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ORGANIC ACT ON THE NATIONAL HUMAN RIGHTS COMMISSION, B.E. 2560 (2017)

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 10th day of December, B.E. 2560 (2017);

Being the 2nd Year of the Present Reign.

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

Whereas it is expedient to have the Organic Act on the National Human Rights Commission;

Whereas this Organic 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;

Rationale and necessity for the restriction of rights and liberties of persons under this Organic Act are to allow the National Human Rights Commission to effectively perform its duties for the benefits of the public, and the enactment of this Organic Act is already consistent with the conditions prescribed 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 Legislative Assembly performing on behalf of the National Assembly as follows:

Section 1. This Organic Act is called the “Organic Act on the National Human Rights Commission, 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 The following shall be repealed:

- (1) The National Human Rights Commission Act, B.E. 2542 (1999);
- (2) The National Human Rights Commission Uniform Act, B.E. 2547 (2004);
- (3) The Order of the Head of the National Council for Peace and Order, No. 23/2560, on measures to solve the problem of continuity of persons holding positions in

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independent organs under the Constitution, dated 5 April B.E. 2560 (2017), only in the parts pertinent to the National Human Rights Commission and the National Human Rights Commissioners.

Section 4. In this Organic Act:

"Human rights" means human dignity, rights, liberties and equality of the person, which are all guaranteed or protected under the Constitution, the laws or treaties which Thailand is party to and has an obligation to comply with;

"Commission" means the National Human Rights Commission;

"Commissioner" means the National Human Rights Commissioner, including the Chairperson of the National Human Rights Commission;

"Office" means Office of the National Human Rights Commission;

"Secretary-General" means the Secretary-General of the National Human Rights Commission;

"Competent officials" means the Secretary-General, civil officials, government employees and employees of the Office, and state officials appointed by the Commission to take actions under this Organic Act.

Section 5. Unless this Organic Act provides otherwise, in any matter prescribing for the notification, submission, or delivery of a letter or document to any specific person, if such notification, submission, or delivery of a letter or a document is made to such person at the domicile or address as in the registration evidence under the law on civil registration, the notification, submission, or delivery shall be deemed lawful under this Organic Act. In case this Organic Act provides for announcement or dissemination to the public, announcement or dissemination on information technology system or system or any other means that is conveniently accessible by the public shall be deemed lawful under this Organic Act.

In case this Organic Act empowers the Commission or the Secretary-General to prescribe or issue any order, if no specific method is prescribed, the Commission or the Secretary-General shall proceed accordingly in a notification, regulation, rule, or order, as the case may be, and if such notification, regulation, rule, or order applies to the public, it shall be published in the Government Gazette, and processed in accordance with paragraph one. However, if any notification, regulation, rule, or order specifically prescribes a procedure, the Commission or the Secretary-General shall clearly prescribe the time limit for each step.

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Section 6. In performing its duties, the Commission has to provide cooperation and assistance to all independent organs. In case the Commission is of an opinion that a person has committed an illegal act under the duties and powers of other independent organs, the Commission shall notify the relevant independent organ in writing in order that the agency shall proceed in accordance with its respective duties and powers without delay.

In case where the Commission is of an opinion that any matter under the duties and powers of the National Human Rights Commission may also be the offence under duties and powers of other independent organs, the Commission shall consult with other relevant independent organs in order to prescribe a guideline for the collaboration so that each independent organ shall perform its duties effectively and without redundant.

For the purpose of the implementation under paragraph two, the Chairperson of the National Human Rights Commission shall have the power to invite the Presidents/Chairpersons of other independent organs for a meeting to consult and set common guidelines prescription. All independent organs shall comply with such guideline.

Section 7. The Chairperson of the National Human Rights Commission shall have charge and control of the execution of this Organic Act.

CHAPTER 1

THE NATIONAL HUMAN RIGHTS COMMISSION

Section 8. The National Human Rights Commission shall consist of seven Commissioners appointed by the King upon the advice of the Senate, from persons who are politically impartial, and have apparent knowledge and experiences in the protection of rights and liberties of the people for no less than ten years in the following fields, with at least one person, but not more than two persons, in each field:

- (1) having continuous working experiences in the field of human rights;
- (2) having knowledge and expertise in teaching or conducting research relating to human rights at higher education level;
- (3) having knowledge and expertise on both domestic and international laws pertinent to human rights that would benefit the performance of the Commission's duties;
- (4) having knowledge and experiences in public administration relating to the promotion and protection of human rights;

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(5) having apparent knowledge and experiences in the fields of philosophy, culture, tradition and way of life of Thai people that would benefit the promotion and protection of human rights.

The period of time under paragraph one shall be counted up to the date of application or the date of nomination as the case may be.

Section 9. In addition to the qualifications specified under Section 8, a Commissioner shall also possess the following qualifications:

- (1) being of Thai nationality by birth;
- (2) being not less than forty-five years but not more than seventy years of age;
- (3) having graduated with a degree not lower than a Bachelor or its equivalent;
- (4) having manifested evident integrity;
- (5) being sufficiently in good health to perform duties efficiently.

Section 10. A Commissioner must not be under any of the prohibitions as follows:

- (1) being or having been a judge of the Constitutional Court or holding a position in any Independent Organ;
- (2) being addicted to narcotics drugs;
- (3) being bankrupt or used to be bankrupt due to corruption;
- (4) being the owner of, or a shareholder in any newspaper or media business;
- (5) being a Buddhist monk, Buddhist novice, ascetic or priest;
- (6) being under revocation of voting rights, regardless of the finality of the case;
- (7) being of unsound mind or of mental infirmity;
- (8) being under temporary suspension of the right to stand for election, or being deprived of the right to stand for election;
- (9) having been sentenced to imprisonment and being detained by a court warrant;
- (10) having been dismissed from official service, a state agency or a state enterprise on the grounds of corruption in the course of duty or being deemed as having committed corruption or misconduct in the official service;
- (11) having been ordered by a final judgment or court order for assets to become properties of the state on the grounds of unusual wealth, or having been sentenced by a final judgment to imprisonment on the grounds of committing an offence under anti-corruption law;
- (12) having been convicted by a final judgment for committing: a malfeasance in public office or in judicial office; an offence under the law on an offence corruptly

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committed against property under the Criminal Code; an offence under the law on loans of money amounting to public fraud; an offence of being a producer, importer, exporter or trader under Narcotics Act; an offence of being a host or a proprietor under Gambling Act; an offence under the Prevention and Suppression of Human Trafficking Act; or an offence of money laundering under Anti-Money Laundering Act;

- (13) having been sentenced by a final judgment for committing a corrupt practices in an election;
- (14) being currently under the prohibition from holding a political position;
- (15) having been removed from office by a decision of the Constitution Court that there was a proposal, submission of a motion or commission of any act, which resulted in direct or indirect involvement by Members of the House of Representatives, Senators or members of a committee in the use of the appropriations;
- (16) having been removed from office by a decision of the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions for serious violation or failure to comply with ethical standards, or displaying unusual wealth, or commission of corruption, or deliberate performance of duties or exercise of powers in contrary to the provisions of the Constitution or laws;
- (17) having been imprisoned by a final judgment of the court 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 assembly or a local administrator at any time during the period of ten years before application for selection;
- (19) being or having been a member or holder of other position in a political party at any time during the period of ten years before application for selection;
- (20) being ~~an~~ a civil official holding a permanent position or regularly receiving salary;
- (21) being a staff member or employee of a state agency, state enterprise or local government organization or a director or adviser of a state agency or state enterprise;
- (22) holding any position in a partnership, a company or an organization operating business with a purpose to making and sharing profit or income, or being an employee of any person;
- (23) being in an independent professional;
- (24) being involved in circumstances which constitutes a serious violation or failure to comply with ethical standards;

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(25) being a person with record of explicit human rights violation.

Section 11. In case where a suitable person is to be selected for appointment as a Commissioner, it shall be the duties and powers of the Selection Committee which consists of:

- (1) President of the Supreme Court as Chairperson;
- (2) President of the House of Representatives and Leader of the Opposition in the House of Representatives as members;
- (3) President of the Supreme Administrative Court as a member;
- (4) three persons selected by representatives of private organizations in the field of human rights among themselves, with one representative for each organization, as members;
- (5) representative of the Lawyers' Council of Thailand, one person selected by representatives of professional councils relating to medicine and public health among themselves, and one person selected by representatives of professional councils relating to mass media among themselves, as members;
- (6) permanent lecturer or former permanent lecturer in a higher education institute who teaches or conducts research or works in the field of human rights for no less than ten years, selected by the resolution of the members under (1), (2), (3), (4) and (5) with a two-thirds vote, as a member;

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

Non-Governmental organizations in the field of human rights under (4) and professional councils under (5) shall be organizations or professional councils registered with the Office according to the rules, procedures, requirements for registration, and selection among themselves as prescribed by the Commission's regulation, which shall specify that the selection among themselves shall be completed within forty-five days from the date when a suitable person for appointment as a Commissioner is to be selected.

The procedures to select members of the Selection Committee under (6) shall be as mutually agreed upon by members of the Selection Committee under (1), (2), (3), (4) and (5). Upon the lapse of time period in paragraph three and there being no persons holding the positions of members of the Selection Committee under (2) or (5) or such positions not having been completely filled for whatever reason, provided that there is at least one member of the Selection Committee under (4), the existing members of the Selection Committee shall agree upon and proceed with the selection of member of the Selection Committee under (6), which

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shall be completed within thirty days from the date after the lapse of time period in paragraph three.

Upon the lapse of time period to select member of the Selection Committee under (6) and there being no persons holding the positions of members of the Selection Committee under (2), (5) or (6) or such positions not having been completely filled for whatever reason, provided that there is at least one member of the Selection Committee under (4), the existing Selection Committee may perform its duties and exercise its powers for the time being. In such case, the Selection Committee shall be deemed to consist of the existing members.

Section 12. The members of the Selection Committee under Section 11 (4), (5) and (6) shall remain in position until the day before the date when the new Commissioners are to be selected, the new selection or additional selection under paragraph five of Section 13, paragraphs two and three of Section 14 and Section 15 being excluded. Members of the Selection Committee shall vacate the office upon death, resignation, being disqualified, or being under any prohibition.

Any person appointed to be member of the Selection Committee under paragraph one shall not concurrently be a member of the Selection Committee for the Constitution Court or any other independent organ.

In the case where a position of member of the Selection Committee is vacated, a new member of the Selection Committee shall be promptly selected. During the period when the new member of the Selection Committee has not been selected, should there still be five members or more, the Selection Committee shall consist of the existing members.

The Chairperson of the Selection Committee and the members of the Selection Committee shall be competent officials under the Criminal Code

Section 13. In the selection process, the Selection Committee shall perform its duties with fairness and without discrimination and any prejudice. The selection shall be carried out at least through the following process:

(1) An announcement shall be made so that the public is generally informed about the process of selecting the Commissioners. At least, the number of vacancies, the rules, procedures and the period of time to be used at every stage of the selection shall be indicated. For the benefits of the selection, the Selection Committee shall interview or have the candidates express their opinions on matters relating to the duties and powers of the Commission or use any other appropriate methods to complement its consideration.

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(2) The selection of Commissioners shall be done by making vacancy announcement or nominating generally suitable persons to be selected. The nomination shall be done openly and with the consent of the nominated persons. The names of candidates for the selection shall be announced to the general public to obtain information regarding their suitability, which shall be considered in the selection.

(3) In the selection process, the Selection Committee shall deliberate in order to select persons with high responsibility, courage in performing duties and ethical behaviors that can be a role model to society, and appropriate attitude to perform the duties successfully. Due regard shall be given to the participation of both women and men and to the promotion of a plural society. The Selection Committee shall also transmit the information used in making the selection to the Senate for its consideration.

The period of time for paragraph one shall be determined so as to provide sufficient opportunity for any person to apply or nominate a person for selection and allow the Selection Committee to consider selecting the persons to hold the positions in an appropriate and efficient manner.

An open voting shall be used for the selection and each member of the Selection Committee shall record his or her reasons for selection.

A selected person must receive the votes of at least two-thirds of the total number of existing members of the Selection Committee.

If no person has received votes under paragraph three, or there is, but the number is not yet filled, there shall be re-vote for person not receiving two-thirds of the votes. In the case where the latter vote does not fill the number of vacancies, there shall be a re-selection for the vacant positions.

Section 14. The selected persons for appointment as Commissioners shall receive an approval from the Senate with votes of not less than one-half of the total number of existing members of the Senate.

In case the Senate disapproves any selected person, there shall be a reselection in lieu and thereafter submission to the Senate for approval. The person who was disapproved by the Senate shall not be eligible for the re-selection.

Upon approval by the Senate in case the Chairperson of the Commission also vacates the position, the newly approved persons shall confer with the remaining Commissioners, if any, to elect among themselves a person to be the Chairperson of the Commission. The result of the election shall be reported to the President of the Senate for acknowledgement. In case the number of selected persons approved by the Senate still does not fill the vacant positions but,

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when combined with the number of Commissioners remaining in position, if any, reaches five persons or more, a meeting shall be convened to elect the Chairperson of the Commission. Upon appointment by the King, the Commission may perform its duties and powers for the time being. During such period, the Commission shall be deemed to consist of the existing Commissioners and additional selection is to be promptly conducted to obtain the required number.

The President of the Senate shall tender the matter to the King for appointment of the Chairperson of the Commission and the Commissioners and countersign the Royal Command.

Section 15. The persons approved by the Senate to be Commissioners who have not yet vacated their positions under Section 10 (20), (21) or (22), or still being engaged in a profession under Section 10 (23), must present an evidence of resignation or termination from engaging in such profession to the President of the Senate within a period as provided by the President of the Senate, which must be the period before the President of the Senate tenders the matter to the King for appointment of Commissioners. In case of failure to present evidence within such period, it shall be deemed that such person has waived his or her rights and a re-selection shall be initiated.

Section 16. In case a question pertaining to the qualifications or prohibitions of an applicant or a selected person arises, the Selection Committee shall have duties and powers to deliberate on the matter. The decision of the Selection Committee shall be final.

The motion for deliberation of the Selection Committee under paragraph one shall be done under the rules and procedures as prescribed by the Selection Committee.

The decision shall be made by open voting.

The provisions of paragraph one, paragraph two and three shall apply *mutatis mutandis* to the case where a question pertaining to the qualifications and prohibitions of the Selection Committee arises. The Selection Committee member who is accused of disqualification or being under prohibition may not be present at the meeting during the deliberation and decision making.

Section 17. The Chairperson and members of the Selection Committee shall receive meeting allowance and other remunerations as prescribed by the President of the Senate. Meeting allowance is to be paid for each meeting that they attend at the rate of not lower than half of what the Chairperson or members of the Parliamentary Officials Commission receive per month by the President or Commissioner of the Parliamentary Officials Commission under the law on rules of parliamentary officials as the case may be.

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Section 18. The filing of case relating to the acquirement, qualifications, prohibitions or vacation from the position of a member of the Selection Committee to the Administrative Court shall not be grounds for mitigating acts done in accordance with the decision of the Selection Committee, and the provisions on temporary remedial measures or means according to the law on the establishment of the Administrative Court and the Administrative Court procedures shall not apply in such case.

Section 19. A Commissioner shall hold office for a term of seven years as from the date of appointment by the King, and shall serve for only one term.

In the case where a Commissioner vacates office upon expiration of the term or under section 20 (4), the Commissioner who vacates office shall continue to perform the duties until a new Commissioner is appointed.

Section 20. In addition to the vacation of office upon expiration of the term, a Commissioner vacates office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified under Section 8 or Section 9 or being under any of the prohibitions under Section 10;
- (4) vacation of office under paragraph three of Section 40.

Upon vacation of the Chairperson's position, he or she shall also vacate the Commissioner's position.

In case a question whether a Commissioner has vacated office under (2), (3) or (4), the Selection Committee shall have the duties and powers to deliberate on the matter. The decision of the Selection Committee shall be final.

In case there is no person holding the Chairperson's position or the Chairperson is unable to perform the duties, the remaining Commissioners shall elect one person among themselves to perform the duties of the Chairperson.

During the period in which a Commissioner vacates office prior to the expiration of the term and the vacancy has not yet been appointed, the remaining Commissioners shall continue to perform the duties. If there are fewer than four Commissioners remaining, they shall perform only necessary and unavoidable tasks.

In case a Commissioner vacates office upon expiration of term, the selection of a new Commissioner shall be conducted within one hundred and fifty days before the date of expiration of the term. If a Commissioner vacates office upon other grounds except the

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expiration of term, the selection of a new Commissioner shall be conducted within one hundred and fifty days from the date when the office is vacated.

Section 21. Upon request with reasonable evidence for a Commissioner's vacation of office under Section 20 (2), (3) or (4), the Secretariat of the Senate shall submit the matter to the Chairperson of the Selection Committee within five days from the date of receiving the request, and the Selection Committee shall expeditiously render a decision. The decision shall be made by a majority vote in an open voting. In case of tie vote, the Chairperson of the Selection Committee shall have an additional vote as a casting vote.

The evidence under paragraph one shall be as prescribed by the Selection Committee.

Section 22. In case a Commissioner has to halt the performance due to being accused, and the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions has accepted the case, if there is less than one-half of the Commissioners remaining, the President of the Supreme Court and the President of the Supreme Administrative Court shall jointly appoint a person with the same qualifications and not being under prohibitions as temporary Commissioner to fill the vacant position until all the seven positions are filled. The appointed person shall perform the duties as a Commissioner until the Commissioner he or she replaces shall be able to perform the duties, or until a new Commissioner is appointed.

Section 23. Subject to paragraph five of Section 20, the quorum of a meeting of the Commission requires the presence of not less than one-half of the total number of existing Commissioners. Absence of any Commissioner shall be recorded in the meeting minutes.

A resolution of the Commission shall be passed by a majority of votes. The presiding Chairperson and the Commissioners attending the meeting must cast a vote to reach a resolution, each Commissioner shall have one vote. In case of vote-tie, the presiding Commissioner shall have an additional vote as a casting vote.

An absence from or failure to attend the meeting under paragraph two, only when it concerns the consideration of matters under Section 26 (2) or (4) without reasonable grounds, shall be deemed a deliberate violation of or failure to comply with the ethical standards. This shall not prejudice the right to resign before the vote.

The Chairperson shall preside over the meeting. In case of the Chairperson's absence, the attending Commissioners shall elect one among themselves to preside over such meeting in accordance with the rules and procedures as prescribed by the Commission.

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Section 24. While in office, a Commissioner must not receive any other money, assets or benefits from:

- (1) any person not being of Thai nationality;
- (2) any juristic person under an international law in which conducting a business or undertaking or registering a branch in or outside the Kingdom;
- (3) any juristic person registered in the Kingdom with more than 49 percent of the capital held by persons or shareholders of non-Thai nationality according to the shareholders' registration in the case of a public company limited, with shares held by unknown holders or by representatives of unknown holders deemed to be held by persons of non-Thai nationality;
- (4) any organization or any juristic person having a major revenue or financial support from foreign countries.

The provisions of paragraph one shall not apply in the case where the Commissioner is invited to attend a meeting or seminar abroad with financial support from an international organization or a foreign government agency, pending approval by the Commission.

Section 25. A Commissioner shall perform duties on a full-time basis and the performance of duties and exercise of power of the Commission shall be with integrity, fairness, courage, and without any prejudice in exercising discretion, and in compliance with ethical standards, and have regard for the well-being of the Thai people and common interest of the country. During the office term, the Commissioner shall not take academic or training course of any curricular or project, except it is a curricular or project organized by the Commission for the Commissioners.

In performing the duties of the Commission, Thai tradition, culture and the context of Thai society must also be considered.

Section 26. The Commission shall have the duties and powers as follows:

- (1) to examine and report correct facts in all cases of human rights violation without delay and recommend appropriate measures or guidelines for the prevention or redress of human rights violation, including the provision of remedy to the person affected by the violation of human rights, to related state or private agencies;
- (2) to prepare a report on assessment of the human rights situation of the country for submission to the National Assembly and Council of Ministers, and for dissemination to the public;
- (3) to recommend measures or guidelines for the promotion and protection of human rights to the National Assembly, Council of Ministers and related agencies, including amendment

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and improvement of laws, rules, regulations or orders so that they conform with human rights principles;

(4) to explain and report correct facts without delay in case where there is an incorrect or unfair report on the human rights situation in Thailand;

(5) to raise awareness of all sectors of society on the importance of human rights.

Section 27. For the benefits of performing the duties according to Section 26, the Commission shall have additional duties and powers as follows;

(1) to promote, support and cooperate with individuals, state and private agencies in a study, research and dissemination of knowledge and capacity development in the field of human rights, including the provision of assistance or remedy to persons affected by human rights violation;

(2) to promote and disseminate knowledge and information among children, youth and the general public in order to raise awareness about equality of persons on the basis of equal human rights, and respect for the rights of other persons who may be different in terms of culture, tradition, way of life and religious belief;

(3) to promote cooperation and coordination between state agencies, private organizations and international organizations on matters relating to human rights;

(4) to render a recommendation to the Council of Ministers on Thailand's ratification of or accession to treaties relating to the promotion and protection of human rights and their implementation;

(5) to issue regulations or proclamation to implement this Organic Act;

(6) to exercise other duties and powers as provided for in this Organic Act or other laws.

Section 28. In the performance of duties under this Organic Act, the Commission shall have a collective responsibility for achieving the goals of promoting and protecting human rights, taking into consideration the efficient and expeditious manner in which the work is carried out. In accordance with the resolution of the Commission, unless there is a provision or assigned by the Commission for each commissioner to have the power to do so. A consultation shall be held in the exercising of such power. This shall be done in accordance with the rules and requirements as prescribed by the Commission.

In the performance of duties under paragraph one, the Commission may entrust a competent official to undertake preliminary examination and gathering of facts on its behalf.

Section 29. In the case where it is necessary to obtain information or undertake a study on any matter, the Commission shall request the Office to employ a person or institution having

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the knowledge and expertise in such matter to perform the task as necessary. The Commission may appoint a sub-commission in an unavoidable circumstance to perform the task on its behalf, taking into consideration its cost-effectiveness and efficiency. Prior to such employment or appointment, the Commission shall clearly determine the goals, outcomes and time frame for the performance of the task.

The rules and procedures and the remuneration for such person or institution, or the appointment, vacating of office, remuneration and other emoluments, and methods of work of members of the sub-commission shall be as prescribed by the Commission.

Section 30. In the performance of duties under this Organic Act, the Commissioner and competent official shall be the officials under the Penal Code.

The Commissioner shall not be subject to civil, criminal, or administrative liabilities for the exercise of duties and powers under this Organic Act in good faith.

Section 31. The salary, position emoluments and other benefits of the Commissioner shall be in accordance with the law on such matters and the Commissioner shall receive for each meeting the same allowance as that of a committee member under the Royal Decree on Meeting Allowance for Committee Members.

The Commission shall receive a monthly reception allowance at a rate as prescribed by the Ministry of Finance, which shall not be less than the position emoluments of the Chairperson or Commissioner as the case may be.

Section 32. A Commissioner holding position for not less than one year is entitled to emolument a one-time gratuity upon vacation of office for the following reasons;

- (1) expiration of the term;
- (2) death;
- (3) resignation;
- (4) being seventy years of age.

The amount of gratuity shall be multiplying the salary under Section 31 by the number of years of holding the position. Fraction of a year being counted as one year.

The right to a gratuity is a personal right and shall not be transferred, unless in case of death, the gratuity shall be transferred to the spouse and the heir(s) as informed. If such death is caused by the performance of duties or in the course of performance, he or she shall be entitled to two times of the gratuity as prescribed in paragraph two.

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CHAPTER 2

PERFORMING OF DUTIES OF THE COMMISSION

Section 33. In performing the duties under this Organic Act, the Commission shall proceed with an aim of systematically promoting and protecting human rights and to constantly observing and monitoring human rights incidents or situations in the country.

In the performance of duties under paragraph one, the Commission shall coordinate with or seek cooperation from state agencies, private organizations and civil society sector.

Section 34. When it appears to the Commission in any manner whatsoever, regardless of an informant or petitioner, that a human rights violation has occurred, the Commission shall examine the matter in order to obtain accurate facts and establish truth without delay. It shall study and analyze the causes of such violation, with a view to solving the problem and preventing recurrence of similar human rights violation.

Any person affected by or witnessing an act of human rights violation shall have the right to inform or submit a petition to the Commission according to the rules and procedures prescribed by the Commission. Such rules and procedures shall not create unnecessary steps and shall aim to facilitate the presentation of information to the Commission, which shall be done in a manner that does not force the informant or petitioner to reveal his or her identity unless in the case where the interests of the petitioner is involved. In such case, the petitioner's identity is needed for contact in order to obtain information or inform him or her of the results of actions taken.

In taking actions under paragraph one, where there is an informant or petitioner, the Commission shall notify such informant or petitioner of its consideration, unless the contact address is not given.

Section 35. In conducting an examination to obtain facts under Section 34, the Commission may proceed in any manner that does not create unnecessary steps or burden for relevant person or state agency. It shall give the petitioner and concerned state officials an opportunity to explain and support their explanation with evidence as appropriate.

For the benefit of performing the duty according to paragraph one, the Commission shall have the following powers, which shall be exercised only insofar as it is necessary:

(1) To issue a letter of request a state agency, a civil official, government employee or employee of the agency, or any person involved, to provide a written statement of fact or opinion relating to the performance of its duties, to give oral statement, or to submit any

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related object, document, proof or other evidence for consideration within a period of time as determined by the Commission. In case where any agency or person does not comply with the Commission's request, the Commission may issue an order that agency or person to do so;

(2) To enter into a dwelling or any place to examine facts or gather relevant evidence. In the case that such dwelling or place is not in possession of a state agency and the owner or occupant does not give his or her consent, entering can only be done with a Court order;

(3) To issue a regulation prescribing the rules on expenditure, allowance and travel expenses for a person presenting an opinion or oral statement and for the performance of duties of the competent official.

In exercising the powers under (1) or (2), the Commission may assign a Commissioner or a competent official to perform the tasks on its behalf, except for the order issued under (1) in which the tasks shall be assigned only to a Commissioner. This shall be done according to a regulation as prescribed by the Commission.

In exercising the powers under (2) shall be done in the presence of the occupant or caretaker of the place or any concerned person. In case such person cannot be found, it shall be done in the presence of at least two other persons requested to attend as witnesses. In this regard, the occupant or caretaker of the place or any concerned person shall render cooperation to facilitate such performance of duty.

Section 36. In conducting the examination, if the Commission deems that the human rights violation is an individual case, it shall notify the concerned state or private agency and request it to redress such human rights violation in accordance with its duties and powers within a period of time prescribed by the Commission, which shall not be less than sixty days. The Commission shall also propose appropriate measures or guidelines for the prevention or redress of such human rights violation, including provision of remedy for the person affected by the human rights violation, as the case may be.

Any concerned state or private agency shall take actions as notified within a period of time prescribed in paragraph one and inform the Commission of the result of its actions within the period of time as specified by the Commission.

In the case where a concerned state or private agency cannot take actions as they are not within its duties and powers, or the petitioner has exercised his or her right in bad faith, or the problem has been appropriately solved, or there is any other necessity, such agency shall so inform the Commission before the period of time under paragraph one has lapsed.

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In the case where a concerned state or private agency has not taken actions within the specific period according to paragraph two or paragraph three without reasonable justification, the Commission shall prepare a report and submit it to the Cabinet.

Section 37. In the case where any violation of human rights constitutes a criminal offence and the injured person is not in a position to file a complaint or denunciation on his or her own, the Commission or the person assigned by the Commission shall have the power to do so which shall be regarded as the injured person under the Criminal Procedure Code.

Section 38. In the case where a Commissioner has witnessed a human rights violation and deems it necessary to take urgent action as further delay would put the life or security of the person subject to human rights violation in danger, or it would not be possible to provide remedy later, the Commissioner may notify and request the competent authority to provide assistance and remedy to the person affected by the violation of human rights according to its duties and powers and then notify the Commission. In case of unavoidable necessity, the Commissioner may order an administrative official or a police officer in nearby area or a competent official to provide assistance as he or she deems appropriate.

It is the duty of the administrative official or police officer or competent official who has been ordered according to paragraph one to comply with that order.

Section 39. Subject to Section 6, the Commission shall not accept a petition considered to be of the following matters:

(1) a matter being litigated in the Court or that upon which the Court has already given final judgment, order or decision, except for the purpose of a study with a view to recommending an amendment and improvement of laws, rules, regulations or orders relating to the justice process in order that they conform with human rights principles;

(2) a matter that does not fall within the scope of duties and powers of the Commission;

(3) a matter that falls within the scope of duties and powers of other independent organs or that has been accepted for consideration by other independent organs according to their duties and powers, without prejudice to the Commission's power to request the result of consideration by such organs;

(4) a petition where it is filed in bad faith and the consideration of which will not benefit the public as a whole;

(5) a matter that has been duly addressed;

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(6) a matter that the Commission has already considered and found no human rights violation, except where there are new evidence or facts that may alter the result of previous consideration of that matter;

(7) other matters as prescribed by the Commission.

In case where it appears later that the accepted petition is of the matter as stated in paragraph one, the Commission shall terminate the consideration of such petition.

Section 40. The Commission shall prepare an annual human rights situation assessment report of the country within ninety days from the end of each calendar year for submission to the National Assembly and Cabinet and dissemination to the general public. The Commissioner shall also make verbal presentation of this report to the National Assembly.

In case there is a situation that seriously affects human rights or constitutes a serious human rights violation, the Commission shall conduct an examination and prepare a report presenting an assessment of such specific human rights situation of the country for prompt submission to the National Assembly and Cabinet and dissemination to the general public.

In case of a failure to complete the preparation of the report under paragraph one within the prescribed time frame, an extension of not more than one hundred and eighty days may be allowed with notification to the National Assembly. In case the report could not be presented to the National Assembly and Cabinet within the extended time frame without sufficient reason, the entire Commission shall vacate office.

The report under this section shall be made in summary which shall include, at the minimum, the problems, obstacles and recommendations for the promotion and protection of human rights, without details which may unnecessarily disclose confidential information of concerned individuals or state agencies. Important consideration shall be given to the accuracy, fairness and the interest of the country as a whole. A state agency shall provide information or facts concerning the human rights situation in relation to its duties and powers to the Commission as requested and the provisions of Section 35 (1) shall apply *mutatis mutandis*.

Section 41. The Commission shall prepare a plan of actions to be taken in accordance with Section 40 to ensure that the performance of duties in each circumstance is carried out without delay and completed within the prescribed time frame.

Section 42. In case where the Commission deems that to redress the problem or prevent recurrence of similar violation of human rights, it is necessary to specify a measure or guideline for the promotion and protection of human rights, including an amendment and improvement of any law, rule, regulation, or order to ensure its compliance with human rights

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principle, the Commission shall prepare a recommendation for submission to the National Assembly, Cabinet or concerned agencies and for further actions according to their respective duties and powers.

Section 43. Upon receiving the reports or recommendations under paragraph four of Section 36, Section 40 or Section 42, the National Assembly, Council of Ministers or concerned agencies shall promptly take appropriate actions. In case such action could not be carried out or needed more time to complete, the Commission shall be notified the reasons without delay.

The Commission may disseminate to the general public its reports, recommendations, or results of implementation by the National Assembly, Cabinet or concerned state or private agencies as it deems appropriate.

Section 44. When it appears to the Commission in any way that there is a report on the human rights situation in Thailand which is incorrect or unfair, the Commission shall undertake to examine and explain or prepare a report with the correct facts on that situation without delay for dissemination to the general public. The explanation shall also be summarized in the report under paragraph one of Section 40. The provisions of Section 35 (1) shall apply *mutatis mutandis* to the examination.

Section 45. Within one hundred and eighty days from the end of a fiscal year, the Commission shall prepare an annual report for submission to the Cabinet and National Assembly, consisting at the minimum a summary of the problems, obstacles and recommendations for action. The report shall also be disseminated to the general public.

Section 46. No person shall disclose any information which may establish the identity of the informant or petitioner, including the information obtained from the performance under this Organic Act, unless for the purpose of performance according to the duties and powers, the laws or the Court orders.

Any person preparing and disseminating reports under this Chapter in good faith shall not be subject to civil, criminal, administrative or disciplinary liabilities.

CHAPTER 3

THE OFFICE OF THE NATIONAL HUMAN RIGHTS COMMISSION

Section 47. There shall be the Office of the National Human Rights Commission as a state agency and a status of a juristic person under the supervision of the Commission.

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Section 48. The Office shall have the duties and powers as follows:

(1) To be responsible for administration work and undertakings so that the Commission accomplishes its mission and duties as prescribed in the Constitution, this Organic Act and other laws;

(2) To facilitate, assist, promote and support the performance of duties of the Commission and Commissioners;

(3) To study, arrange for compilation, analysis and support research study relating to the work of the Commission, including coordination with state agencies, private organizations or any other organizations in the matters related to human rights for the benefit of supporting the mission and duties of the Commission;

(4) To perform other duties as prescribed by laws or as entrusted by the Commission.

In the undertaking under paragraph one shall be in accordance with the rules, procedures and guidelines prescribed by the Commission.

Section 49. In supervising the administration of the Office, the Commission shall have the power to issue regulations or notifications on the following matters:

(1) Division of internal departments within the Office and scope of duties and powers of such internal departments;

(2) Prescription of positions, position classification, levels and comparison of positions, salary rates, extra emolument for position and remuneration or other entitlements and benefits of for civil officials, government employees and employees of the Office;

(3) Prescription of qualifications, selection, assignment, appointment, retirement from official service, disciplinary procedure and punishment, compliant and appeal of penalty, and other matters relating the personnel administration of civil officials and government employees of the Office, including procedures and conditions in the employment of employees of the Office;

(4) Administration and management of finance and properties, budget and procurement of the Office;

(5) Arrangement of welfare or other assistance for civil officials, government employees and employees of the Office;

(6) Prescription of criteria and procedures of qualifications, selection methods and selection of the Secretary-General;

(7) Prescription of uniforms and attire of Commissioners, civil officials, government employees and employees of the Office;

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(8) Employment and appointment of persons as advisors or specialists for the Commission, including secretaries and assistant secretaries for Chairperson and Commissioners, and prescription of the wage or other remunerations for such persons;

(9) Any other matters necessary for supervising the administration of the Office, or commanding the Secretary-General, civil officials, government employees and employees of the Office, or ensuring their work efficiency.

The implementation of (1), (2) and (8) shall take into account efficiency, cost-effectiveness and flexibility of the undertaking.

The Prescription of (2) shall take into account the cost of living, living sufficiency and different responsibilities of each line of work and position level.

The issuance of regulations or notifications related to personnel administration ~~according to~~ under paragraph one, the Commission shall take into account to fairness and the morale of personnel administration.

Regulations or notifications passed by a resolution of the Commission shall be signed by the Chairperson and shall come into force upon its publication in the Government Gazette.

Section 50. The civil officials of the Office ~~are~~ shall mean persons being assigned and appointed to be civil officials under this Organic Act.

The civil officials of the Office shall be officials under the law on Government Pension Fund.

The performance of duties of the central personnel administration of the Office that are not specified in this Organic Act, the law on civil service shall apply *mutatis mutandis* to personnel administration of these civil officials.

The disbursement of salary and remuneration for civil officials of the Office shall be as prescribed with the law on such matter.

Section 51. For the benefit of proceedings under paragraph three of Section 50, the Commission shall function as the Civil Service Commission (CSC) according to the law on civil service and have the power to appoint a sub-committee to function as a sub-committee on the civil Officials of the Office. The composition, duties and powers of the sub-committee shall be in accordance with the criteria and procedures as prescribed by the Commission.

The appointed sub-commission shall perform the same function as the Ministerial Civil Service Sub-committee according to the law on civil service.

In performing duties, the Commission, as the central personnel management agency of the Office, and the appointed sub-committee shall be entitled to the meeting allowance at the

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equivalent rate to that of the Civil Service Commission or Extraordinary Committee of the Office of the Civil Service Commission, as the case may be.

Section 52. The Commission shall issue ethical standard for civil officials and government employees and employees of the Office which shall specify the penalties for violation or non-compliance thereof.

Section 53. The Office shall have a Secretary-General as the superior commander of civil officials and government employees and employees of the Office, responsible towards the performance of the Office, and shall be directly accountable to the Commission. The Commission may prescribe the positions of Deputy Secretary-General to assist in commandment and the performance of duties on behalf of the Secretary-General.

The Secretary-General shall perform the duty as the secretary of the Commission.

Section 54. The instatement and appointment of civil officials of the Office the following authorized persons shall make the instatement and appointment orders:

(1) for the instatement and appointment of Secretary-General, after having been recruited and selected according to Section 49 (6), the Chairperson shall have the power to order the instatement and tender the matter to the King for appointment;

(2) for the instatement and appointment of high-level executive positions apart from (1) or equivalent positions, upon approval of the Commission, the Chairperson shall have the power to order the instatement and tender the matter to the King for appointment; and

(3) for the instatement and appointment of civil officials to other positions apart from (1) and (2), the Secretary-General shall have the power to order the instatement and appointment.

Section 55. In any affairs of the Office involving external personnel, the Secretary-General shall be the representative of the Office. For this purpose, the Secretary-General may assign any person to perform a particular civil official function on his or her behalf in accordance with the regulations as prescribed by the Commission.

In the undertaking under paragraph one, if it is an important matter relating to the budget of the Office and other matters which affect the missions of the Commission as prescribed by the Commission, the Secretary-General shall seek for prior approval from the Commission.

Section 56. The Commission shall propose the budget expenditure for allocation of subsidy for the Commission and the Office in, the annual appropriations bill or supplementary appropriations bill, as the case may be. In proposing the budget expenditure, the Commission

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shall take into consideration the audit results by the Office of the Auditor General according to paragraph two of Section 58.

In case the Commission is of the opinion that the budget allocated is insufficient, the Commission shall directly submit a motion for amendment to the Budget Committee of the House of Representatives.

In submitting a budget expenditure under paragraph one and paragraph two, the Commission shall notify the Cabinet of its incomes and existing assets.

Section 57. When the Annual Budget Expenditure Act for each fiscal year or the Supplementary Annual Budget Expenditure Act under Section 56 comes into effect, the Office shall prepare the annual budget expenditure for approval from the Commission and disseminate it to the public.

Disbursement of the budget of the Office shall be as prescribed in the annual budget expenditure under paragraph one, unless otherwise approved by the Commission on a case by case basis.

In disbursing the allocated budget, the Office shall submit a request for disbursement to the Comptroller General's Department by specifying the amount of money to be disbursed in each quarter, three months per quarter and the Comptroller General's Department shall reimburse the money to the Office within three days prior to the beginning of the following period. In case it is necessary for the Office to expend more than previously notified, the Comptroller General's Department shall comply with the Office's request.

Section 58. The Office shall prepare a balance sheet, a financial statement and revenue account for to the auditor within ninety days from the last day of the audit year.

The Office of the Auditor General shall be the auditor of the Office and shall inspect and certify the account and all financial reports of the Office by illustrating the extent to which the disbursement of money is in accordance with the purposes, cost-efficient, producing the desired results, efficient and reasonable and subsequently propose. The Office of the Auditor General shall then prepare a report presenting the audit results to the Parliament and the Cabinet without delay.

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Section 59. Any person who fails to comply with an order of the Commission under Section 35 (1), paragraph four of Section 40, or Section 44 without reasonable grounds, or violates Section 46, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht, or to both.

TRANSITORY PROVISIONS

Section 60. The Chairperson and Commissioners holding office on the day prior to the date of entry into force of this Organic Act shall vacate office as from the date of entry into force of this Organic Act, but shall continue to perform their duties until the newly appointed Chairperson and Commissioners take office.

Those continuing to perform duties under paragraph one shall receive monthly salaries, emoluments and other benefits that they have received prior to the date when this Organic Act comes into effect and shall be entitled to receive gratuities under Section 32. They shall be deemed to vacate office upon resignation and the period of office is counted from the date of appointment by the King to the date of cessation of the performance of duties.

In case where those who continue to perform their duties under paragraph one cannot perform the duties due to death, resignation, or any other reasons and the remaining number of those continuing to perform the duties are less than half, the provisions of Section 22 shall apply *mutatis mutandis*.

Section 61. During the initial period, the selection of persons suitable for appointment as the Chairperson and Commissioners under this Organic Act shall be conducted, in addition to Chapter 1, THE NATIONAL HUMAN RIGHTS COMMISSION, in accordance with the following procedures and time frames:

(1) The Commission shall prescribe a regulation on registration and selection among themselves in accordance with paragraph three of Section 11, within thirty days from the date of entry into force of this Organic Act and shall disseminate it to the public;

(2) The Office shall issue an announcement for registration of private organizations in the field of human rights under Section 11 (4) and of professional councils under Section 11 (5) and proceed with the registration within thirty days from the date when the regulation under (1) comes into effect;

(3) The private organizations in the field of human rights and the professional councils registered under (2) shall select among themselves persons to serve as members of the

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Selection Committee as specified in Section 11 (4) and (5) within thirty days from the lapse of time period in (2);

(4) The members of the Selection Committee under Section 11 (1) (2) (3) (4) and (5) shall mutually agree upon the procedures to select the member of the Selection Committee as specified in Section 11 (6) within twenty days from the lapse of time period in (3) and the selection of the member of the Selection Committee under Section 11 (6) shall be completed within thirty days from the date of agreement on the selection procedures;

(5) Upon the lapse of time period under (4), the Selection Committee under Section 11 shall prescribe the rules, procedures, and time period for the selection process under Section 13 (1) within thirty days from the lapse of time period in (4);

(6) The Selection Committee shall proceed with the selection and complete it within ninety days from the lapse of time period in (5).

In case where there is a question concerning any proceedings under (1), (2) or (3), it shall be the duty and power of the Commission to make a decision. The decision of the Commission shall be final and the provisions of Section 18 shall apply *mutatis mutandis*.

Section 62. The Secretary-General of the National Human Rights Commission holding office before this Organic Act comes into force shall remain the Secretary-General of the National Human Rights Commission under the provisions of this Organic Act.

Section 63. The Office of the National Human Rights Commission under the National Human Rights Commission Act B.E. 2542 (1999) shall be the Office of the National Human Rights Commission under the provisions of this Organic Act.

All rights, duties and obligations that the Office of the National Human Rights Commission possesses under the provisions of the National Human Rights Commission Act B.E. 2542 (1999) has had with respect to any person prior to the date of this Organic Act comes into force shall be transferred to the Office of the National Human Rights Commission under the provisions of this Organic Act.

Section 64. All budgets, assets, civil officials, government employees and employees of the Office of the National Human Rights Commission under the National Human Rights Commission Act B.E.2542 (1999) shall be transferred to the Office of the National Human Rights Commission under this Organic Act, and it shall be deemed that other rights and benefits enjoyed by such the civil officials, government employees and employees under the National Human Rights Commission Act B.E. 2542 (1999) shall continue to be other rights and benefits

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enjoyed under this Organic Act unless otherwise prescribed in the regulations issued under Section 49 (2).

The National Human Rights Commission Uniform Act B.E. 2547 (2004) shall continue to be ~~in force~~ enforced until the regulations under Section 49 (7) comes into force.

Section 65. During the period while there is no notification of the law on salaries, emoluments, and other benefits of the Commissioner under Section 31 the Chairperson and Commissioners shall receive the same salaries, emoluments, and other benefits as those received by the Chairpersons and commissioners of other independent organs, as the case may be.

Section 66. All the regulations, notifications and orders issued under the National Human Rights Commission Act B.E. 2542 (1999) which are in force prior to the date of this Organic Act comes into force shall remain effective so long as they do not contradict or be in conflict with the Constitution or this Organic Act, until the regulations, notifications, or orders under this Organic Act are issued.

Section 67. The proceedings undertaken in accordance with the duties and powers of the National Human Rights Commission or of the Office of the National Human Rights Commission under the National Human Rights Commission Act B.E. 2542 (1999) which have been legitimately undertaken prior to the date this Organic Act comes into force, if such proceedings are within the duties and powers of the National Human Rights Commission under this Organic Act, shall be valid under this Organic Act. Any further proceedings thereafter shall be proceeded under this Organic Act.

Countersigned by:
General Prayut Chan-o-cha
Prime Minister

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Notes: The reason for the promulgation of this Organic Act is whereas Section 130 (10), Section 246, Section 247 and Section 267 of the Constitution of the Kingdom of Thailand, provide that the Organic Act on the National Human Rights Commission shall be enacted to define qualifications, prohibitions, selection, vacation of office, duties and powers, including performance of duties of the National Human Rights Commission in order to obtain related information, opinions and evidence for consideration and taking of actions according to its duties and powers to effectively achieve the objectives. Such performance of duties is necessary to either affect or lead to limitation against certain rights and liberties of individuals, which shall be conducted as necessary for the performance of duties and compliance with international principle relating to the selection of Commissioners to represent the pluralism of society. It is, therefore, necessary that this Organic Act be enacted.