.

## CHAPTER 2

### Performance of Duties of the Ombudsman

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**Section 32.** When it is apparent to the Ombudsman that, whether being informed by a whistle-blower or a complainant or not, there is a person encounters a grievance or is maltreated by a Government agency or a State official due to a failure to perform in compliance with law or a performance beyond duties and powers as prescribed by law; or in the case where any performance of a Government agency imposes unnecessary or unreasonable burden on the public, it shall be the duties of the Ombudsman to conduct a fact-finding investigation or other careful approaches to provide recommendation to the concerned Government agency to eliminate or settle such grievance or unfair practice or to revise any law, rule or order or working procedure. This is to enhance effectiveness of performance of duties of Government agencies, to eliminate inequality, to facilitate public benefits equally for all people and to reduce unnecessary public burdens.

Prior to the proposal of recommendation as mentioned in paragraph one, the Ombudsman shall seek joint consultation with the relevant Government agency with careful consideration regarding efficiency, capability and obstacles faced by the Government agency concerned when implementing his or her recommendation.



To conduct a fact-finding investigation under paragraph one, the Ombudsman may assign an official to conduct a brief fact-finding investigation to be reported to the Ombudsman pursuant to the order issued under Section 24 (2).

**Section 33.** Under the enforcement of section 32 paragraph two, when a Government agency receives a recommendation of the Ombudsman for an amendment of any law, rule or order or performing procedure which inflicted an injury or unfairness upon the public or an unnecessary or unreasonable burden upon the public, the relevant Government agency shall complete its obligation within one hundred and twenty (120) days. In the case where the required amendment cannot be completed within the given timeframe, an extension may be granted for not exceeding sixty (60) days provided that the Ombudsman has been informed. At the end of the extension period, should the relevant Government agency fail to complete the amendment without any reasonable ground of reasons, it shall be then regarded that the Head of the responsible Government agency intended not to perform in compliance with the law which seriously caused an injury to the public administration system. In this connection, the Ombudsman shall notify the National Anti-Corruption Commission to conduct an immediate action in accordance to its duties and powers. The report presented by the Ombudsman shall be regarded as an investigation case of the National Anti-Corruption Commission.

Should the Government agency falling to the case under paragraph one deem that the recommendation provided by the Ombudsman cannot be followed for implementation for any ground of reasons, it shall then be the responsibility of the Government agency to inform the Ombudsman within the timeframe under paragraph one and to seek consultation with the Ombudsman and other relevant Government agencies for settlement of the problem soonest possible. Should any settlement have been reached, the Government agency shall comply with the proposed settlement accordingly. In the case where a settlement has not been reached, the Ombudsman shall report to the Cabinet for consideration and order as deemed appropriate. The relevant Government agency shall comply with the resolution of the Cabinet. The provisions of paragraph one shall also be applied *mutatis mutandis* to the implementation of the settlement or the resolution of the Cabinet.

**Section 34.** In the case where the Ombudsman provides a recommendation to a concerned Government agency to eradicate or settle an injury or unfairness encountered by any person, the Head of the Government agency shall comply with the recommendation within thirty (30) days, except that the aforementioned the Head of the Government agency deems that compliance with of the given recommendation is against a law, rule, or order or working procedure for which the Ombudsman shall be informed prior to the end of the aforementioned thirty (30)-day duration. The Ombudsmen shall thereby seek joint consultation with the concerned Government agency for a settlement soonest and the provision of section 33 paragraph two shall be apply *mutatis mutandis*.

**Section 35.** In the case where it is apparent to the Ombudsman that a person encounters a grievance or unfair treatment due to a failure of a Government agency to completely be in compliance with Chapter V of the Duties of the State under the Constitution, the Ombudsman shall thereby submit a report with his or her recommendation to the Cabinet for a further consideration and order soonest. In this connection, the Ombudsman may submit the aforementioned report to the Parliament and publicize to the public.

**Section 36.** To perform duties and powers as authorized by this Organic Act, should the Ombudsman deem that a grievance or unfairness is of a specific case or it is under jurisdiction of a Government agency to settle such injury or to provide justice, the following performances shall be adopted:

(1) In the case where proceeding of the matter has already been provided by the law on submission of complaints or appeals, the Ombudsman shall refer the aforementioned matter to attention of the Government agency for further actions under its duties and powers;

(2) In the case where a complaint is against a personnel administration or disciplinary action committed by a State official, the Ombudsman shall refer the matter to the authorized person for the personnel administration or disciplinary action for further actions. The Ombudsman, nevertheless, may conduct a fact-finding investigation on such matter for the benefit of proposing a revision of a law, a rule or a working procedure which has caused such problems by using systematic approach;

(3) In the case where a failure to perform duties in compliance with the law or performance beyond duties and powers committed by a State official involves a corruption, the Ombudsman shall refer the matter to the National Anti-Corruption Commission,

the Public Sector Anti-Corruption Commission or the Auditor Council for further consideration and action, as the case may be.

**Section 37.** Under the enforcement of section 6, the Ombudsman shall not receive any case of the following characteristics for further consideration:

- (1) policy of the Cabinet, except that it begs the question of Constitutionality or leads to negligence of the Duties of the State under the Constitution;
- (2) the matter in which under consideration by the Court or that the Court has ruled, ordered, or made final judgment - except that the matter is beneficial to a study for proposing a revision of a law or a rule on administration of justice;
- (3) the matter in which is not under jurisdiction of the Ombudsman;
- (4) the matters in which under jurisdiction of other independent organs or having been accepted by them for action under their duties and powers, but it shall not exclude the power to be informed of results of the consideration given by the aforementioned organizations;
- (5) the complaint in which is submitted through dishonest rights and the consideration thereon is not beneficial to the public;
- (6) the matter in which the complainant has received a proper grievance or redressal;
- (7) the matter in which the Ombudsman has had conclusion, except that a new evidence or fact has been found and may change the consideration result;
- (8) other matters as determined by the Ombudsman.

In the case, later on, where it is apparent to the Ombudsman that a characteristic of the matter has fallen under paragraph one, the Ombudsman shall issue an order to cease the consideration.

**Section 38.** The Ombudsman shall report results of the performance under section 32 and section 36 or a rejection or a cease of the consideration in accordance with section 37 to the complainant or the concerned Government agency for acknowledgement. In the case where consideration of the matter has been rejected or ceased, there shall be a reason provided to the complaint for acknowledgement.

**Section 39.** Within one hundred and eighty (180) days as of the last day of the fiscal year, the Ombudsman shall submit the annual report to the Cabinet and the Parliament. The Ombudsman shall at least provide a summary of problems and obstacles occurred inclusive of the recommendations on performance of duties and publicize to the public. The Ombudsman shall also present the annual report to the Parliament.

The provisions under paragraph one shall not reduce the powers entitled by the Ombudsman to report a specific case to the Cabinet or the Parliament or to publicize to the public if it deems that such matter is urgent or beneficial for the public administration.

The report provided under paragraph one and paragraph two shall be in a summary without any specification of details which may unnecessarily disclose confidential information of any person or any Government agency.

### CHAPTER 3

#### The Office of the Ombudsman

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**Section 40.** There shall be the Office of the Ombudsman holding the status of a juristic person and being under the joint supervision, control and responsibility of the Ombudsmen.

Operations of the Office of the Ombudsman shall not be subject to the Labor Protection Law, the Labor Relations Law, the Social Security Law and the Compensation Law. Nevertheless, its officials and employees shall receive fringe benefits for not less than that provided in the Labor Protection Law, the Social Security Law and the Compensation Law.

**Section 41.** The Office of the Ombudsman shall have the following duties and powers:

- (1) to be responsible for administrative functions and all activities to facilitate achievement of duties and responsibilities of the Ombudsman as prescribed under the Constitution, this Organic Act and other laws;
- (2) to facilitate, assist, support and promote performances of duties of the Ombudsman;
- (3) to study, gather, analyze and support researches on performance of the Ombudsman;

(4) to proceed or support and promote coordination with other organizations, either public or private sector in order to disseminate knowledge and understanding to the public on performance of duties and powers of the Ombudsman;

(5) to perform other tasks as prescribed by law or as entrusted by the Ombudsman.

**Section 42.** In supervising the Office of the Ombudsman, the Ombudsman shall have the power to issue regulations or notifications for the following matters:

(1) to designate divisions under the Office with authorized duties and responsibilities;

(2) to determine job specifications, salary scales, special allowances and remunerations or entitlement to benefits for the Secretary-General, officials and employees of the Office;

(3) to conduct selection, recruitment, appointment as well as to determine ethical standards, capacity, performance assessment, discipline and disciplinary penalty, office vacating, petition and appeal against punishment for the Secretary-General and officials of the Office including the procedures and conditions to hire employees;

(4) to conduct financial and assets management, budgeting and office inventory;

(5) to provide other welfare and benefit programs including provident funds to the Secretary-General, officials and employees of the Office as well as criteria and conditions for entitled compensation at the completion of term of the Secretary-General;

(6) to determine a procedure and a principle to select the Secretary-General;

(7) to determine a specification of uniforms and rules on wearing uniforms for the Ombudsman, the Secretary-General, officials and employees of the Office;

(8) any other matter required for supervising or governing the performances of the Office or directing the Secretary-General, officials or employees of the Office or for supporting working efficiency of the aforementioned persons.

The execution under (1) shall be conducted with the concerns of efficiency, cost worthiness and agile actions.

The specifications under (2) shall be conducted with the concerns of cost of living and sufficiency for living in addition to different responsibilities assigned to officials and employees in each section and level.

To issue the regulations for personnel administration in paragraph one, the Ombudsman shall proceed with consideration of fair practices, moral and spirit of all personnel. An independent group of persons may be set up to supervise, monitor or make consideration on relevant petitions or appeals.

**Section 43.** The Ombudsman shall issue the provision of ethics to regulate officials and employees of the Office. The aforementioned provision shall determine levels of penalties in case of violation against or failure to perform in compliance with the provision.

**Section 44.** There shall be one Secretary-General of the Office of the Ombudsman, appointed by the Chief Ombudsman in accordance with resolution of the Ombudsmen to supervise officials and employees and to be responsible for operation of the Office and to directly report to the Ombudsman. The Ombudsmen may have a resolution to appoint the Deputy Secretary-Generals to assist in supervising and performing duties under the Secretary-General.

In the case where there is a joint meeting of the Ombudsman, the Secretary-General shall perform as the secretariat of such meeting.

**Section 45.** The Secretary-General shall possess proven honesty and integrity. The person must be of Thai nationality; have attained not more than sixty-five (65) years of age; and have qualifications, experiences and expertise which are beneficial to the performance of duties of the Office under the regulations prescribed by the Ombudsmen.

The Secretary-General shall hold office for a term of five (5) years, commencing at the date of appointment and may be re-appointed, but shall not serve in the Office more than two consecutive terms.

**Section 46.** Apart from the vacation of office upon the expiration of term, the Secretary-General shall cease to hold office in the following cases:

- (1) death;
- (2) resignation;
- (3) disqualified or being under a prohibition under section 45;
- (4) not being able to perform duties full time;
- (5) being subject to termination by the resolution of the Ombudsmen due to detrimental behaviors or improper conducts or characteristics to serve as the Secretary-General;
- (6) specified conditions under the hiring contract.

**Section 47.** The Secretary-General shall have duties and powers to supervise general operation of the Office and to ensure that it is in accordance with the laws, regulations, notifications and resolutions laid down by the Ombudsmen. The Secretary-General shall also have the following duties and powers:

(1) to recruit, appoint, promote, reduce salary or wage or take disciplinary actions against staff of the Office, including to dismiss officials and employees from the post as provided by the regulations of the Ombudsman;

(2) to determine regulations on operations of the Office as long as they are not against regulation, notification or resolution by the Ombudsmen;

(3) to have duties and powers as prescribed in this Organic Act or by other laws or as laid down by the Ombudsman.

Issuance of a regulation in accordance with (2) shall not cause any unnecessary procedure leading to delay or inefficiency in working performance.

**Section 48.** The Secretary-General shall represent the Office of the Ombudsman when dealing with any external person. In this connection, the Secretary-General may designate any person to perform on his or her behalf in compliance with the regulations laid down by the Ombudsman.

To perform duties as prescribed under paragraph one, should there be any important business relating to the Office budgeting or any other business that affects a performance of the Ombudsman as specified by the Ombudsman, the Secretary-General shall firstly seek approval from the Ombudsman.

**Section 49.** The Ombudsman shall propose budgeting for annual expenses for financial allocation as the subsidy for the Ombudsman and the Office in the draft Annual Budget Appropriations Bill or the draft Supplemental Appropriation Bill as the case may be. Submission of the aforementioned budgeting proposal shall also require consideration by the Ombudsman in accordance with the audit results conducted by the State Audit Office under section 54 paragraph two consisting of the following provisions:

In the case where the Ombudsman deems that the allocated budgeting for annual expenses is not sufficient, he or she shall make direct proposal to request an amendment to the Budgetary Committee of the House of Representatives; and

In proposing the expenditure budgeting in accordance with paragraph one and paragraph two, the Ombudsman shall inform the Cabinet for acknowledgement of his or her income and possessed assets.

**Section 50.** When there has been an enforcement of the Annual Budget Appropriations Bill or the Supplemental Appropriation Bills pursuant to section 49, the Office shall prepare the budgeting for annual expenses to seek approval by the Ombudsman and shall publicize it to the public.

Expenditures made by the Office shall be in line with paragraph one, except that it is approved by the Ombudsman in a specific case.

To withdraw the allocated budget, the Office shall submit withdrawal request details to the Comptroller General's Department with specification of the amount of budget required for a quarter of three months. The Comptroller General's Department shall request for the payment to the Office within three days prior to the beginning of the new quarter. In the case whenever it is necessary for the Office to cover an extra expenditure in any quarter, the Department of Comptroller General shall make payment in accordance with that particular request of the Office.

**Section 51.** Income and assets available for the performance of duties of the Office shall comprise of:

- (1) subsidies received under section 49;
- (2) incomes from fees or assets of the Office;
- (3) assets donated to the Office;
- (4) interests or benefits gained from money or assets of the Office;
- (5) other income as specified by laws.

To obtain assets prescribed in (3), impartiality in the performance of duties shall be observed. In the case where the Ombudsman deems that obtaining the aforementioned assets may affect impartiality in the performance of duties of the Office, he or she may issue an order to reject or to return the assets to the donor.

**Section 52.** Income of the Office shall not be returned to the Ministry of Finance in accordance with the law on Treasury Balance, the law on Budgetary Procedure or other laws.

The Office shall present the report on revenues and expenses in accordance with paragraph one for submission to the Parliament and the Cabinet at the end of every financial year.

Properties under ownership of the Office regardless of obtaining by purchasing or from donation shall be the State Property for which the Office shall have the power to preserve, exploit or acquire benefits.



**Section 53.** Assets belonging to the Office shall not be liable to execution whereby any person shall refer to prescription to fight for the relevant case.

**Section 54.** The Office shall prepare a balance sheet, financial budget and accounting for submitting to the internal auditor within ninety (90) days as of the end of the fiscal year.

The Office of the State Audit shall be responsible for auditing all verifying accounts and financial documents of the Office inclusive of conducting assessment of financial expenditures and assets. The Office of the State Audit shall also clarify how the aforementioned expenditures have reached the objectives in an economical manner, target achievement, effectiveness, valuable outcomes and worthiness. Accordingly, the Office of the State Audit shall submit the audit report to the Parliament and the Cabinet without delay.

## CHAPTER 4

### Penalties

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**Section 55.** Any person fails to comply with orders under section 25 (1) without any reasonable ground of reasons or violates section 28 shall be liable to imprisonment for a term of not exceeding six (6) months or to a fine of not exceeding ten thousand (10,000) baht or to both.

### Transitory Provisions

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**Section 56.** The Chief Ombudsman and the Ombudsman holding office prior to the promulgation date of this Organic Act shall continue on in their positions until the completion of term as stipulated in the Organic Act on Ombudsman B.E. 2552 (2009); or shall vacate office pursuant to section 18; except in the case as specified in (3) for being disqualified under Section (8) which shall not be allowed for enforcement.

**Section 57.** Within twenty (20) days as of the date this Organic Act comes into force, the Constitutional Court and the independent organs which are not the Ombudsman shall appoint and submit a list of representatives to the Secretariat of the Senate for inclusion into the Selection Committee pursuant to section 11.

Should the duration under paragraph one is over or in the case where there is not the opposition leader in the House of Representatives, the Selection Committee shall, thereby, carry on to continue its duties and shall be recognized for the numbers of existing members of the Committee. Nevertheless, neither the Constitutional Court nor the independent organs shall be deprived for the right to appoint any representative later on. The aforementioned appointment shall not affect the previous activities carried out by the Selection Committee.

Within thirty (30) days after the duration specified in paragraph one, the Selection Committee shall consider and make a decision on who shall be recognized as the Chief Ombudsman and the Ombudsman holding office prior to the promulgation date of this Organic Act, and shall hold office in accordance with section 8 (1) or (2) respectively.

Decision given by the Selection Committee shall be final.

**Section 58.** In the case where it is necessary to hold a selection of the Ombudsman to replace the vacant position, the Selection Committee under section 57 shall select a qualified person to serve as the Ombudsman to fill the vacant number as required within forty-five (45) days as of the date of decision made in accordance with section 57.

In the case where there is not the Chief Ombudsman, after the approval by the Senate has been granted, the selected person approved by the Senate and the existing Ombudsmen under section 56 shall jointly convene to select one person among themselves to serve as the Chief Ombudsman and shall inform the President of the Senate for further actions.

**Section 59.** The Secretary-General of the Office of the Ombudsman holding office prior to the promulgation date of this Organic Act and possessing the specified qualifications without characteristics under the prohibition prescribed by this Organic Act shall continue thereby in the office. The Chief Ombudsman shall accordingly proceed with the hiring contract for a duration of not exceeding the term prescribed by the Office of the Ombudsman Act B.E. 2552 (2009).

In the case where there is any issue concerning the qualifications and characteristics under the prohibition possessed by the Secretary-General of the Office of the Ombudsman under paragraph one, the matter shall be determined by a resolution of the Ombudsmen.

**Section 60.** All regulations, notifications, orders or resolutions adopted by the Ombudsmen as prescribed by the Organic Act on Ombudsman B.E. 2552 (2009) and the Organic Act on the Office of the Ombudsman B.E. 2552 (2009) which are under enforcement prior to the date of promulgation of this Organic Act shall be continued in force as long as they do not beg the question of this Organic Act until there is an enactment or an issuance of a rule, regulation, notification or order under this Organic Act.

**Section 61.** The Office of the Ombudsman under the Office of the Ombudsman Act B.E. 2552 (2009) shall be the Office of the Ombudsman under this Organic Act.

Any right, duty and obligation for which the Office of the Ombudsman under the Office of the Ombudsmen Act B.E. 2552 (2009) has engaged with any person prior to the promulgation date of this Organic Act shall be transferred to the Office of the Ombudsman under this Organic Act.

**Section 62.** Officials and employees of the Office of the Ombudsman under the Office of the Ombudsmen Act B.E. 2552 (2009) shall be transferred as personnel of the Office of the Ombudsman under this Organic Act; whereby any entitled rights and other benefits of the aforementioned officials and employees under the Office of the Ombudsmen Act B.E. 2552 (2009) shall be their continual entitlement under this Organic Act, except that there is another regulation under section 42 (2) prescribes for other entitlements.

**Section 63.** Should a performance relating to any complaint or procedure or under the duties and powers of the Ombudsman or the Office of the Ombudsman as prescribed by the Organic Act on Ombudsmen B.E. 2552 (2009) and the Office of the Ombudsman Act B.E. 2552 (2009) which had been proceeded prior to the promulgation date of this Organic Act and had been conducted under the duties and powers of the Ombudsman under this Organic Act, it shall be regarded as the performance of duties under this Organic Act whereas further performances shall be in accordance with the provisions as prescribed by this Organic Act.

Countersigned by  
General Prayut Chan-o-cha  
Prime Minister

**Remarks:** The proclamation for the promulgation of this Organic Act is whereas section 130 (5) and section 267 of the Constitution of the Kingdom of Thailand requiring the issuance of the Organic Act on Ombudsman prescribing for selection, duties and powers including his or her performance of duties as approaches to acquire information, opinions, documents and evidences required to effectively achieve the objectives. Such performance of duties is necessary to either affect or lead to limitation against certain rights and freedom of an individual and shall be conducted only as necessary for performing duties. It is, therefore, necessary that this Organic Act be enacted.

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