

**PUBLIC ORGANIZATION ACT,
B.E. 2542 (1999)**

BHUMIBOL ADULYADEJ, REX;
Given on the 13th Day of February B.E. 2542;
Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to enact the law on public organization;
Be it, therefore, enacted by the King, by and with the advice and consent of
the National Assembly, as follows:

Section 1. This Act is called the “Public Organization Act, B.E. 2542 (1999)”.

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

Section 3. In this Act:

“public organization” means a public organization being established by Royal
Decree issued under this Act;

“State official” means civil servant, officer, official or other worker in ministry,
sub-ministry, department, provincial administration, local administration, State enterprise or
other State agency;

“Committee” means an Executive Committee or a Committee of a public
organization that performs management duties and may be named otherwise as specified in
the Royal Decree establishing such public organization;

“Director” means a director or the highest executive as named otherwise, of a
public organization.

* Translated by Ms. Mattanee Kaewpanya under contract for the Office of the Council of
State of Thailand's Law for ASEAN project. – Initial Version – pending review and approval by the Office of
the Council of State.

Section 4. The Prime Minister shall have charge and control of the execution of this Act.

CHAPTER I
ESTABLISHMENT AND OBJECTIVES OF PUBLIC ORGANIZATION

Section 5. The Government, when having any specific plan or policy on provision of public services and if being appropriate to establish a new executive agency which differs from a government agency or State enterprise with purposes to utilize resources and personnel to their highest efficiency, may establish a public organization by issuing a Royal Decree under this Act.

Public service activities to be established as public organizations under paragraph one are education standards assurance and quality assessment; education, training and development of State officials; preservation of arts and culture; development and promotion of sports; promotion and support of education and research; transfer and development of science and technology; conservation of environment and natural resources; medical services and public health; social work; service facilitation to people; or any other operation for public benefit, in any case they must not be those with main objectives in profit-seeking.

Section 6. The public organization shall be a State agency and legal person.

Section 7. The Royal Decree establishing a public organization under section 5 shall include at least the following content:

- (1) name of the public organization;
- (2) location of its headquarter;
- (3) objectives and powers to perform activities within the scope of its objectives;
- (4) composition of the Committee, qualifications and prohibited characteristics, term of office, vacating of office of the Committee members, including powers and duties of the Committee;
- (5) qualifications and prohibited characteristics, term of office, vacating of office, and powers and duties of the Director;
- (6) qualifications and prohibited characteristics of public organization officials;

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- (7) fund, income, budget and assets;
- (8) personnel management, welfare and other benefits;
- (9) supervision, monitoring and performance assessment of public organization;
- (10) dissolution of public organization, in case being established as an *ad hoc* entity to carry out any specific activities or with specified cessation period;
- (11) other prescriptions necessary for its activities to be carried out smoothly and effectively;
- (12) the Minister having charge and control of the execution of that Royal Decree.

The prescriptions under (3) to (11) must be within the scope of the provisions of this Act, except in case the provisions of this Act allowing a Royal Decree to prescribe otherwise, it shall then be in accordance with that Royal Decree.

Section 8. In case there are problems of repetition or confliction in carrying out activities of public organizations and performance of duties of government agencies or any other State agencies under the law, the Royal Decree establishing public organization under this Act shall be deemed as *lex specialis* with specific objectives.

The Council of Ministers shall be the one to give final decision over the problems relating to the carrying out of activities of public organizations and government agencies or other State agencies under paragraph one, as well as to prescribe civil service operation practices for coordination among public organizations, government agencies and relevant State agencies. The Council of Ministers may authorize the Council of States to submit opinions and draft the civil service operation practices to the former for consideration.

The public organizations, government agencies and relevant State agencies shall take the decisions and the practices prescribed by the Council of Ministers under paragraph two as the civil service guidance.

Section 9. In case where there will be an issuance of Royal Decree under this Act to establish a public organization to carry out any one activity which is under the existing scope of powers and duties of any government agency, State enterprise or other State agency, which will create repetition or confliction on the operation and the Council of Ministers deems appropriate to approve transfer of the powers and duties, undertakings, assets, rights, obligations and budgets of government agency, State enterprise or other State agency to the public organization being established, the relevant parts of powers and duties, undertakings, assets,

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rights, obligations and budgets of government agency, State enterprise or other State agency shall be transferred to the public organization on the date the Royal Decree establishing that public organization comes into effect, except for the budgets on salary and regular wages belonging to persons taking those positions in any government agencies, which shall continue to belong to that government agency until those positions are dissolved.

The rights under paragraph one shall also include the right to use or the rights under the lease contract on State land or State property which the government agencies, State enterprises or other State agencies possess on the date the Royal Decree establishing the public organization comes into effect.

Section 10. If State officials or employees of government agencies, State enterprises or other State agencies under section 9 voluntarily wanting to be officials or employees of public organizations, they shall notify their intentions in writing to their chief and must pass the selection or assessment in accordance with the criteria specified by the Council of Ministers.

Section 11. If the State officials, who change to be officials of public organizations under section 10, are civil servants, they shall be deemed as resigning from the civil service due to termination or dissolution of positions under the law on government pension or the law on the government pension fund, as the case may be.

If the State officials, who change to be officials of public organizations under section 10, are government employees, they shall be deemed as resigning from the job due to termination or dissolution of positions by the government without any wrong doings and shall be entitled to severance allowance in accordance with Rules of the Ministry of Finance on Employee Pension.

For the benefit in counting working period for calculation of the benefits in accordance with regulations of public organizations, any civil servant or employee of government agency, who changes to be an official or employee of public organization under this section, wishing his or her working period as civil servant or as employee to be counted continuously with the period as official or employee of public organization, as the case may be, shall have the right to do so by submitting his or her intention not to receive the severance allowance or pension.

The non-receipt of severance allowance or pension under paragraph three must be done within thirty days as from the date of transfer. In case of civil servants, it shall

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be done in accordance with the law on Government pension. In case of employees, it shall be done in writing with their signature and submitted to their employer in order to be further submitted to the Ministry of Finance for its acknowledgement.

CHAPTER II FUND, INCOME AND ASSETS

Section 12. Fund and assets for operation of public organization shall include:

- (1) money or assets being transferred to it;
- (2) money being paid for by the Government as initial fund;
- (3) general subsidy being allocated annually by the Government as deemed appropriate;
- (4) subsidy from the private sector or other agencies, including from foreign countries or international organizations, and money or assets being donated to it;
- (5) fees, charges, reward, service charge or income from its operation;
- (6) profits of money or income generated from assets of public organization.

Section 13. Under its objectives, the public organization shall have the power to collect fees, charges, reward, or service charge in its operation as specified in the Royal Decree establishing it.

Section 14. All income of public organization are not to be sent to the Ministry of Finance under the law on treasury reserves and the law on budget process.

Section 15. Assets of public organization shall not be under liability of compulsory execution.

Section 16. Immovable property gained by public organization from granting to or buying by income of the public organization shall be under its proprietary right.

The public organization shall have the power in governing, tending, maintaining, using, dispensing and making benefits out of its assets.

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Section 17. Spending of public organization money shall be specifically for its operation.

Keeping and disbursement of public organization money shall be in accordance with regulations specified by the Committee.

Section 18. Taking loans, holding shares or partnering, capital joining in undertakings of other legal persons, and wholly disposal of assets from its sheets, shall be in accordance with criteria specified by the Council of Ministers.

CHAPTER III MANAGEMENT AND OPERATION OF ACTIVITIES

Section 19. There shall be a Committee for each public organization, comprising of Chairperson and members, with composition as prescribed in the Royal Decree establishing it. The Director shall be member and secretary.

The Council of Ministers shall appoint the Chairperson and members of the Committee.

The Committee of public organization may comprise of representatives from government agencies which may be *ex officio* members, but must not more than one-half of the whole Committee.

The Committee members shall be in numbers as prescribed in the Royal Decree establishing it but must not exceed eleven persons, and shall have qualified persons, who are not civil servants or those working in State agencies, participating in it.

Section 20. The Chairperson and members of public organization, who are not *ex officio* members, must have qualifications and not be under any prohibitions as follows:

- (1) being of Thai nationality;
- (2) being not less than and not more than that specified in the Royal Decree establishing that public organization, but they shall not be more than seventy years of age;
- (3) having competency and experiences appropriate to undertakings of the public organization as specified in the Royal Decree establishing it;
- (4) not being bankrupt, an incompetent person or a quasi-incompetent person;

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(5) never being sentenced by a final judgment to imprisonment, except for an offence committed through negligence or a petty offence;

(6) not being a person holding political position, a member of local assembly or local administrator, a director of or a person holding any position responsible for the administration of a political party, an advisor or official of a political party;

(7) not being under any prohibitions as specified in the Royal Decree establishing that public organization.

The content in (1) shall not apply to members being foreigners, whose public organization considers necessary to appoint, in accordance with obligations or characters of activities of that public organization.

Section 21. The Chairperson and members of any public organization must not be a person having interest, either directly or indirectly, in activities of that public organization or in activities which are in competition with those of that public organization, except if being a person assigned by the Committee to be Chairperson or member in a limited company or limited public company in which the public organization hold shares.

Section 22. The Chairperson and members, who are not *ex officio* members, shall have a term of office as specified in the Royal Decree establishing the public organization, but must not exceed four years per each term.

In case where the Chairperson or members, who are not *ex officio* members, vacates office before the expiration of the term or in case where the Council of Ministers appoints additional members while the appointed members are still in office, the appointee replacing the vacated position or being an additional member, shall be in office for the unexpired term of office of the members already appointed.

Upon the expiration of the term of office under paragraph one, if a new Chairperson or member has not yet been appointed, the Chairperson or member whose term of office has expired shall be in office to continue performing his or her duties until a new Chairperson or member assumes his or her duties.

The Chairperson or member, who vacates office upon the expiration of the term, may be reappointed, but may not be appointed for more than two consecutive terms.

Section 23. In addition to vacating office on the expiration of term, the Chairperson or member, who is not *ex officio* member, vacates office upon:

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- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers due to negligence in the performance of duties, disgraceful behaviour, or incapacity;
- (4) being disqualified or under any of the prohibitions, or having acted in contravention of the prohibitions under section 21.

Section 24. The Committee shall have powers and duties to supervise public organization to operate in conformity with specified objectives. Such powers and duties include:

- (1) to prescribe management policies and to endorse work plan of public organization;
- (2) to approve investment and financial plans of public organization;
- (3) to supervise the operation and management in general as well as to issue rules, regulations, notifications or prescriptions relating to public organization in the following issues:
 - (a) compartmentalization of work of public organization and scope of duties of those compartments;
 - (b) specification of ranks, specific qualifications for those ranks, rates of salary, wages and other money for officials and employees of public organization;
 - (c) selection, recruitment, appointment, removal, discipline and disciplinary punishment, dismissal from office, petition and appeal against punishment of officials and employees of public organization, including methods and conditions in hiring employees of public organizations;
 - (d) management of finance, procurement and assets of public organization;
 - (e) provision of welfare and other benefits for officials and employees of public organization;
 - (f) scope of powers and duties and rules relating to operation of internal auditors;
- (4) other powers and duties as specified in the Royal Decrees establishing public organization.

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Section 25. The Committee shall have the power to appoint qualified persons to be its advisors in accordance with the Royal Decree establishing public organization, and to appoint a Sub-Committee to consider or perform any task as assigned by the Committee.

Section 26. The Chairperson, members, advisors and Sub-Committee members shall be entitled to attendance fee and other benefits in accordance with the criteria prescribed by the Council of Ministers.

Section 27. In any public organization, there shall be one Director, whose position may be named otherwise as specified in the Royal Decree establishing it.

The Committee shall have the power to appoint and remove the Director.

Section 28. The Director must have qualifications and must not be under any prohibitions as specified in the Royal Decree establishing public organization, and must be able to work full time for the public organization.

Section 29. The Director shall hold office for the term as specified in the Royal Decree establishing public organization but must not be more than four years, and may be reappointed but not more than two consecutive terms.

Section 30. In addition to vacating office on the expiration of term, the Director vacates office upon:

- (1) death;
- (2) resignation;
- (3) vacating office under circumstances as specified in an agreement between the Committee and the Director;
- (4) being dismissed by the Committee due to negligence in the performance of duties, disgraceful behaviour, or incapacity;
- (5) being an incompetent person or a quasi-incompetent person;
- (6) being disqualified or under any of the prohibitions for being a Director.

The Committee resolution on dismissal of office under (4) must acquire votes of not less than two-thirds of the existing members, excluding that of the Director.

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Section 31. The Director shall have the duties to manage the work of public organization to be in accordance with the law, objectives of the public organization; rules, regulations, prescriptions, policies, resolutions and notifications of the Committee, and shall be the chief of all officials and employees of the public organization.

The Director must be responsible for the Committee in managing the work of the public organization.

Section 32. The Director shall have the powers:

- (1) to recruit, appoint, promote, decrease, cut salary or wages, issue disciplinary penalties upon officials and employees of public organization, as well as to remove those officials and employees from office, in accordance with regulations prescribed by the Committee;
- (2) to issue rules relating to operation of public organization as far as they are not contrary to or inconsistent with the rules, regulations, prescriptions, policies, resolutions and notifications specified by the Committee.

Section 33. The Director shall be a representative of the public organization in the affairs with external entities. For this purpose, the Director may authorize any person to perform any specific work, but it must be in line with the regulations specified by the Committee.

Section 34. The Committee shall prescribe salary rates and other benefits for the Director in accordance with the criteria prescribed by the Council of Ministers.

CHAPTER IV OFFICIALS AND WORKERS OF PUBLIC ORGANIZATION

Section 35. Officials of public organization, in addition to having the qualifications and not being under any prohibitions as specified in the Royal Decree establishing public organization, must have the qualifications and must not be under any prohibitions as follows:

- (1) being of Thai nationality;
- (2) being not less than eighteen years of age and not more than sixty years of age;

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(3) being able to work full time for public organization;

(4) not being civil servant or employee of government agency, worker or employee of State enterprise or other State agency, or worker or employee of local administration;

(5) not being under any prohibitions under section 20 (4), (5) and (6).

The provisions in section 20 paragraph two and section 21 shall apply *mutatis mutandis* to the officials of public organization.

Section 36. For the benefit in public organization management, the Minister having charge and control under the Royal Decree establishing public organization may request State officials to temporarily work as officials or employees in the public organization, upon approval from chiefs or employers of those persons, as the case may be.

Any State official being approved to work as official or employee of the public organization under paragraph one shall be deemed as being permitted to be discharged from civil service or job to perform any other work, and his or her duration of work at the public organization shall be tallied for calculation of pension or other benefits as if being performing civil service or working full time, as the case may be.

Section 37. In case where the State official under section 36 requests to resume the civil service or to work at the former affiliation within the approved timeframe, that person shall have the right to be recruited and appointed to the position and to receive the salary in accordance with an agreement reached at the time of approval under section 36.

Section 38. The activities of public organizations shall not be under the laws on labour protection, labour relations, social welfare benefits and compensation. The Director, officials and employees of public organization shall be entitled to the benefits not less than those specified in the law on labour protection, social welfare benefits and compensation.

CHAPTER V

ACCOUNTING, AUDITING AND PERFORMANCE ASSESSMENT OF PUBLIC ORGANIZATION

Section 39. Accounting of public organization shall be done in accordance with international standards in pursuant to format and criteria prescribed by the Committee.

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There must be internal auditing on finance, accounting and procurement of public organization, as well as submission of those reports to the Committee at least once a year.

For internal auditing, a worker of public organization shall be specifically assigned as an internal auditor and to be responsible directly to the Committee in accordance with rules specified by the Committee, except where the Royal Decree establishing the public organization prescribes otherwise.

Section 40. The public organization shall make balance sheets, financial statements and budget accounts, and annually submit to the internal auditor within one hundred and twenty days as from the last day of each financial year.

In each financial year, the Office of the Auditor General of Thailand or external entities as appointed by the Committee with an approval of the Office of the Auditor General of Thailand shall be the auditor and assess expenditure of budgets and assets of public organization, who shall provide analytical opinions to what extent such expenditure is in accordance with the objectives, economical and reached the set targets, and shall submit the audit reports to the Committee.

Section 41. The public organization shall once a year submit a report to the Minister having charge and control under the Royal Decree establishing it. Such report shall specify work performance of the public organization in the past year and explanations on policies of the Committee, projects and work plans to be performed in the upcoming period.

Section 42. For the benefit of promoting efficiency in operation of public organization, while retaining the freedom to operate its work affairs as appropriate under the supervision with clear targets, the public organization shall be subject to the public organization assessment system as prescribed by the Council of Ministers, except where the Royal Decree establishing it prescribes the assessment system otherwise.

CHAPTER VI SUPERVISION

Section 43. The Minister having charge and control under the Royal Decree establishing any public organization shall have the powers and duties to supervise operation

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of that public organization to be in accordance with laws and in conformity with objectives of its establishment, Government policies and resolutions of the Council of Ministers relating to that public organization. For this purpose, the Minister shall have the power to order that public organization to clarify opinions, make reports, or restrain acts of the public organization that are contrary to the objectives of its establishment, Government policies or resolutions of the Council of Ministers relating to that public organization, as well as to request for a factual investigation on its operation.

CHAPTER VII DISSOLUTION

Section 44. The public organization is dissolved under any one of the following cases:

- (1) upon cessation of its operation period as specified in the Royal Decree establishing it;
- (2) upon completion of its operation in accordance with the objectives specified in the Royal Decree establishing it, and the Minister having charge and control under the Royal Decree establishing that public organization announces dissolution of that public organization in the Government Gazette;
- (3) in cases apart from (1) and (2), when the Government deems appropriate to dissolve any public organization, by issuing the Royal Decree on dissolution.

The legal personality of public organization shall be retained as long as necessary for the benefits of the execution under section 45.

Section 45. Assets of the public organization are State assets. Where there is dissolution of public organization, officials shall be assigned to verify assets and settle accounts, including to transfer or dispose of the remaining assets, as well as to handle its personnel, in accordance with criteria, methods and conditions as prescribed by the Council of Ministers.

Countersigned by
Chuan Leekpai
Prime Minister

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