

**REGULATION OF THE NATIONAL ANTI-CORRUPTION COMMISSION
ON INSPECTION AND INQUIRY**

B.E. 2561 (2018)

Whereas it is expedient to have the Regulation of the National Anti-Corruption Commission on Inspection and Inquiry;

By virtue of Section 36 paragraph two (2), Section 49 paragraph one, Section 50 paragraph two, Section 53, Section 56 paragraph two and paragraph four, Section 70 paragraph three, Section 72 paragraph two, Section 88 paragraph three and Section 161 of the Organic Act on Anti-Corruption B.E. 2561 (2018), the National Anti-Corruption Commission hereby issues the following regulation:

Article 1. This regulation is called “Regulation of the National Anti-Corruption Commission (NACC Regulation) on Inspection and Inquiry B.E. 2561 (2018)”.

Article 2.¹ This regulation shall come into force as from the day following the date of publication in the Government Gazette.

Article 3. The followings shall be repealed:

(1) Regulation of the National Anti-Corruption Commission on Allegation against Person in accordance with Section 66 of the Organic Act on Counter Corruption B.E. 2542 (1999) and B.E. 2551 (2008)

(2) Regulation of the National Anti-Corruption Commission on Fact Inquiry B.E. 2555 (2012)

(3) Regulation of the National Anti-Corruption Commission on Fact Inquiry (No. 2) B.E. 2555 (2012)

(4) Regulation of the National Anti-Corruption Commission on Fact Inquiry (No. 3) B.E. 2556 (2013)

(5) Regulation of the National Anti-Corruption Commission on Fact Inquiry (No. 4) B.E. 2560 (2017)

(6) Regulation of the National Anti-Corruption Commission on Examination of Allegation, Fact Finding and Collection of Evidence B.E. 2560 (2017)

¹ Published in the Government Gazette, Vol. 135, Part 61 a, dated 20 August B.E. 2561 (2018).

Article 4. In this regulation:

“Allegation” means statement, fact or information which alleges that a public official, foreign public official, official of public international organisation or any person displays circumstances indicative of committing offence which is under the duties and powers of the NACC regardless of appearance of the alleged offender’s name and address.

“Allegation case” means the allegation which the Office has accepted for proceeding with inspection, inquiry or preliminary inquiry and also includes the case where the Office receives notification from the Auditor-General that there is reasonable evidence to believe that the disbursement of state appropriations is indicative of corruption in the course of duty, or intentional performance of duty or exercise of power contrary to the provisions of the Constitution or law, or the complaint or denunciation which inquiry official has submitted to the NACC, or the case which a government agency, state agency, or state enterprise has submitted to the NACC for proceeding in accordance with the duties and powers, including the case which the Secretary-General or the person assigned by the Secretary-General has undertaken to learn information or details before proposing to the NACC for determining reasonable grounds for suspicion.

“Inspection” means any proceeding with an allegation case to obtain fact and evidence in order to learn information or details before proposing to the NACC.

“Preliminary inquiry” means an inquiry conducted by a preliminary inquiry committee which is undertaken by the Secretary-General or chief inquiry officer, at least one inquiry officer and may also consists of competent official to provide assistance in performing duty as assigned by the NACC.

“Respondent” means public official, foreign public official, official of public international organisation or any person against whom an allegation is made or there appears to the NACC that there is a commission of offence that falls under the duties and powers of the NACC and shall also mean the principal, instigator or aider and abettor in the commission of offence which the NACC has not yet passed a resolution to accept the allegation case for inquiry or preliminary inquiry.

“Alleged offender” means the person against whom the NACC has passed a resolution to conduct inquiry in accordance with the Organic Act on Anti-Corruption, regardless of his or her status as principal, instigator or aider and abettor in such commission of offence.

“Witness” shall also mean the person who is the alleged, injured person, petitioner, complainant or denunciator, deponent, or whistleblower who provides clue or information pertaining to the commission of offence which is under the duties and powers of the NACC, unless the text of this regulation provides otherwise.

“Inquirer” means Commissioner, member of inquiry committee, Secretary-General, chief inquiry officer or inquiry officer which is appointed or assigned to conduct inquiry or preliminary inquiry.

“Preliminary inquiry committee” means the committee which is assigned by the NACC to conduct preliminary inquiry and consists of Secretary-General or chief inquiry officer and inquiry officer.

“Agency with the duties and powers to prevent and suppress corruption” means the Public Sector Anti-Corruption Commission, special case inquiry official, inquiry official and shall also include the superior or the authorised person for appointment and removal of the respondent or the alleged person.

Article 5. The President of the National Anti-Corruption Commission shall take charge and control of the execution of this regulation.

Should issue pertaining to the enforcement or implementation of this regulation arise, the NACC shall have the power to interpret and make decision. The NACC resolution shall be deemed final.

CHAPTER I GENERAL PROVISIONS

Article 6. Unless this regulation prescribe specific procedures, the NACC shall proceed with deliberations, and when the NACC deliberate and pass a resolution, further proceedings shall be taken in order to comply with such resolution.

Article 7. Commissioner, member of inquiry committee, chief inquiry officer, inquiry officer, assistant inquiry officer or competent official who exhibits a cause as follows is prohibited from participating in proceeding under this regulation:

(1) Having knowledge of the event, or having previously conducted investigation, or deliberated on the alleged matter in any capacity other than as Commissioner, member of inquiry committee, chief inquiry officer, inquiry officer, assistant inquiry officer or competent official

(2) Being a stakeholder in the alleged matter

(3) Having hostility towards the alleged or the alleged offender

(4) Being the alleged or being the spouse, ancestor, descendant or sibling of full or half-blood of the alleged or the alleged offender

(5) Having close relationship as being relative or partner, or having mutual benefits or conflicting interest in business with the alleged or the alleged offender

Commissioner, member of inquiry committee, chief inquiry officer, inquiry officer, assistant inquiry officer or competent official who is under the circumstance in paragraph one shall submit written notification to the NACC or his/her superior of one level above without delay. In the meantime, such person is prohibited from engaging in any proceedings of the matter until the NACC or the superior of one level above reaches a decision.

Article 8. Commissioner, competent official and the person appointed or assigned by the NACC for undertaking duty is prohibited from disclosing information with the following characteristics:

(1) Specific personal data

(2) Information on the details of witness or any action which will result in learning details of such person, unless such action must be taken in order to comply as this regulation prescribe

(3) Information on the report and the inspection, investigation, inquiry or preliminary inquiry file of the case as well as any relevant documents pertaining to the inspection, investigation, inquiry or preliminary inquiry which is still ongoing until the NACC deliberate and reach resolution on such matter

In case it is necessary to disclose such information, for the benefit of inquiry or preliminary inquiry, the inquiry or the person who has the relevant duties and powers according to this regulation shall submit opinion to the NACC for consideration and reaching resolution, unless this regulation already provides specific prescription.

Subject to Article 36 paragraph two, for the benefit of promoting public participation in the prevention and suppression of corruption, the NACC or the person assigned by the NACC may disclose information obtained from performing duty during the stage of inquiry or preliminary inquiry to the public. However, such disclosure must not affect the case or safety in life or property of person, or fairness.

Article 9. Any documents produced by competent official or inquirer for internal use, including record of statement, respondent, or alleged offender which is produced by competent official or inquiry shall not be examined or made copy thereof by the respondent, alleged person, witness or third party, unless the NACC or assigned person by the NACC grants permission.

Article 10. Allegation, allegation case, opinion, evidence or relevant documents produced by competent official or inquirer may by the order of the NACC be processed or stored by the Office in the format and usage method of electronic data in lieu of document usage.

Article 11. For the benefit of fairness, when the respondent, alleged offender, witness or relevant person submits a request for an extension of the time period, or when the NACC or the person assigned by the NACC views as proper, the NACC shall have the power to extend the period of time as appropriate, unless the law or this regulation already provides specific prescription.

Calculation of the time period under this regulation shall be in accordance with that as prescribed in the Civil and Commercial Code.

Article 12. In conducting inspection, investigation, inquiry or preliminary inquiry according to the Organic Act on Anti-Corruption or as prescribed in this regulation, in addition to the President, Commissioner, member of inquiry committee, Secretary-General, chief inquiry officer and inquiry officer having the duties and powers to implement the law, they shall also have the status as administrative official or high-ranking police officer and have the same powers according to the Criminal Procedure Code as inquiry official under Section 40 paragraph two as well.

Article 13. Unless this regulation prescribe otherwise, for the matter which specifically requires the notification, submission or delivery of letter or document to any person, if such notification, submission or delivery of letter or document to the person is made to his/her domicile or address which appears on evidence of registration according to the law on civil registration or according to evidence as acquired from inspection, investigation, inquiry or preliminary inquiry, it shall be deemed lawful under this regulation.

Article 14. Proceedings under this regulation shall be made in the Thai language. However, should it be necessary to translate the Thai dialect or vernacular or foreign

language into the Thai language, or to translate the Thai language into the Thai dialect or vernacular or foreign language, the translation shall be conducted by a translator.

In case the witness, respondent or alleged offender is unable to speak or understand the Thai language, or is able to speak or understand only the local Thai language or local dialect and has no translator, the competent official shall provide the former with a translator without delay. Such proceeding shall not be deemed as disclosure of information or fact which is acquired from the performance of duty under this regulation.

When a translator conducts translation of statement record, the translator shall conduct the translation with accuracy and sincerity, and shall not add or reduce anything from what is translated. The translator shall also affix signature on the translation.

The provided translator shall be entitled to allowances, travel expenses and accommodation expenses in accordance with the rules prescribed by the NACC.

Article 15. The allegor's withdrawal of the allegation, complaint or request, or death during the proceedings under this regulation shall not be the deprivation of the power of the NACC, inquiry committee, preliminary inquiry committee, chief inquiry officer, inquiry officer or competent official to proceed under this regulation.

Article 16. For the benefit of complying with this regulation and for the administration of cases in a timely manner and with efficiency and effectiveness, the Office by approval of the NACC shall proceed as follows:

- (1) Prescribe format of letter or order
- (2) Prescribe case number and docket according to the system of justice procedure by dividing case docket from general docket system
- (3) Prescribe criteria for assignment, entrustment, transfer, return or disposition of allegation case or case file, including oversee, supervise, monitor, inspect and expedite the case
- (4) Prescribe criteria and methods for complying with this regulation, as well as implementation manual
- (5) Prescribe criteria and methods for making record of respondent, or alleged offender, or arrested person or detainee
- (6) Conduct other assignments as entrusted by the NACC

Article 17. The Secretary-General or the person assigned by the Secretary-General shall consider assigning competent official or inquiry officer to proceed with inspection

of allegation case for a specific matter or generally. Such assignment may be made for proceeding as a panel and the consideration for assignment shall take the difficulty or simplicity of the case, number of assignments, and the level of the respondent or relevant person into account. This however shall not be the deprivation of the power of the NACC to consider the assignment on its own.

Article 18. The submission of matter to the NACC shall be submitted to the superior, including the person or group of persons whom the NACC appointed or assigned for consideration according to the powers and duties.

For the benefit of complying with this regulation, the NACC or the Secretary-General may assign Deputy Secretary-General, Assistant Secretary-General, Director or person of other equivalent positions, chief inquiry officer, person or persons whom the NACC or the Secretary-General deems appropriate the responsibility to supervise or advise on the competent official's performance of duties in order to render it speedy and efficient.

CHAPTER II

SUBMISSION, ACCEPTANCE, DELIVERY, ASSIGNMENT OF ALLEGATION CASE, SECRET INVESTIGATION

PART 1

SUBMISSION AND ACCEPTANCE

Article 19. The allegation that there is a commission of offence which is under the duties and powers of the NACC according to the Organic Act on Anti-Corruption shall at a minimum have the following details:

- (1) Name and address of the alleged
- (2) Name or position of the respondent
- (3) Allegation and circumstances of the commission of the offence as per the allegation, with evidence or cited evidence or details on the assets which have increased or decreased irregularly in case of the allegation of unusual wealth

For the allegation letter which has no name and address of the alleged therein, if it has the details according to (3), competent official shall not be able to deny proceeding with further inspection.

Article 20. In making allegation to the NACC, the allegor shall do so either verbally, or in written submission to, or by sending to the Office, Regional Office or Provincial Office or submit according to the criteria and methods as prescribed by the NACC.

In case the allegor makes an allegation verbally, competent official shall take record of the allegation and have the allegor affix signature as evidence, and in case the allegor brings in other individual cited as his or her witness, competent official may also take record of statement to supplement the allegation.

In case the Office, or Regional Office, or Provincial Office receives an allegation as per paragraph one and is of the view that the allegation is not within the jurisdiction according to internal division of work of the Office, the allegation shall be forwarded to the Office or the Provincial Office which has the jurisdiction for further proceedings.

Article 21. When an allegation as per Article 20 is received, competent official shall proceed as follows:

- (1) Register the allegation and record the information on the docket
- (2) Record the name and address of the allegor on the confidentiality docket registration and
- (3) Remove the name and address of the allegor from the letter or record of statement according to the methods prescribed by the Office

Under no circumstance shall the docket registration as per (2) be disclosed.

The provisions in paragraph one (1) and (2) and paragraph two shall apply to the allegation which the NACC or the Office received from the Auditor-General and the complaint or denunciation which inquiry official has forwarded to the NACC, including letter or evidentiary document which government agencies, state agencies or state enterprises has forwarded to the NACC or the Office.

Article 22. After the undertaking under Article 21, the competent official shall proceed with inspecting the allegation to verify whether the allegation was already made to the NACC or not. If the allegation is the same as that which is being in process by the NACC or the state agency assigned by the NACC, the competent official shall submit the matter to the Director or equivalent position in order to submit that allegation along with the previous allegation for proceedings under the duties and powers, and if it is found that the NACC has reached final resolution on that matter, the allegation shall be submitted to those responsible for the previous matter for further consideration.

Article 23. In case on the allegation appears no name and address of the respondent and there can be no consideration as to who the respondent is or which position the respondent holds, the competent official shall issue letter of notification to the allegor for clarification on further details according to the allegation as to who the respondent is or which position the respondent holds and shall prescribe the time period for the allegor to explain or give such details within seven days as from the date of receipt of such letter, and upon receipt of such details the Office shall be deemed to have accepted the allegation.

In case the time period as per paragraph one has expired but the allegor does not wish to explain or give details about the person or position level of the respondent, the Director or the superior of higher position may issue order to not accept the allegation and notify the result of consideration to the allegor.

In case the allegor opposes the result of consideration, the matter shall be proposed to the NACC Commissioner who is assigned with the supervision for consideration.

Article 24. Subject to Article 31 when any allegation case is registered in the docket, it shall be considered whether it should be returned or assigned to agency which has the duties and powers on anti-corruption or should be accepted for further proceeding.

In case it is deemed appropriate to return or assign the allegation as per paragraph one, the undertaking shall be under Part II on Delivery and Assignment of this Chapter. In case it is deemed appropriate to accept the allegation case for proceeding, the undertaking shall be under Chapter III on Inspection or in accordance with the resolution of the NACC to conduct inquiry under Chapter IV on Inquiry.

PART 2

DELIVERY AND ASSIGNMENT

Article 25. In case competent official is of the opinion that the allegation case is not within the duties and powers of the NACC, or is an allegation case against a state official who holds a position from high-level Director or the equivalent to lower levels has committed an offence, or is the matter which is not a serious offence, comment shall be proposed to the NACC for delivery or assignment of the allegation case under Article 26, Article 27 or Article 28 as the case may be.

Article 26. In case the competent official who has received the matter from inquiry official under Article 61 considers the complaint or denunciation for prosecuting a state official or any other person not being within the duties and powers of the NACC, the allegation case shall be proposed to the NACC for deliberation and resolution to be returned to the inquiry official.

Article 27. In case any allegation case is not within the duties and powers of the NACC, the matter may be proposed to the NACC for deliberation to forward to the superior or the person who has the authority for appointment or removal of the respondent for proceeding with disciplinary action according to duties and powers.

Article 28. In case any allegation case is appropriate for assigning to the agency which has the duties and powers on anti-corruption to proceed in lieu of the NACC, the matter shall be proposed to the NACC for deliberation and resolution under the conditions as follows:

(1) Assign to the Public Sector Anti-Corruption Commission in case it is of the opinion that the respondent is a state official who holds a position from high-level Director or the equivalent to lower levels or is alleged of committing an offence which is not a serious offence, albeit under Section 62.

(2) Assign to inquiry official in case it is of the opinion that the respondent is the person who falls under the duties and powers of the NACC under Section 28 (2) and (4) which is not a serious offence, albeit under Section 61 and Section 63

(3) Assign to the superior or the person who has the authority for appointment or removal of the respondent for proceeding with disciplinary action in case the allegation case is not a serious offence, albeit under Section 64

The assignment under paragraph one does not include the assignment of the allegation case that a public official is unusually wealthy.

Article 29. When the NACC has passed a resolution to return or forward or assign the matter to the agency which has the duties and powers on anti-corruption under Article 26, Article 27 or Article 28, the competent official shall promptly proceed to forward the matter within the time frame under Article 30. However, in case the NACC has passed a resolution to proceed with inspection of any allegation case, further undertaking shall be under Chapter III on Inspection.

In case thereafter facts and circumstances appear that the allegation case which the NACC has the resolution to return or assign under paragraph one is the allegation case of state official who holds the position higher than high-level Director or the equivalent or is the allegation case which has the characteristics of a serious offence or is a significant matter with widespread impact, the NACC may summon the allegation case and relevant documents for further undertaking under this regulation.

Article 30. The return, forwarding or assignment of the allegation case under Article 26, Article 27 or Article 28 shall be undertaken within the time frame under Section 61 or Section 62 or within thirty days as from the date of the NACC's resolution, as the case may be.

PART 3 SECRET INVESTIGATION

Article 31. In case the NACC or the Office receives notification that project formulation or approval or budget allocation displays characteristic which is indicative of an act of violation of the provisions of Section 144 paragraph one or paragraph two of the Constitution, competent official or inquiry officer shall register the notification in the docket and give opinion for proposal to the NACC for deliberation on issuing one order or another as deemed appropriate.

The registration under paragraph one shall include the case when it appears to the NACC and the NACC has passed a resolution to raise suspicion about such characteristic for deliberation. The provisions in Article 21 shall apply *mutatis mutandis* to the registration of notification and under no circumstance shall any one disclose information about the informant.

In case the NACC has approved of secret investigation in relation to an act of violation of the provisions of Section 144 paragraph one or paragraph two of the Constitution, the provisions of Chapter III on Inspection shall apply *mutatis mutandis* to the investigation.

Article 32. After undertaking the secret investigation under Article 31 and becoming of the opinion that the allegation case is a *prima facie* case, it shall be proposed to the NACC for deliberation and proposing comment to the Constitutional Court without delay,

and if there is a case where the offender is liable to reimbursement along with interests, comment shall be proposed to support the deliberation of the Constitutional Court.

In case of the opinion that the case is not a *prima facie* case, it shall be proposed to the NACC for terminating the investigation.

Under paragraph one, should there also appears a circumstance indicative of an offence which is under the duties and powers of the NACC in other parts, inquiry shall be conducted under this regulation.

CHAPTER III

INSPECTION

Article 33. In case the allegation case has been accepted or in case the NACC has passed a resolution to assign the inspection of allegation case, competent official shall inspect whether the allegation case has sufficient information or details for acceptance for further undertaking, or whether the alleged offence is under the duties and powers of the NACC or is the matter which the NACC is prohibited from accepting for deliberation under Section 54 or Section 55 (1) or not, then comment shall be proposed to the NACC for deliberation under Article 45.

In undertaking the inspection under paragraph one, the competent official shall proceed to acquire details as per the allegation case as to which person the respondent is, which position the respondent holds, whether the respondent has vacated the office or not, which allegation and circumstance of committing offence or what evidence there is or which person has joined or aided and abetted in the commission of offence, the following may be undertaken:

(1) Request for addition details as per the allegation from the alleger

(2) Take record of statement from any relevant person

(3) Request fact or request relevant documentary evidence from state agencies, government agencies, state enterprises, financial institutions, private agencies or organisations or from any person to supplement the deliberation.

(4) Inspect the venue or locality where the incident occurred or which is related to the subject as per the allegation and conduct the undertakings which are beneficial to the gathering of evidence.

(5) Proceed as assigned by the NACC or conduct other assignments for the purpose of obtaining facts sufficient for further inquiry.

In case it is necessary to render the circumstance of the act as per the allegation more evident, examination of the respondent or any person who may be ordered for inquiry in capacity as deponent may be conducted. However, in the examination such person shall also be notified of being the respondent as per the allegation case.

In case it is necessary to inspect information abroad, the competent official shall propose comment to the Secretary-General for consideration on requesting international cooperation from relevant agencies or any person overseas for the purpose of requesting facts or requesting relevant documentary evidence or requesting cooperation from the Ministry of Foreign Affairs or Ambassador or consul of Thailand or official of the Royal Thai Government abroad to conduct the information inspection instead.

In the inspection under paragraph one or paragraph two, should there be a case which needs to be undertaken by virtue of the provisions under Section 34 (1) (2) and (3), the Secretary-General or chief inquiry officer who is responsible for or supervises the matter shall be the authorised signatory. However, the assignment of chief inquiry officer's duty to supervise shall proceed as the Office prescribed.

For the benefit of monitoring and supervising the performance of duties of competent officials, if the undertaking of inspection could not be completed within one hundred and eighty days as from the registration date of accepting the allegation case, the request for extension of time shall be submitted to the Director. In this case, the Director shall have the authority to extend the period for no more than ninety days. If such period has expired it shall be proposed to the NACC Commissioner who is assigned with the supervision or the group of persons which the NACC assigned for extending the period no more than twice, each time not exceeding ninety days. However, should the extension of period have already been granted three times but the undertaking has not yet completed, justifications and necessity shall be proposed to the NACC for consideration and reaching resolution as deemed appropriate, unless the matter requires verification of information or details or has requested evidence from a foreign jurisdiction.

Article 34. In case there is an allegation of unusual wealth, circumstance or details in relation to the origin of assets as alleged, location of assets name and address of the person in possession of or entitled to ownership of the alleged assets shall be considered as

to whether it is sufficient to proceed with inspection. In case it is considered that the details are not sufficient for further proceeding, the matter shall be proposed to the NACC according to Article 45 for consideration on not accepting the allegation case for undertaking.

In the inspection under paragraph one, in case the respondent is the person who has already submitted the account showing particulars of assets and liabilities to the NACC, such account which shows particulars of assets and liabilities shall also be brought in for consideration.

Article 35. In case of an allegation case that a foreign public official, official of an international organisation or related person has committed an offence under Section 173, Section 174, Section 175 or Section 176, if inspected and found that the allegation case has sufficient information or details for further undertaking, competent official shall submit comment to the NACC to consider whether it is appropriate to forward the matter to foreign agency which has the duties and powers to proceed according to domestic law of that country or whether it is appropriate to accept for undertaking inquiry or preliminary inquiry.

In case the Central Authority submits request for legal assistance under the law on mutual legal assistance in criminal matters for proceeding against foreign public official, official of international organisation or person in relation to the offence under Section 173, Section 174, Section 175, Section 176 or Section 177, competent official shall submit comment to the NACC to consider whether to accept the matter for conducting inquiry or undertake other actions as requested.

Article 36. In case competent official has requested to learn facts or requested additional evidentiary document from the allegor, but it does not appear that the allegor has sufficient information or details of the allegation and circumstance of committing the offence as alleged for further inspection, or in case the allegation does not specify the name and address of the allegor and it cannot inspect the fact or find sufficient evidence for further undertaking, the matter shall be proposed to the NACC or the assigned NACC Commissioner for reaching resolution or issuing order to not accept the allegation for deliberation.

Article 37. In case there is a warrant to summon any person to give statement, a letter shall be drafted which at least must contain the following

- (1) Place of issue of the warrant
- (2) Date, month and year of issue of the warrant
- (3) Name and address of the person summoned by the warrant

(4) Reason for summoning such person

(5) Venue, date, month, year and time for such person's arrival

(6) Signature of the person exercising authority for issuing the warrant or signature and position of the warrant issuer.

In case the respondent or witness has the intent to give or voluntarily gives statement to competent official, a warrant may not be necessary.

In case any person does not come to give statement to competent official on the specified date, time and venue, the competent official shall issue a warrant to such person once more. If such person does not come to give statement without justifiable reasons, the competent official may submit comment to the NACC for consideration on taking action with such person under Section 178 or issue order as deemed appropriate.

Article 38. In the examination, the witness or the deponent shall be forbidden from recording sound, image or image and sound, or acting with any method in a similar manner and other person shall be forbidden from being in the same venue unless allowed by competent official for the benefit of inspection.

Article 39. In the examination, competent official shall inform the witness that the competent official has the capacity as official under the Criminal Code; giving false statement to the competent official may be an offence under the law.

The competent official shall be forbidden from committing or causing to be committing any act which amounts to a promise, threat, deception, torture, use of physical force or any unlawful act in order to induce the person to give statement with respect to the alleged matter.

Article 40. In the examination of witness, there shall at least be no less than two competent officials join in the undertaking, at least one of whom shall be the competent official who is inquiry officer, and the record of statement shall contain the essence according to the format prescribed by the Office.

When the record of statement is finished, the witness shall read the record of statement on his/her own, unless such person is unwilling or unable to read, the statement shall be read to such person then such person and the person who recorded the statement shall affix signature as evidence. If there is contributor to giving the statement for the benefit of inspection, such person shall also affix signature as evidence and the competent official who recorded the statement shall also affix signature for certification on such record of

statement. If the record of statement contains several pages, the person(s) recording the statement who at the minimum is one competent official and the witness shall affix signature for authentication on every page.

In recording statement, it is forbidden to erase or record message thereon. If it is necessary to make corrections to the message that has been recorded, cross out or fill in method shall be employed and at least one competent official and the witness shall affix signature for authentication at every mark which is crossed out or filled in.

In case the person under paragraph one is unwilling to read the record of statement or unwilling to affix signature, the competent official shall record the reason for the unwillingness to read the record of statement or not affixing signature or such record of statement. In case such person is not capable of affixing signature, the Civil and Commercial Code shall apply *mutatis mutandis*.

The examination may be conducted by video conference, albeit according to the criteria, method and conditions prescribed by the NACC.

Article 41. In admitting document into documentary evidence, original document shall be used, but if the original document cannot be adduced, copied document which is certified as true copy by the responsible person may be used.

If the original document cannot be found because of loss or it is believable that it is destroyed or by other reasons, copied document or witness may be examined in lieu.

In case physical evidence cannot be adduced, competent official shall go and make a report at the venue where such physical evidence is present according to the time and method which the competent official deems appropriate to the characteristics of such physical evidence.

Article 42. For the benefit of inspection, competent official may submit issue which is trivial to competent official in such locality to conduct the inspection on his/her behalf by means of examination or inspection of the venue where the incident occurred or the venue which is related to the allegation or to conduct other undertakings which are not of essence, with the approval from the Secretary-General or the person assigned by the Secretary-General with the duties and powers to command or supervise such matter.

Article 43. In case of undertaking inspection in relation to an action of any person and it is necessary to acquire information on financial transactions of such person or

related persons, competent official shall submit comment to the NACC to request information from the Anti-Money Laundering Office to support deliberation.

Article 44. In case there appears fact and circumstance during the inspection and it is found that the allegation case is not within the duties and powers of the NACC or the respondent is a state official who holds a position from high-level Director or the equivalent to lower levels in case of allegation of committing an offence or is the matter which is not serious offence, the matter shall be proposed to the NACC for deliberation on further undertaking under Part 2 on Delivery and Assignment.

Article 45. When competent official has completed inspection, comment shall be submitted to the NACC for deliberation on the following:

(1) Allegation case which does not have sufficient information or details for further undertakings or the alleged offence which is not within the duties and powers of the NACC or the matter which the NACC is prohibited from accepting for deliberation under Section 54 or Section 55 (1) shall be proposed to the NACC for consideration on not accepting the allegation case for deliberation

(2) Allegation case which has sufficient facts and evidence for further inquiry shall be proposed to the NACC for resolution on undertakings under Chapter IV on Inquiry.

In the consideration under paragraph one, the NACC may reach a resolution to conduct additional inspection or conduct other undertakings as deemed appropriate.

Article 46. In the consideration under Article 45 (1), the NACC may assign one NACC Commissioner or Commissioners to consider and issue order on behalf of the NACC. However, the assignment for consideration and issuance of orders on its behalf on which matter and with which characteristics is to be in accordance with the resolution of the NACC.

In case the NACC Commissioner who is assigned under paragraph one has issued order to not accept the matter for consideration, competent official shall issue letter to notify the allegor. Should the allegor not agree with such order, the allegor may submit a letter to request the NACC to consider reviewing the order within thirty days as from the date of receipt of the notification.

In case the NACC Commissioner has considered it appropriate to return or submit or assign to an agency which has the duties and powers in anti-corruption for proceeding according to duties and powers, the matter shall be submitted to the NACC for further consideration.

CHAPTER IV

INQUIRY

PART 1GENERAL PROVISIONS

Article 47. The conduct of inquiry or preliminary inquiry shall be undertaken in order to obtain facts as accurate to the fact which occurred, whether it be beneficial or harmful to the alleged offender.

The inquiry or preliminary inquiry under paragraph one shall be conducted as follows:

(1) The entire NACC is the commission of inquiry

(2) The NACC appoints an inquiry committee which consists of no less than two NACC Commissioners and other persons as inquiry committee

(3) The NACC assigns the Secretary-General, chief inquiry officer or inquiry officer as preliminary inquiry committee

The appointment of other person as a committee of the inquiry committee as per (2), the NACC may appoint from chief inquiry officers or qualified persons according to the appropriateness with the matter under the inquiry.

In proposing the matter to the NACC for reaching resolution to conduct inquiry of any allegation case under paragraph two, the significance, severity of the allegation including the position level of the alleged offender shall be taken into account.

In conducting inquiry or preliminary inquiry, the person under paragraph two shall have the duties and powers for the inquiry or preliminary inquiry as from the date on which the NACC reached the resolution to appoint or assign as the case may be.

Article 48. When the NACC has reached the resolution to conduct inquiry or preliminary inquiry on any matter, the assigned inquiry committee or preliminary inquiry committee shall complete the undertaking within the prescribed time limit of two years as from the date on which the inquiry was initiated, by taking into account the swiftness and complexity of the inquiry and the statute of limitations of the undertaking of such matter. Prescription of the time limit for the inquiry of the allegation may be varied according to

particular category of the inquiry, unless already specifically prescribed by the law or this regulation.

In case of necessary cause that hinders the completion of the inquiry within the time limit under paragraph one, the NACC may extend such period of time as deemed necessary, but the period shall not exceed three years in total, unless it is the matter which requires travelling to conduct the inquiry overseas or requests foreign agencies to conduct the inquiry in lieu or requests documentary evidence from overseas, the time limit may be extended as deemed necessary.

Under the statute of limitations, upon exceeding the time limit under paragraph one or paragraph two or as prescribed by the Organic Act on Anti-Corruption, the NACC shall maintain the duties and powers to conduct the inquiry and reach opinion or decision or continue undertaking in accordance with the duties and powers.

Article 49. In case of reasonable cause or necessary cause, the NACC may appoint or assign or adjust or appoint additional person to become member of inquiry committee or chief inquiry officer or inquiry officer under Article 47 (2) or (3) as the case may be.

Article 50. The inquiry in case the NACC conduct the inquiry on its own, the provisions under Chapter IV Part 2, Part 3, Part 4 and Part 5 shall apply *mutatis mutandis* to the inquiry of the NACC, albeit the meeting and passing of resolution of the NACC shall be in accordance with particular regulations on such matter.

PART 2

APPOINTMENT AND ASSIGNMENT

Article 51. In proposing to the NACC for passing resolution to appoint inquiry committee under Article 47 paragraph two (2), the Secretary-General or the person assigned by the Secretary-General shall nominate the name of the persons who deserve the appointment, which includes the committee president, committee member, committee member and secretary and may include committee member and assistant secretary. However, such committee member and secretary, and such committee member and assistant secretary shall be appointed from chief inquiry officers.

When the NACC has passed a resolution to appoint the inquiry committee, appointment order shall be drafted and proposed to the NACC President or the person assigned by the NACC for affixing signature.

The inquiry committee shall complete the inquiry and finish inquiry file for proposing to the NACC for deliberation within one year as from the date of assignment.

Under the time limit as per Section 48, in case the inquiry cannot be conducted within the time limit under paragraph three, the inquiry committee shall report obstacles and problems during the undertaking, as well as recommend solution guidelines and the time period for the undertaking so that the NACC shall consider extending the time period which can be extended no more than twice, each time not exceeding sixty days.

In the inquiry, the inquiry committee shall have the powers according to Section 34 (1), (2) and (3) as well.

Article 52. Inquiry committee shall convene meeting to consider and prescribe inquiry guidelines as well as assign member of the inquiry committee, committee member and secretary of the inquiry committee, and committee member and assistant secretary of the inquiry committee to perform duties on behalf of the inquiry committee. However, the regulations in relation to the meeting of the NACC shall apply *mutatis mutandis*, unless this regulation provides otherwise.

In the meeting of the inquiry committee to consider passing a resolution to rule about the issue of the case or giving approval of essential matter, the presence of not less than one-half of the total number of inquiry committee members shall constitute a quorum, unless this regulation provides otherwise.

The passing of resolution of the inquiry committee shall be decided by a simple majority. Each member of the inquiry committee shall have one vote in passing the resolution. In case of an equality of votes, the Chairperson presiding at such meeting shall have the casting vote.

Article 53. An inquiry committee has the powers to appoint chief inquiry officer, or inquiry officer, or competent official to assist the inquiry committee in the undertakings in accordance with duties, which includes to conduct collection of any evidence as assigned, albeit taking into account the appropriateness to the status, position level and protection of the alleged offender or witness as appropriate.

In case it is necessary to have qualified person with the knowledge and expertise in the field related to the matter under the inquiry, the inquiry committee shall have the power to appoint such qualified person who does not have the descriptions under Section 56 as advisor or propose to the NACC for appointing such qualified person as a member of the inquiry committee.

Article 54. In the proposal to the NACC for reaching resolution to assign preliminary inquiry committee under Article 47 paragraph two (3), the Secretary-General or the person assigned by the Secretary-General shall propose the name of the Secretary-General or chief inquiry officer as head, at least one inquiry officer as party and may propose the name of assistant inquiry officer or competent official to assist in the performance of duties, albeit taking into account the status, position level and protection of the alleged offender.

The preliminary inquiry shall be completed and report of the preliminary inquiry shall be proposed to the NACC within one hundred and eighty days as from the date of assignment.

Under the time limit as per Section 48, in case the preliminary inquiry cannot be completed within the time limit prescribed under paragraph two, the preliminary inquiry committee shall report obstacles and problems in the undertaking as well as propose guidelines for solution and time period for undertaking to the NACC for consideration on extending the time period which can be extended no more than twice, each time not exceeding sixty days. In this connection, the NACC may assign the NACC Commissioner entrusted with the supervision to have the authority to extend the time period in lieu of the NACC.

In the preliminary inquiry, the Secretary-General and chief inquiry officer has the powers according to Section 34 (1), (2) and (3).

In the passing of resolution of the preliminary inquiry committee, the provisions in Article 52 shall apply *mutatis mutandis*.

For the benefit of the supervision of preliminary inquiry to ensure thoroughness and fairness, the NACC may assign each NACC Commissioner with the supervision of preliminary inquiry in each aspect as determined by the NACC.

Article 55. When the NACC has assigned an inquiry committee to conduct inquiry or assign a preliminary inquiry committee to conduct preliminary inquiry on any matter, the inquiry committee and the preliminary inquiry committee shall have the same duties and

powers in the sections related to the inquiry as the NACC under Section 68, unless already specifically prescribed by this regulation.

Article 56. In order to render the inquiry or preliminary inquiry timely and efficient, the person holding the following positions shall be the person to consider affixing signature on the letter or order

(1) NACC President or NACC Commissioner who is responsible for the file, in case the NACC conducts the inquiry on its own

(2) Chairperson of the inquiry committee or member and secretary of the inquiry committee, in case of appointment of inquiry committee

(3) Secretary-General or chief inquiry officer, in case of assignment of preliminary inquiry committee

The person under paragraph one shall also have the power to consider the petition or the request of the alleged, the alleged offender, witness or relevant persons, except it is the consideration on passing a resolution to rule about the issue of the case or giving approval of essential matter or should be proposed to the meeting, unless specifically prescribed by this regulation.

PART 3

OBJECTION AND CONSIDERATION OF OBJECTION

Article 57. In case the alleged offender or relevant stakeholder objects the person who conducts the inquiry or the assistant inquiry officer or the appointed or assigned competent official who has the circumstance under Article 7 paragraph one, the petition shall be submitted in writing to the NACC or the person assigned by the NACC within thirty days as from the date of appearance of such circumstance for consideration. In awaiting the decision, the person who conducts the inquiry or the assistant inquiry officer or the competent official who has been objected shall be suspended from performing duties for the time being until the NACC or the person assigned by the NACC makes decision.

In case there is adjustment to the person who conducts the inquiry or the person under paragraph one, after notifying the allegation, the name of such person who has been appointed or assigned shall be notified to the alleged offender for acknowledgement as well as notifying the right to objection.

Article 58. In consideration of objection, it shall be proposed to the NACC for consideration, except it is the case of objecting personnel of preliminary inquiry committee, it shall be proposed to the NACC Commissioner assigned with the supervision for consideration and making decision thereof, which must be completed within seven days as from the date of the receipt of notification.

Article 59. Upon the consideration of the letter of objection or the memorandum of the cause which may lead to an objection, the NACC or the NACC Commissioner assigned with the supervision shall pass a resolution or issue an order as follows:

(1) Revoke the objection, in case of being of the opinion that the objection is not in compliance with Article 7 paragraph one.

(2) The objected person shall be removed from appointment or out of duty in that particular matter in case the objection is deemed valid or in case of being of the opinion that should the objected person be allowed to continue the performance of duties may result in the loss of justice or the inquiry may not produce clear fact.

Article 60. In case the NACC or the NACC Commissioner assigned with the supervision thereof has passed a resolution or issued an order to remove any person from the appointment or the performance of duty in relation to any allegation case by reason of the causes under Article 7 or in case of other necessary causes, if the removal of appointment or assignment, or the termination of the performance of duty does not affect the essence or the composition of the appointed or assigned person, or the appropriateness to the status, position level and protection of the alleged offender, the NACC may not appoint or assign other persons to perform the duty in lieu. The inquiry committee or preliminary inquiry committee shall be consisted of the persons as it is and shall be able to continue performing duties.

The provisions in paragraph one shall also apply *mutatis mutandis* to the case where an appointed or assigned person requested for withdrawal or resigned from the appointment or assignment, or vacated government service, or died during the performance of the duty of inquiry or preliminary inquiry.

The removal of appointment or assignment, or the termination of the performance of duty under paragraph one or paragraph two, or the change of appointed or

assigned person for inquiry or preliminary inquiry shall not affect the inquiry or the preliminary inquiry which has already been conducted.

Article 61. Upon the consideration of the objection, the NACC or the NACC Commissioner who has been assigned with the supervision shall issue a letter to notify the result of consideration to the objector for acknowledgement.

In case the objector does not agree with the order of the NACC Commissioner assigned with the supervision may submit a letter to request the NACC to review such order within fifteen days as from the date of the receipt of notification.

The NACC's result of the objection consideration under paragraph one and paragraph two shall be deemed final.

PART 4

METHODS FOR CONDUCTING INQUIRY

Article 62. The evidence obtained from the inspection shall also be admitted as evidence for the inquiry or the preliminary inquiry under this Chapter. The evidence obtained from such undertaking shall constitute the inquiry file or the preliminary inquiry report.

The criteria and inspection methods under Chapter III on Inspection shall apply *mutatis mutandis* to the conduct of inquiry or preliminary inquiry under this Part, unless already specifically prescribed by the provisions under Article 42 or the provisions under this Part.

Article 63. The examination of the alleged offender or witness of the inquiry committee or the preliminary inquiry committee shall be undertaken by at least two members of the inquiry committee, or the Secretary-General, or one chief inquiry officer or inquiry officer, and one assistant inquiry officer or competent official, as the case may be.

Under paragraph one, the inquiry committee may assign chief inquiry officer or inquiry officer with the total number of no less than two to conduct the examination of witness including to proceed with gathering evidence of particular category according to such assignment by taking into account the appropriateness to the status, position level and protection of the alleged offender or witness as appropriate.

Article 64. The examination of witness shall be conducted by recording the statement on the material which is able to transmit moving images or sounds or by any other means, and the witness has already verified the accuracy of such record of statement. NACC Commissioner or inquiry officer may make a copy of such record in writing or on any other materials. In case the deponent is a child aged no more than eighteen years of age, the undertaking shall be conducted in accordance with the Criminal Procedure Code.

For the benefit of inquiry of preliminary inquiry, the inquiry committee or preliminary inquiry committee may incorporate evidence obtained from the inquiry or evidence lawfully obtained from a foreign jurisdiction in a particular case for the purpose of usage as supporting evidence in the relevant inquiry file or preliminary inquiry report.

Article 65. In the conduct of inquiry as to who is unusually wealthy, inquiry committee or preliminary inquiry committee may propose comment to the NACC to adduce the account of assets and liabilities submitted to other agencies under Section 130, or order the alleged offender to submit the account of assets and liabilities according to the particulars and within the time period prescribed by the NACC, regardless as to whether it has been submitted to the NACC or not, for consideration and comparison with the existing assets during the conduct of the inquiry including the income and expenses and income tax payment of such person in order to deliberate as deemed appropriate.

Article 66. In the conduct of inquiry or preliminary inquiry, or the collection of any evidence will cause unnecessary delay to the inquiry or the preliminary inquiry, or it is not the essential evidence of the issue of the case, the inquiry committee or the preliminary inquiry committee may cancel it, but the reason shall also be recorded in the inquiry file or the preliminary inquiry report.

Article 67. In case the inquiry committee or the preliminary inquiry committee is of the opinion that any evidence in the inquiry file or the preliminary inquiry report which must be referenced to in the future will be lost or difficult to be adduced later on, the inquiry committee or the preliminary inquiry committee shall submit comment to the NACC for filing of motion to the court for issuance of order to immediately examine such evidence under the procedural law on corruption and misconduct cases or the organic law on criminal procedure for persons holding political positions.

Article 68. In case of reasonable cause for providing protection and assistance measures to the alleged, the injured person, the petitioner, the complainant or denunciator,

the deponent or the whistleblower who provides clue or information pertaining to the performance of duties of the NACC under Section 131, or in case of necessary cause for taking a person as witness with the immunity to prosecution under Section 135, the undertaking shall comply with the regulations on such matter.

Article 69. In case it appears from the inquiry or preliminary inquiry that there is a circumstance convincingly indicative of the transfer, diversion, transformation, or hiding of assets which the alleged offender used in the commission of offence or the assets which were unlawfully obtained as a result of the commission of offence which is under the duties and powers of the NACC or the assets in relation to unusual wealth, the inquiry committee or the preliminary inquiry committee shall immediately submit comment to the NACC for deliberation and issuing of order under Section 69.

In case the NACC has issued order to temporarily seize or freeze assets of the alleged offender, if the alleged offender submits a request to allow for the application for usage of such property, with or without bail or security, or declare the evidence which indicates that such assets are not related with the unusual wealth, the inquiry committee or the preliminary inquiry committee shall inspect facts and evidence and verify the assets as per such request without delay, then submit comment to complement the deliberation of the NACC.

Article 70. In the course of inquiry or preliminary inquiry, if it is found that a public official or other person who is the principal, instigator or aider and abettor, including the person who gives, offers to give or promises to give any property or other benefit to a public official with an intent to induce such person to wrongfully perform or not perform or delay the performance of duty has participated in the commission of offence in the matter which is under the inquiry or the preliminary inquiry, the inquiry committee or the preliminary inquiry committee shall have the power to continue the inquiry or the preliminary inquiry of such person.

In case the person who participated in the commission of offence under paragraph one is a person holding a political position, a judge of the Constitutional Court, and a person holding position in an independent agency, the preliminary inquiry committee shall submit the matter to the NACC for consideration on passing resolution to conduct the inquiry or undertaking as deemed appropriate.

Article 71. In the course of inquiry or preliminary inquiry, if it appears that the alleged offender has vacated the office or has vacated government service due to any reason other than death, the inquiry committee or the preliminary inquiry committee shall have the power to conduct the inquiry or the preliminary inquiry in order to proceed with criminal prosecution, disciplinary action or a request for the property to become state property, as the case may be.

In case the alleged offender has vacated the office or has vacated government service due to death, the inquiry committee or the preliminary inquiry committee shall have the power to proceed with the inquiry of the allegation of unusual wealth.

The undertaking under paragraph two shall be completed within two years as from the date of such person's death.

Article 72. In the inquiry, if the NACC or the inquiry committee is of the opinion that there is sufficient evidence to support the allegation that it has a *prima facie* case, the NACC shall notify the allegation to the alleged offender.

In the preliminary inquiry, the inquiry committee shall conclude facts and evidence as well as comments for proposal to the NACC Commissioner assigned with the supervision for consideration on notifying allegation and the inquiry officer shall notify the allegation to the alleged offender. In case the NACC Commissioner assigned with the supervision is of the opinion that the evidence is not sufficient for notifying the allegation, order may be issued to the preliminary inquiry committee to conduct additional evidence gathering while at the same time completely specifying the issue of incompleteness upon which the additional evidence gathering shall be conducted.

Under paragraph two, if the preliminary inquiry committee is of the opinion that the evidence which has been additionally gathered is sufficient for notifying the allegation, or it is not possible to gather additional evidence but the NACC Commissioner with the supervision is of the opinion that the evidence is not sufficient for notifying the allegation or is of the opinion that the allegation does not have a *prima facie* case, it shall be proposed to the NACC for deliberation on whether to notify the allegation or conduct further other undertakings.

Article 73. The notification of allegation under Article 72 shall be made by issuing letter summoning the alleged offender to appear. Such summon letter shall be delivered by registered post to the domicile or address of the alleged offender which appears

in the registration evidence under the law on civil registration, or the address which appears from the inquiry or the preliminary inquiry. In case there appears no domicile or address of the alleged offender as in the registration evidence under the law on civil registration, the delivery shall be made to the address of the alleged offender which appears in the latest registration evidence under the law on civil registration. Such undertaking shall be recorded as evidence. Except the alleged offender appears in person and it is believed that this is the actual alleged offender, the allegation may be notified without summon letter. In any case, the issuance of such summon letter shall take the long and short distance into consideration, so that the alleged offender has the opportunity to arrive on the prescribed date and time.

Article 74. Upon the alleged offender's arrival to appear and acknowledge the allegation under Article 73, the allegation shall be notified to the alleged offender by informing facts in relation to the act which the alleged offender has been alleged of having committed, and notify the allegation to the extent that the alleged offender thoroughly understands the allegation. And in case of the allegation of unusual wealth, details in relation to the unusual wealth, location of property, name and address of the person in possession of or has the name as the owner of the property at the time of the notification of the allegation, albeit as much as possible. The alleged offender shall also be informed of the right to objection under Section 56.

The notification of allegation under paragraph one shall be recorded in writing by summarising the essence of facts and evidence to the alleged offender, and the summary of facts shall have sufficient details which are beneficial to the defence of the allegation. The alleged offender shall also be informed of the right of the alleged offender to bring lawyer or no more than three persons in whom the alleged offender reposes trust to listen to the explanation or giving of statement under Section 73, and the time limit which shall not exceed fifteen days as from the date on which it is deemed to have acknowledged the allegation shall be prescribed for the alleged offender to defend the allegation, and the alleged offender shall affix signature for acknowledgement, and the registration record shall be made under Article 91.

The summary of facts under paragraph two shall not disclose the name, position, address of the alleger or witness, or any other information which results in the disclosure of the identity of the alleger or witness, unless there is necessary cause for the

alleged offender to thoroughly understand the allegation in accordance with the memorandum format of the allegation notification as prescribed by the NACC.

The recording of the notification of allegation under paragraph two shall be made into two copies, one for keeping as evidence to supplement the inquiry file or the preliminary inquiry report, the other for delivery to the alleged offender.

Article 75. In case the alleged offender does not come to the appointment to acknowledge the allegation, in any case the memorandum of the allegation notification shall be delivered to the alleged offender. The delivery shall be via registered post and Article 73 shall apply *mutatis mutandis*.

In delivery of the memorandum of the notification of allegation to the alleged offender for acknowledgement under paragraph one, the memorandum shall be made into three copies. One for storing in the inquiry file or the preliminary inquiry report, two for delivery to the alleged offender, one of which for the alleged offender to keep and the other for the alleged offender to affix signature and place the date, month and year of acknowledgement and to return for keeping with the inquiry file or the preliminary inquiry report. Upon expiration of the time limit of fifteen days as from the date of such undertaking, despite not receiving the return the memorandum of the notification of allegation or not receiving the explanation from the alleged offender, the alleged offender shall be deemed to have acknowledged the allegation and to wish not to defend the allegation.

Article 76. In case there has been the notification of allegation, the inquiry committee or the preliminary inquiry committee is of the opinion that allowing the alleged state official to continue the performance of duty may cause damages to the government service or obstruct in the continuity of the inquiry, comment shall be proposed to the NACC for forwarding the matter to the superior of the alleged offender to order temporary suspension of the performance of duty.

In case there has been the forwarding of the matter to the superior under paragraph one, if later result of the inquiry or the preliminary inquiry reveals that the allegation has no *prima facie* case, the Office shall issue a letter to notify the superior of the alleged offender for acknowledgement expeditiously in order to allow the alleged offender to return to duty, and then report to the NACC for acknowledgement.

The provisions under this Article shall not apply to state official who is judiciary official under the law on regulations for judicial official, judiciary official of the Administrative

Court under the law on the establishment of the Administrative Court and Administrative Cases Procedure, or public prosecutor under the law on regulations for public prosecutors.

Article 77. In defending the allegation, the alleged offender may explain to defend the allegation verbally or make explanation to defend the allegation in writing.

In case the alleged offender wishes to defend the allegation verbally, details related to the explanation of the alleged offender shall be recorded and the provisions under Article 38, Article 39 paragraph two and Article 40 except paragraph five shall apply *mutatis mutandis*.

In adducing to defend the allegation, the alleged offender may cite witness or adduce evidence on his or her own or cite evidence by requesting the inquiry committee or the preliminary inquiry committee to summon or conduct the inquiry of such evidence.

In case the alleged offender requests to summon any person or summon document from any person, the inquirer shall proceed as requested. However, the alleged offender must make the request within thirty days as from the date of the receipt of the allegation notification, nevertheless, except the NACC or the inquiry committee or the NACC Commissioner assigned with the supervision is of the opinion that the alleged offender has the intent to delay or dishonestly exercises right or the person or document requested for summon has no effect on the decision of the NACC but such cause shall be recorded within the inquiry file or the preliminary inquiry report.

Article 78. In case the alleged offender is unable to defend the allegation within the time limit under Article 74 and Article 75, a written complaint which specifies reasons and necessity shall be submitted to the inquirer to supplement the complaint. For the benefit of justice, the inquiry committee or the preliminary inquiry committee may extend the time period for the explanation to defend the allegation or attest to defend the allegation as deemed appropriate, but the overall time period shall not exceed thirty days as from the date of receiving notification of the allegation, unless there is a cause of special circumstance or force majeure.

Article 79. In case the alleged offender has acknowledged the allegation, prior to the explanation to defend the allegation, the alleged offender may submit a written request along with reasons to the inquiry committee or the preliminary inquiry committee for inspecting evidence in the file in order to supplement the explanation to defend the allegation.

For the benefit of justice, the inquiry committee or the preliminary inquiry committee may grant approval to the alleged offender to inspect the evidence as requested. Unless such evidence has impact on the safety of witness, the alleged, the alleged, injured person, petitioner, complainant or denunciator, deponent, or whistleblower who provides clue or information pertaining to the commission of offence as alleged or affect the essence of the evidence in the case, the inquiry committee or the preliminary inquiry committee has the powers to deny approval of the evidence inspection as the alleged offender requested.

In case the inquiry committee or the preliminary inquiry committee has granted approval to the alleged offender to inspect evidence under paragraph two, the alleged offender shall have the right to take note of or copy document as appropriate to the extent that it does not affect the case or the protection of related person. The alleged offender may bring in lawyer or the person in whom the alleged offender reposes trust, consisting of no more than three persons, to assist with the inspection of evidence.

In the case under paragraph one, if the inquiry committee or the preliminary inquiry committee is of the opinion that the alleged offender has the necessary cause and is unable to inspect the evidence on his or her own, permission may be granted to the other person who has received authorisation from the alleged offender to inspect the evidence as requested.

Article 80. Any evidence which the alleged offender has adduced, the inquirer shall not deny admittance on the grounds of exceeding time period or procedural lapse, unless the NACC has already passed a resolution that the case has a *prima facie* case or the inquirer is of the opinion that the alleged offender intends to cause delay or dishonestly exercises rights. However, such cause shall be recorded within the inquiry file or the preliminary inquiry report.

Article 81. In case the inquiry committee or the preliminary inquiry committee deems it necessary, additional evidence inquiry may be conducted by examination of witness or associated person. This may include issuance of order to summon documents or evidence from any agency or person to supplement the deliberation of the case decision after notification of the allegation to the alleged offender for acknowledgement, or hearing of the defence of the allegation following the inquiry of the alleged offender's evidence.

Article 82. In case the alleged offender is not present to provide explanation in defence of the allegation within the prescribed time limit and the inquiry committee or the

preliminary inquiry committee is of the opinion that the facts and evidence are complete, the inquiry file or the preliminary inquiry report shall be furnished to complement further deliberation of the NACC under Part 5 of this Chapter.

Article 83. For the benefit of justice during the inquiry or the preliminary inquiry in order for criminal proceedings or case proceedings of severe violation or non-compliance with ethical standards, if there is probable cause that the alleged offender is an insane person and is unable to acknowledge the allegation or explain to defend the allegation or defend the case, the inquiry committee or the preliminary inquiry committee shall have medical staff examine such person without delay. Once finished, such medical staff shall be summoned to give a statement on the results of the examination in order to submit comment as well as evidence which shows that the alleged offender is an insane person to the NACC for consideration.

In case the NACC is of the opinion that there is evidence to believe that the alleged offender is an insane person and is unable to acknowledge the allegation or explain to defend the allegation, the inquiry or the preliminary inquiry may be suspended until such person is no longer insane and capable of defending the case and in this regard the NACC may issue order to temporarily dispose of the matter of such person.

PART 5

CONSIDERATION AND COMPLETION OF INQUIRY FILE

Article 84. The inquiry committee and the preliminary inquiry committee shall proceed with the inquiry or the preliminary inquiry and gathering of all evidence in order to acquire facts or prove the guilt as alleged. If the inquiry or the preliminary inquiry of evidence of all the concerned parties in the case has been conducted, and an opinion is reached that the facts are sufficient for the deliberation on the guilt of the alleged offender, the deliberation on the guilt of the alleged offender and party associated with the commission of the offence on both the questions of fact and law which appear on the case file shall be conducted without delay.

The inquiry committee or the preliminary inquiry committee shall convene meeting to consider the preponderance of all the evidence of the allegation, the defence of

the allegation, facts and associated evidence obtained from the inquiry or the preliminary inquiry. A resolution shall be reached on whether the alleged offender has the behaviour or has committed the act which constitutes the offence as alleged, how, as well as the reasons for consideration on making comment and evidence complementing the decision, including the provisions of the law cited as reference. And the inquiry file or the preliminary inquiry report shall be completed for submission to the NACC President.

Article 85. When the conduct of the inquiry is completed, the inquiry file shall be completed for submission to the NACC President with the essence as follows:

- (1) name and position of the alleged offender
- (2) the alleged matter
- (3) the allegation, the defence of the allegation, summary of associated facts and evidence obtained from the inquiry
- (4) reasons for deliberation on both the questions of fact and law
- (5) provisions of the law cited as reference
- (6) summary of comment on the alleged matter

The provisions in paragraph one shall apply *mutatis mutandis* to the completion of the preliminary inquiry report.

Article 86. When the NACC President has received the inquiry file or the preliminary inquiry report, a meeting for deliberation shall be convened within thirty days.

In case the NACC has passed a resolution to conduct additional inquiry or issued order to conduct additional inquiry or preliminary inquiry, the NACC may assign the current inquiry committee or preliminary inquiry committee, or appoint a new inquiry committee or preliminary inquiry committee to conduct additional inquiry or preliminary inquiry. However, in case of the appointment or the new inquiry committee or preliminary inquiry committee, the alleged offender shall also be notified of the right to objection under Section 56.

The inquiry committee or the preliminary committee shall conduct additional inquiry or preliminary inquiry without delay, then summarise the facts and gather obtained evidence and may give opinions for proposal to the NACC for deliberation or according to the resolution passed by the NACC.

Article 87. In case the NACC has passed a resolution that an allegation has no *prima facie* case, the Office shall notify the alleged offender without delay which must not be

later than fifteen days as from the date on which the NACC passed the resolution. The reasoning of the NACC shall also be disclosed to public knowledge, unless it is the case of conducting investigation under Section 88.

In case the NACC has passed a resolution that the allegation has *prima facie* case, further undertaking shall comply with Article 89.

Article 88. In case the alleged offender has the request and evidence showing that he or she has not received the notification of the allegation prior to the NACC's passing of resolution under Article 87 or prior to the prosecution before the court, competent official shall consider the request and evidence, and propose to the NACC for further deliberation.

In case the NACC is of the opinion that the evidence that the alleged offender has not received the notification of the allegation is not admissible, or the alleged offender has the intent to delay or dishonestly exercises right, the NACC shall pass a resolution to dismiss the request and undertake relevant proceedings.

In case the NACC is of the opinion that there is the evidence as per the request that the alleged offender has not received the notification of the allegation, the NACC shall assign the inquiry committee or the preliminary inquiry committee or inquiry officer as the case may be to notify the allegation to the alleged offender for acknowledgement and provide an opportunity to the alleged offender to explain in defence of the allegation and adduce evidence or bring in witness to give statement in support of the defence of the allegation. Article 74, Article 77, Article 78, Article 79 and Article 80 shall apply *mutatis mutandis*, unless the NACC has passed a resolution otherwise.

After the undertaking under paragraph three, in case the inquiry file is pending deliberation of the NACC, whether the resolution on the decision on having *prima facie* case has been passed or not, or that the NACC has submitted the inquiry file to the Attorney-General for criminal proceedings, the explanation in defence of the allegation shall be summarised along with comments for proposal to the NACC for deliberation and decision, or the explanation in defence of the allegation as well as such evidence shall be submitted to the Attorney-General to complement further deliberation, as the case may be.

The provision of opportunity for the alleged offender to provide explanation under the provisions in this Article shall have no effect on the inquiry or the preliminary inquiry has previously been conducted.

PART 6

SUBMISSION OF INQUIRY FILE AND PROSECUTION

Article 89. When the NACC has passed a resolution on having *prima facie* case in relation to the alleged offender's commission of an act, the NACC shall proceed as follows:

(1) Submit the report, inquiry file, documents, evidence and opinion as well as their electronic copies to the Attorney-General within thirty days as from the date on which the NACC passed the resolution, in case the NACC has passed a resolution concluding that a person holding a political position, a judge of the Constitutional Court or a person holding a position in an independent agency is unusually wealthy or under the circumstances of corruption in the course of duty, or intentional performance of duties or exercising powers in contradiction to the provisions of the Constitution or law, to allow the Attorney-General to initiate prosecution with the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. However, the alleged offender shall not be referred to the Attorney-General but shall be notified thereof.

(2) Submit the matter to the Supreme Court of Justice, in case the NACC is of the opinion that a person holding a political position, a judge of the Constitutional Court or a person holding a position in an independent agency is in severe violation of or non-compliance with ethical standards.

(3) The NACC President shall initiate prosecution or submit petition to the court which has territorial jurisdiction, in case the alleged offender is the Attorney-General at the time of the commission of offence or at the time of being alleged of being unusually wealthy or having committed an offence of corruption in the course of duty or having committed malfeasance in public office or malfeasance in judicial office or related offence.

(4) Submit opinion to the Constitutional Court, in case the NACC has conducted investigation and reached opinion that there is commission of an act which violates the provisions of Section 144 paragraph one or paragraph two of the Constitution.

(5) Submit the report, inquiry file, evidentiary documents, electronic copies and decision to the Attorney-General within thirty days as from the date on which the NACC passed the resolution, in case the NACC passed a resolution on the decision that a state

official is unusually wealthy or has committed an offence of corruption in the course of duty or has committed malfeasance in public office or malfeasance in judicial office or related offence, for the Attorney-General to initiate prosecution.

(6) The decision along with brief summary of facts shall be notified to the superior or the person with the authority for appointment or removal of the alleged offender within thirty days as from the date of the decision, in case the NACC has passed a resolution that a state official is unusually wealthy, for the superior or the person with the authority for appointment or removal to order the punishment or dismissal within sixty days as from the date of the receipt of the notification.

In case the alleged offender is a judiciary official under the law on regulations for judicial official, a judiciary official of the Administrative Court under the law on the establishment of the Administrative Court and Administrative Cases Procedure, or a public prosecutor under the law on regulations for public prosecutors, the NACC President shall notify the President of the Judicial Commission, the President of the Administrative Court Commission, or the President of the Public Prosecutor Commission, as the case may be.

In case the alleged offender is a local administrator, deputy local administrator, assistant local administrator or member of a local assembly, the decision as well as brief summary of facts shall be submitted to the person who has the authority to order removal from position in order to issue order of the removal from position within sixty days as from the date of the receipt of the notification.

(7) Submit the report, inquiry file, evidentiary documents and decision to the superior or the person who has the authority for appointment or removal within thirty days, in case the NACC passed a resolution on having a *prima facie* case in disciplinary offence so that the superior or the person who has the authority for appointment or removal shall proceed with disciplinary action.

In case the alleged offender is a judiciary official under the law on regulations for judicial official, a judiciary official of the Administrative Court under the law on the establishment of the Administrative Court and Administrative Cases Procedure, or a public prosecutor under the law on regulations for public prosecutors, the NACC President shall submit the report and evidentiary documents as well as opinion to the President of the Judicial Commission, the President of the Administrative Court Commission, or the President of the Public Prosecutor Commission, as the case may be.

The provisions in (5) shall also apply *mutatis mutandis* to the proceeding of the case against a foreign public official, official of an international organisation or a person who has committed an offence under the Organic Act on Anti-Corruption.

Article 90. When the NACC has submitted the inquiry file to the Attorney-General for criminal proceedings against a state official, foreign public official, official of an international organisation or a person who has committed an offence under the Organic Act on Anti-Corruption in accordance with Article 89 (5) and paragraph two, as the case may be, the NACC shall notify the alleged offender to report himself/herself to the Attorney-General on the prescribed date and time.

Should the alleged offender fail to report himself/herself on the prescribed appointment, the NACC shall proceed under Article 91.

Article 91. During the inquiry or upon the NACC's decision on having a *prima facie* case that any person has committed an offence and such offence has criminal liability, should there be a probable cause that the alleged offender is evading jurisdiction, the NACC or the person assigned by the NACC shall have the power to proceed with file a motion to the court which has territorial jurisdiction to issue an arrest warrant and detain the alleged offender.

For the arrest and detention of the person under paragraph one, the NACC may assign competent official, administrative official or police officer, or investigator to proceed on its behalf, and the competent official, the administrative official or police officer, or the investigator shall proceed as assigned without delay. In this regard, such assigned competent official shall be administrative official or police officer under the Criminal Procedure Code.

For the benefit of performing duties under the Organic Act on Anti-Corruption in an arrest, detention and bail, relevant provisions of the Criminal Procedure Code shall apply *mutatis mutandis*.

In case there is commission of an offence of corruption in the course of duty which occurs in the form of flagrant offence, an NACC Commissioner, inquiry officer assigned by the NACC and administrative officer or high-ranking police officer shall have the power to arrest the offender without warrant from the court, and upon the arrest the offender shall be handed over to the investigator for detention under the Criminal Procedure Code.

In the arrest and detention of the alleged offender, the assigned competent official shall make record of the alleged offender and details in relation to the alleged offender according to the criteria and methods as prescribed by the NACC.

Article 92. In case the Attorney-General has informed the NACC that the inquiry file is incomplete for justification to initiate prosecution, the competent official shall without delay propose opinion to the NACC so that the NACC appoints representatives of the NACC side to constitute a joint committee which consists of representatives of each side of an equal number within fifteen days as from the date of receipt of the notification from the Attorney-General. The appointed competent officials shall perform the secretariat function, and the Office shall facilitate convenience for the performance of duties of the joint committee.

The joint committee shall collect evidence to completion as well as perform any other undertaking in order to complete the inquiry file within ninety days as from the date of the appointment. In this regard, the joint committee shall have the powers under Section 34 (1), (2), (3) and (4).

In case the joint committee is able to reach mutual agreement in relation to the initiation of the prosecution, the competent official shall report the result to the NACC for acknowledgement without delay.

In case the joint committee is unable to reach mutual agreement on the prosecution, the competent official shall report the result and propose opinion to the NACC for deliberation on further proceedings as deemed appropriate. In this regard, in case the NACC deems the initiation of the prosecution appropriate, it shall initiate the prosecution within the statute of limitations, but no later than ninety days as from the date of the failure to reach the mutual agreement.

The period of time prescribed under this Article, in case the competent official or the NACC side of the joint committee as the case may be is of the opinion that there is a cause of unavoidable necessity, opinion may be proposed to the NACC to request for an extension of the time period, which must not exceed one half thereof. In this regard, in the performance of duties and extension of the time period, the statute of limitations for the case proceedings shall be taken into consideration.

In case the NACC has approved of the extension of the time period for the undertaking of the joint committee, the Attorney-General shall be informed thereof in writing without delay.

In case the Attorney-General has informed the NACC in writing of the extension of the time period under Section 77, the competent official shall propose it to inform the NACC thereof without delay.

TRANSITORY PROVISIONS

Article 93. In reviewing allegation, fact finding and evidence gathering, inquiry and reaching an opinion or a decision, and the proceeding to have assets become properties of the state on account of unusual wealth or unusual increase in assets, all proceedings undertaken prior to the date on which the Organic Act on Anti-Corruption B.E. 2561 (2018) enters into force shall be subject to the provisions of Section 192 unless the NACC passes a resolution to be proceeded under this regulation.

In case the NACC has passed a resolution on the proceeding under this regulation, the inquiry committee or the panel of inquiry officers which has been appointed or assigned under the NACC Regulations on Fact Inquiry B.E 2555 (2012) and its amendments shall have the same powers and duties as the inquiry committee and the preliminary inquiry committee as prescribed by this regulation.

The fact finding and evidence gathering under paragraph one shall be completed within the time period under Article 33, unless such time period has expired or the remaining time period is shorter than that which is prescribed, calculation of the time period shall commence from the date on which this regulation enter into force.

Article 94. All the allegations of which the NACC passed a resolution on the appointment of inquiry committee or the assignment of inquiry officer to proceed with the fact inquiry prior to the date on which this regulation enter into force but there has yet been no order on the appointment of the inquiry committee nor on the assignment of the panel of inquiry officers, the competent officials shall propose to the NACC the consideration on the appointment of the inquiry committee or the preliminary inquiry committee under this regulation.

Article 95. All the criteria, notifications, resolutions, orders of the NACC or of the Office in relation to the review of allegation, fact finding and evidence gathering, inquiry and reaching an opinion or a decision, and the proceeding to have assets become properties

of the state on account of unusual wealth as well as letter format issued under the Organic Act on Counter Corruption B.E. 2542 (1999) and its amendments including the regulations relevant to such proceedings which are in force prior to the date on which this regulation enter into force shall remain effective so long as they do not contradict nor conflict with the Organic Act on Anti-Corruption B.E. 2561 (2018) or this regulation until there are otherwise the criteria, notifications, resolutions, orders as well as letter formats which are issued under this regulation.

Announced on 14 August 2018

Police General Watcharapol Prasarnrajkit

President of the National Anti-Corruption Commission

Note: This translation is provided by the Office of the National Anti-Corruption Commission of Thailand as the competent authority for information purposes only. Whilst the Office of the National Anti-Corruption Commission of Thailand has made efforts to ensure the accuracy and correctness of the translation, the original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

Note: Translated by Mrs. Piangtawan Sodprasert, International Affairs Officer (Professional Level), Bureau of International Affairs and Corruption Investigation, Office of the National Anti-Corruption Commission of Thailand – Initial Version – Pending review and approval