

ORGANIC ACT ON COUNTER CORRUPTION  
B.E. 2542 (1999)

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BHUMIBOL ADULYADEJ, REX.

Given on the 8th Day of November B.E. 2542;  
Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the organic law on counter corruption;  
Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

**Section 1.** This Organic Act shall be called the "Organic Act on Counter Corruption, B.E. 2542 (1999)".

**Section 2.** This Organic Act shall come into force as from the day following the date of its publication in the Government Gazette<sup>1</sup>.

**Section 3.** There shall be repealed:

- (1) The Counter Corruption Act, B.E. 2518 (1975);
- (2) The Counter Corruption Act (No. 2), B.E. 2530 (1987);
- (3) The Act on the Declaration of Assets and Liabilities of Senators and Members of the House of Representatives, B.E. 2539 (1996);

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

"State official" means a person holding a political position, Government official or local official assuming a position or having permanent salaries, official or person performing duties in a State enterprise or a State agency, local administrator and member of a local assembly who is not a person holding a political position, official under the law on local administration and shall include a member of a Board, Commission, Committee or of a sub-committee, employee of a

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<sup>1</sup> Published in the Government Gazette, Vol. 116, Part 114 *Kor*, dated 17<sup>th</sup> November, B.E. 2542 (1999).

Government agency, State enterprise or State agency and person or group of persons exercising or entrusted to exercise the State's administrative power in the performance of a particular act under the law, whether established under the governmental bureaucratic channel or by a State enterprise or other State undertaking;

"person holding a political position" means:

- (1) Prime Minister;
- (2) Minister;
- (3) Member of the House of Representatives;
- (4) Senator;
- (5) political official other than (1) and (2) under the law on political

officials;

- (6) political parliamentary official under the law on parliamentary

officials;

(7)<sup>2</sup> local administrator, deputy local administrator and assistant local administrator of a local government organisation as prescribed by the National Counter Corruption Commission by publication in the Government Gazette;

(8)<sup>3</sup> member of a local assembly of a local government organisation as prescribed by the National Counter Corruption Commission by publication in the Government Gazette;

(9)<sup>4</sup> (*repealed*)

"person holding a high-ranking position"<sup>5</sup> means a person holding the position of head of a Government agency at the level of a Department, Sub-Ministry or Ministry in respect of ordinary Government officials, a person holding the position of Permanent-Secretary of the Ministry of Defense, Supreme Commander or Commander-in-Chief of the Armed Forces in respect of military officials, a person holding the position of Commissioner-General of the Royal Thai Police, a person holding the position of Permanent-Secretary of the Bangkok Metropolitan Administration, member of the Board and the chief executive of a State enterprise or

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<sup>2</sup> Section 4, definition of the word "person holding a political position" (7), as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>3</sup> Section 4, definition of the word "person holding a political position" (8), as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>4</sup> Section 4, definition of the word "person holding a political position" (9), repealed by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>5</sup> Section 4, definition of the word "person holding a high-ranking position", as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

head of an independent agency under the Constitution which has a juristic person status, and a person holding other positions as prescribed by laws;

“high-ranking executive”<sup>6</sup> means a person holding a political position, person holding a high-ranking position, member of the Board of an independent agency under the constitution, member of the Board of Vice Ministers, person holding a position as from first tier director or its equivalent in a government agency, state enterprise, other state agencies, agencies exercising or designated to exercise administrative powers, and shall include a person or group of persons having the power to control and supervise those agencies and other state officials as prescribed by the National Counter Corruption Commission by publication in the Government Gazette;

“division director”<sup>7</sup> means a government official holding a position as from a first tier director or its equivalent under the law on civil service or government official under other laws as prescribed by the National Counter Corruption Commission by publication in the Government Gazette;

"injured person" means the person injured by the commission of the act giving rise to unusual wealth of a State official, the commission of an offence of malfeasance in office under the Penal Code or the commission of an offence of malfeasance or corruption under other laws;

"alleged culprit" means the person who is alleged to have committed, or who is under the circumstance apparent to the National Counter Corruption Commission as indicating the commission of an act which prima facie constitutes a basis for the removal from office, the criminal proceedings, the lodging of a request that assets devolve on the State or the initiation of a disciplinary action as provided in this Organic Act, and shall also include the principal, instigator or aider and abettor in the commission of the said act;

"President" means the President of the National Counter Corruption Commission;

"member" means a member of the National Counter Corruption Commission;

"member of a sub-committee" means a member of a sub-committee on National Counter Corruption Commission appointed by the National Counter Corruption Commission to perform activities under this Organic Act;

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<sup>6</sup> Section 4, definition of the word “high-ranking executive”, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>7</sup> Section 4, definition of the word “division director”, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

"Secretary-General" means the Secretary-General of the National Counter Corruption Commission;

"competent official" means the Secretary-General and the government official attached to the Office of the National Counter Corruption Commission, including the government official or official assisting in the official service of the Office of the National Counter Corruption Commission, entrusted by the National Counter Corruption Commission to perform activities under this Organic Act;

"inquiry official"<sup>8</sup> means a person appointed by the National Counter Corruption Commission to perform duties under this Organic Act, such appointment being made from a competent official holding a position at expert level or higher;

"corruption" means the performance or omission of a particular act in office or in the course of official duty, or the performance or omission of a particular act under the circumstance likely to cause other persons to believe that the person so performing or omitting holds such office or has such duty although the office or duty is not held or assumed by such person, or the exercise of power in office or in the course of official duty with a view to acquiring undue benefits for his or her own or for other persons;

"unusual increase of assets" means the phenomenon where the assets and liabilities listed in the account showing assets and liabilities submitted by the person holding a political position upon vacation of office differ from the account showing assets and liabilities submitted at the time of taking office, in the manner that the assets unusually increase or liabilities unusually decrease;

"unusual wealth" means having an unusually large quantity of assets, having an unusual increase of assets, having an unusual decrease of liabilities or having illegitimate acquisition of assets in a consequence of the performance of duties or the exercise of power in office or in the course of duty.

**Section 5.** The President of the National Counter Corruption Commission shall have charge and control of the execution of this Organic Act and shall have the power to issue notifications or regulations and appoint competent officials with the approval of the National Counter Corruption Commission for the execution of this Organic Act.

The notification and regulation under paragraph one which are of general application shall enter into force upon their publication in the Government Gazette.

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<sup>8</sup> Section 4, definition of the word "inquiry official", added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**CHAPTER I**  
**National Counter Corruption Commission**

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**Section 6<sup>9</sup>.** There shall be a National Counter Corruption Commission having the abbreviated name of "N.C.C. Commission" comprising a President and eight other members appointed by the King with the advice of the Senate.

The President of the Senate shall countersign the Royal Command appointing the President and members of the National Counter Corruption Commission.

**Section 7<sup>10</sup>.** The search and selection of members shall proceed as follows:

(1) There shall be a Selection Committee of five members consisting of the President of the Supreme Court of Justice, President of the Constitutional Court, President of the Supreme Administrative Court, President of the House of Representatives and Leader of the Opposition in the House of Representatives as members. Such members shall elect among themselves a Chairman of the Selection Committee. The Selection Committee shall have the duty to search and prepare a list of nine selected persons to be nominated to the President of the Senate along with the consents of the nominees. The nominations shall be made within thirty days as from day of the cause for selection of person for such position. A resolution for such a selection shall be passed by open votes and must be supported by the votes of not less than two-thirds of the existing members of the Selection Committee. In the case where there is a vacancy or a member is unable to perform his duty and the number of remaining members is not less than one-half thereof, the Selection Committee shall consist of the remaining members.

(2) The President of the Senate shall convoke a sitting of the Senate for the passing of a resolution to endorse the selected persons under (1) within thirty days as from the date of receipt of the nomination. A resolution shall be made by secret ballot. In the case of a resolution of approval, the President of the Senate shall tender the nominated persons to the King for appointment. In the case where

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<sup>9</sup> Section 6, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>10</sup> Section 7, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

the Senate disapproves the nomination, whether in whole or in part, it shall be returned, together with the grounds for disapproval, to the Selection Committee for reselection. In such case, if the Selection Committee disagrees with the Senate and reaffirms its resolution unanimously, the names of the selected person shall be nominated to the President of the Senate for presentation to the King for appointment, but if the reaffirmation is not passed by a unanimous resolution, the reselection shall be commenced and shall be completed within thirty days as from the day of the occurrence of cause for reselection.

In the case where the selection of persons under (1) is not completed within the specified period for any cause, the Supreme Court of Justice shall, at its general meeting, appoint three judges of the Supreme Court of Justice holding a position of not lower than a judge of the Supreme Court of Justice and the Supreme Administrative Court shall, at its general meeting, appoint two judges of the Supreme Administrative Court to be members of the Selection Committee to assume the undertakings under (1).

Persons selected under paragraph one shall convene and elect among themselves a chairman of the committee and notify the President of the Senate accordingly.

**Section 8<sup>11</sup>.** A person nominated to become a member shall be a person who possesses apparent integrity, have the qualifications under section 9, and does not have a disqualification under section 10.

**Section 9<sup>12</sup>.** A person nominated to become a member shall have the following qualifications:

- (1) having Thai nationality by birth;
- (2) being not less than forty-five years of age;
- (3) having been a Minister, judge of the Constitutional Court, Election Commissioner, Ombudsman, member of the National Human Rights Commission, member of the State Audit Commission, or member of the National Human Rights Commission, or having served in a position not lower than Deputy Prosecutor-General, Director-General or a person holding an Administrative position in a government agency having administrative powers equivalent to a Director-General, or

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<sup>11</sup> Section 8, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>12</sup> Section 9, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

a person holding an academic position of not lower than Professor, or having been an attorney, or a representative of a private development organisation or a practitioner of a profession regulated by a professional organisation established by law who has practiced such profession for not less than thirty years up to the date of nomination and having been certified and nominated for selection by the Law Society, private development organisation or professional organisation.

**Section 10<sup>13</sup>**. A person nominated to become a member must not have any of the following disqualifications:

(1) being a Member of the House of Representatives, Senator, political official, member of a local assembly or local administrator;

(2) being or having been a member or a person holding other positions of a political party in the three-year period prior to taking office;

(3) being a judge of the Constitutional Court, Election Commissioner, Ombudsman, member of the National Human Rights Commission, judge of the Administrative Court or member of the State Audit Commission;

(4) being a Buddhist priest, novice, monk or clergy;

(5) being under suspension of election rights;

(6) being detained by a warrant of the Court or by a lawful order;

(7) being of unsound mind or mental infirmity;

(8) being addicted to narcotic drugs;

(9) being a bankrupt or having been a dishonest bankrupt;

(10) having been sentenced by a judgment to imprisonment and being detained by a warrant of the Court;

(11) having been sentenced to imprisonment and been discharged for a period of less than five years on the nomination day, except for an offence committed through negligence or a petty offence;

(12) having been sentenced for a corruption offence;

(13) having been expelled, dismissed or removed from the official service, a State agency or a State enterprise on the grounds of corruption or deemed corruption and improper conduct in the official service;

(14) having been sentenced by a judgment or an order of the Court to devolve assets to the State on the grounds of unusual wealth or an unusual increase of assets;

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<sup>13</sup> Section 10, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

(15) being under a prohibition from holding a political position under section 34 and section 41;

(16) having been removed from office by a resolution of the Senate.

**Section 11**<sup>14</sup>. A person who receives the approval to become a member must:

(1) not be a government official holding a permanent position or receiving a salary;

(2) not be an official or employee of a State agency, State enterprise or local administration or a director or adviser of a State enterprise or State agency;

(3) not hold any position in a partnership, a company or an organisation carrying out a business which seeks to generate and share profits or incomes, or be an employee of any person;

(4) not engage in any independent profession.

When the Senate has approved the person in (1), (2), (3) or (4) with the consent of that person, the selected or approved person can commence the performance of duties only when he or she has resigned from the position in (1), (2), (3) or has adduced evidence to the satisfaction that his or her engagement in the independent profession in (4) has ceased to exist. This must be done within fifteen days as from the date of selection or approval. If that person has not resigned or ceased to engage in the independent profession within the specified time, it shall be deemed that that person has never been selected or approved to become a member and the provisions of section 14 shall apply.

**Section 12.** A member shall hold office for a term of nine years as from the date of their appointment by the King and shall serve for only one term.

A Member who vacates office at the expiration of term shall remain in office to continue to perform their duties until the newly appointed members take office.

**Section 13.** In addition to the vacation of office at the expiration of the term under section 12, a member vacates office upon:

(1) death;

(2) having attained the age of seventy years;

(3) resignation;

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<sup>14</sup> Section 11, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).



(4) lack of qualification under section 9 or disqualification under section 10;

(5) violation of section 11;

(6) being removed by a resolution of Senate under section 16;

(7) being sentenced by a judgment to imprisonment.

When the circumstance under paragraph one occurs, the remaining members may continue to perform duties and it shall be deemed that the N.C.C. Commission consists of the existing members.

**Section 14<sup>15</sup>**. Upon vacation of office of a member, the proceedings under section 7 shall be commenced within thirty days as from the date of vacation.

In the case where a member vacates office under section 13, the provisions of section 7 shall apply *mutatis mutandis*.

In the case where a member vacates office while the National Assembly is not in session, the proceedings under section 7 shall be commenced within thirty days as from the date of the opening of the National Assembly session.

**Section 15<sup>16</sup>**. A member shall submit an account showing particulars of assets and liabilities of himself/herself, his/her spouse and children who have not yet become *sui juris*, including assets directly or indirectly consigned to the possession or administration of other persons, to the President of the National Assembly upon taking or vacating office, and the provisions of section 32, section 33, section 35 paragraph one, section 41 and section 119 shall apply *mutatis mutandis*.

An account showing particulars of assets and liabilities under paragraph one may be disclosed only where necessitated by proceedings under paragraph three, or for the benefit of a judicial adjudication or a determination and a request is made by the court or interested person or the State Audit Commission, or where the owner of the account showing particulars of assets and liabilities gives consent to disclose in which case the President of the Senate shall publish the account in the Government Gazette.

The President of the Senate shall cause to be conducted an audit of account showing particulars of assets and liabilities under paragraph one, and section 25 shall apply to performance of duties by the President of Senate *mutatis mutandis*.

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<sup>15</sup> Section 14, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>16</sup> Section 15, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**Section 16<sup>17</sup>**. Members of the House of Representatives of not less than one-fourth of the total number of the existing Members of the House of Representatives, or eligible voters in a number not less than twenty thousand, shall have the right to lodge with the President of the Senate a petition that any member has acted unjustly, intentionally violated the Constitution or laws, or is under any circumstance which is seriously detrimental to the dignity of the office, in order to request the Senate to pass a resolution to remove that member from office.

The resolution of the Senate removing the member from office under paragraph one shall be passed by the votes of not less than three-fourths of the total number of the existing members of the Senate.

**Section 17<sup>18</sup>**. Members of the House of Representatives, Senators or members of both Houses of not less than one-fifth of the total number of the existing members of both Houses shall have the right to lodge with the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions a petition that any member has become unusually wealthy or has committed an offence of corruption or malfeasance in office.

The petition under paragraph one shall clearly itemise the circumstance in which such person has allegedly committed the act under paragraph one and shall be submitted to the President of the Senate. Upon receipt of the said petition, the President of the Senate shall refer the matter to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for trial and adjudication.

In the case where the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions gives an order admitting the petition, the alleged member shall cease to perform his or her duty until the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions has passed a judgment to dismiss the said petition.

In the case where a member is unable to perform his or her duties under paragraph three and the remaining members are less than one half of the total number of members, the President of the Supreme Court of Justice and the President of the Supreme Administrative Court shall jointly appoint a person having

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<sup>17</sup> Section 16, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>18</sup> Section 17, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

the qualifications and not having a disqualification to act as member pro tem. Such appointed person shall remain in office until the substituted member is able to perform his or her duties or until the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions renders a judgment to convict such member of an offense.

In the case where the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions dismisses the petition, the member who ceased to perform duties under paragraph three shall be entitled to receive the full amount of salaries, remunerations and other benefits accruing during the time of the cessation of performance of duties.

The proceedings in court shall be in accordance with the organic law on criminal proceedings for persons holding political positions.

**Section 18.** Salaries, emoluments and other benefits of the President and members shall be in accordance with the laws on such matters.

## CHAPTER II

### Powers and Duties of the National Counter Corruption Commission

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**Section 19**<sup>19</sup>. The N.C.C. Commission shall have the following powers and duties:

(1) to inquire into facts and summarise cases along with an opinion in a submission to the Senate under Chapter 5, Removal from Office;

(2) to inquire into facts and summarise cases along with an opinion to be referred to the Prosecutor-General for the purpose of prosecution before the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions under Chapter 6, Criminal Proceedings Against Persons Holding Political Positions under Section 275 of the Constitution;

(3) to inquire and determine whether other Persons Holding Political Positions who are not a person under (2) and state official have become unusually wealthy and his or her asset shall devolve upon the State in accordance with the rules and procedure specified under this Organic Law;

(4) to inquire and decide whether a person holding a political position other than a person under (2) or a State official holding a position starting from a high

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<sup>19</sup> Section 19, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

level executive or government official holding a position starting from a division director has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office, or a related offence, including to take action against a State official or government official holding a lower level position who has jointly committed an offence with the person holding such position or with a persons holding a political position, or who has committed an offence in such a manner that the N.C.C. Commission considers an action appropriate as provided by the N.C.C. Commission by publication in the Government Gazette;

(5) to determine positions of State officials obliged to submit an account showing particulars of assets and liabilities under section 264 of the constitution;

(6) to verify the accuracy and actual existence of, as well as changes in, assets and liabilities of Persons Holding a Political Position and State officials who submit the account showing particulars of assets and liabilities under Chapter 3, Inspection of Assets and Liabilities, in accordance with the rules and procedures prescribed by the N.C.C. Commission;

(7) to monitor and administer the morality and ethics of persons holding political positions;

(8) to prescribe rules and procedures for the disclosure of accounts showing particulars of assets and liabilities and supplemental document of persons holding the position of Prime Minister, Minister, Member of the House of Representatives and Senator, and state officials;

(9) to prescribe rules and procedures for the submission of accounts showing particulars of assets and liabilities of persons holding political positions, local administrators and members of the local assemblies, and state officials who are under a duty to submit an account showing particulars of assets and liabilities under Chapter 3, Inspection of Assets and Liabilities;

(10) to submit an audit report and performance report along with observations to the Council of Ministers, the House of Representatives and the Senate annually and to publish such report in the Government Gazette as well as make a disclosure to the public;

(11) to propose measures, opinions or recommendations to the Council of Ministers, National Assembly, Courts or State Audit Commission for the purpose of improving the performance of government service or formulating action plans or projects of government agencies, state enterprises or other state agencies in an endeavor to combat corruption and the commission of an offence of malfeasance in office or malfeasance in judicial office;

(12) to refer matters to the agency concerned for the purpose of making a request to the Court for an order or judgment canceling or revoking a right or document of title in respect of which the State official has given approval or granted permission conferring the rights or benefits or issued the document of title to a particular person in contravention of the law or official regulations to the detriment of the government service;

(13) to take action with a view to preventing corruption and to foster attitudes and values of integrity and honesty, as well as to facilitate the participation of the public or groups of persons in countering corruption;

(14) to take action relating to foreign affairs and become a center for international cooperation for the benefit of counter corruption so as to be in conformity with the international legal obligations and agreements pertaining to counter corruption;

(15) to give approval for the appointment of the Secretary-General;

(16) to appoint persons or a group of persons to perform duties as entrusted;

(17) to carry out other acts provided by this Organic Act or other laws as the powers and duties of the N.C.C. Commission; in any case, a law providing a power and duty to the N.C.C. Commission does not deprive the N.C.C. Commission of the power to take legal proceedings as it thinks fit or to refer a matter to the responsible agencies for further proceedings.

A Fact Inquiry or examination under (1), (2), (3), (4) and (6) may be entrusted by the N.C.C. Commission to an inquiry official who shall be responsible for the case file and report to the NCC Commission for determination. The performance of duties by such inquiry official shall be in accordance with the rules, procedures and duration prescribed by the N.C.C. Commission.

**Section 20<sup>20</sup>**. At a meeting of the N.C.C. Commission, the presence of not less than one-half of the total number of the existing members is required to constitute a quorum

**Section 21.** A meeting shall be in accordance with the regulations prescribed by the N.C.C. Commission.

The calling for a meeting shall be in writing and notified to every member not less than three days in advance unless such member has known of the

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<sup>20</sup> Section 20, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

calling for a meeting at the previous meeting. In such a case, the written notification of the calling for a meeting may be made only to the members not present at the meeting.

The provisions in paragraph two shall not apply in the case where there occurs a compelling necessary urgency. In such a case, the President may call for a meeting otherwise.

**Section 22.** The President has the power and duty to conduct a meeting and, in the interest of its orderly proceeding, shall have the power to give any order as is necessary.

If the President is not present at the meeting or is unable to perform the duty, the members present at the meeting shall elect one member among themselves to preside over the meeting.

**Section 23.** A resolution of a meeting shall be a majority of votes of the total number of the existing members whether or not such resolution is passed for making a determination or for giving approval in accordance with the provisions of this Organic Act.

In casting votes, each member shall have one vote. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.<sup>21</sup>

**Section 24.** There shall be written minutes of each meeting.

If a dissenting opinion is presented, the dissenting opinion and reasons invoked shall be recorded in the minutes of the meeting. If minority members present their dissenting opinion in writing, it shall also be recorded in the minutes of the meeting.

**Section 25.** In the performance of duties under this Organic Act, the N.C.C. Commission shall have the following powers:

(1) to issue an order instructing a government official, official or employee of a government agency, state agency, state enterprise or local administration to perform all such acts as are necessary for the performance of duties of the N.C.C. Commission or to require the presentation of relevant

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<sup>21</sup> Section 23 paragraph one, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

documents or evidence from any person or to summon any person to give statements or testimonies for the benefit of a Fact Inquiry;

(2) to file an application with the competent Court for an issuance of a warrant permitting an entry into a dwelling-place, place of business or any other place including a vehicle of any person from sunrise to sunset or during working hours for the purposes of inspecting, searching, seizing or attaching documents, property or other evidence related to the matter under inquiry; and if such action is not completed within such time, it may be continued further until completion;

(3) to address a written request to a government agency, state agency, state enterprise, local administration or private agency to carry out a particular act for the purpose of the performance of duties of, or the conduct of a Fact Inquiry or the making of a determination by, the N.C.C. Commission;

(4) to prescribe regulations with respect to the rules and procedures for the payment of per diem, travelling fees and remuneration of a witness and in connection with the performance of duties of competent officials or other matters, for the execution of this Organic Act;

(5) to prescribe the regulation with respect to the payment of a reward under section 30.

**Section 25/1<sup>22</sup>**. In the interest of countering corruption, the N.C.C. Commission may notify any agencies or financial institution to allow a member or member of an inquiry sub-committee to gain access to data relating to the alleged culprit or any person against whom there is enough evidence to show that he or she was involved in the alleged matter for the benefit of the Fact Inquiry or for the benefit of deliberations carried out by the N.C.C. Commission or inquiry sub committee.

Rules, procedures, and conditions for a request by a member or member of an inquiry sub-committee to access data held by an agency or financial institution under paragraph one shall be in accordance with the regulation prescribed by the N.C.C. Commission and shall be subject to the law, rule, or by law governing the protection of information of such agencies.

With regard to data held by an agency or financial institution which cannot be accessed by a member or member of an inquiry sub-committee, the N.C.C. Commission shall file a petition in the court having competent jurisdiction for an order to allow the access.

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<sup>22</sup> Section 25/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**Section 26.** In criminal proceedings against a state official under this Organic Act, the N.C.C. Commission shall have the following powers:

(1) to inquire into facts and gather evidence in order to uncover facts or prove the commission of an offence, and in order to obtain custody of the offender for prosecution;

(2) to file an application with the competent court for the issuance of a warrant of arrest and custody of the alleged culprit who, from the Fact Inquiry, appears to be an offender or against whom the N.C.C. Commission has passed a resolution that the allegation has a prima facie case, for the purpose of referring such person to the Prosecutor-General for further proceeding.

The N.C.C. Commission may entrust an inquiry officer to conduct a Fact Inquiry and evidence gathering under subsection (1) on its behalf.<sup>23</sup>

The conduct of the inquiry officer under paragraph two shall be in accordance with the rules, procedures, and conditions prescribed by the N.C.C. Commission.<sup>24</sup>

**Section 27<sup>25</sup>.** In the performance of duties under this Organic Act, the President, member or Secretary-General shall have the power to sign a written communication carried out in accordance with the powers and duties of the N.C.C. Commission. The President, member or Secretary-General may entrust the Deputy Secretary-General or Assistant Secretary-General to act on their behalves. In the case of section 28/2, section 37/2, section 42, and section 45/1, the President, member or Secretary-General may also entrust an inquiry official who is responsible for the case file to sign on their behalves provided that it shall be in accordance with rules and procedures prescribed by the N.C.C. Commission.

**Section 28<sup>26</sup>.** In case where there is no President or the President is unable to perform duties, the remaining members shall elect one member among themselves to act as the President pro tem.

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<sup>23</sup> Section 26 paragraph two, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>24</sup> Section 26 paragraph three, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>25</sup> Section 27, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>26</sup> Section 28, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).



A member elected to act as the President pro tem under paragraph one shall have the same power and duties as the President.

**Section 28/1**<sup>27</sup>. In case where a working group is constituted between the N.C.C. Commission and the Prosecutor-General under this Organic Act, the Office of the N.C.C. Commission shall act as the secretariat. The working group shall have the powers and duties to consider the incomplete evidence and collate additional evidence for completeness before submitting the matter to the Prosecutor-General for the filing of a petition or plaint in court.

**Section 28/2**<sup>28</sup>. In case where this Organic Act or other laws specify that the N.C.C. Commission or the President shall file a petition in court or shall have the power to file a plaint on their own capacities, the N.C.C. Commission or the President, as the case may be, may entrust an inquiry official who has attained an academic qualification at the level of barrister-at-law or Bachelor of Laws and who has experience that is beneficial to the carrying out of such functions in court as an authorized attorney, or to appoint an attorney-at-law to carry out proceedings on their behalves in accordance with the regulation prescribed by the N.C.C. Commission.

The inquiry official entrusted to carry out acts under paragraph one shall have the power to litigate and carry out proceeding in court.

**Section 29.** In the case where any member, member of a sub-committee or competent official is directly or indirectly interested in any particular matter, that person shall not attend and participate in the Fact Inquiry, consideration or determination of such matter.

**Section 30.** In conducting a Fact Inquiry in the case of an allegation that a state official has become unusually wealthy or in the inspection of the change of assets and liabilities of a person holding a political position, if any person gives the N.C.C. Commission a trace or clue, information or facts in connection with assets or liabilities of the alleged culprit or the person under inquiry, including the principal, instigator or the aider and abettor and the giving of such trace or clue, information or

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<sup>27</sup> Section 28/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>28</sup> Section 28/2, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

facts results in the assets which constitute the unusual wealth or the unusually increased assets devolving to the State by a final order of the Court, such person shall be entitled to the reward in accordance with the regulation prescribed by the N.C.C. Commission.

**Section 31<sup>29</sup>**. In the performance of duties under this Organic Act:

(1) The President and member shall be judicial officials under the Penal Code.

(2) A member of a sub-committee, inquiry official, and competent official shall be officers under the Penal Code.

When conducting fact-finding and evidence gathering or Fact Inquiry proceedings under this Organic Act, the President, members, members of sub-committee and inquiry official shall be administrative officials or senior police officers and shall have the same power under the Criminal Procedural Court as an investigation official. When conducting an arrest or detaining any person, the N.C.C. Commission or entrusted person may jointly conduct with a police officer, investigation official or any officer, or notify a police officer, investigation official, or any officer to carry out such act.

For the benefit of the implementation of this Organic Act in regard to the arrest, detention, and temporary release so as to obtain custody of the alleged culprit for prosecution, the relevant provisions of the Criminal Procedure Code shall apply *mutatis mutandis*.

### CHAPTER III

#### Inspection of Assets and Liabilities

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##### Part I

#### Declaration of Accounts Showing Particulars of Assets and Liabilities of Persons Holding Political Positions

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**Section 32.** A person holding a political position shall, on each occasion of taking or vacating office, submit to the N.C.C. Commission an account showing particulars of their assets and liabilities and those of their spouses and

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<sup>29</sup> Section 31, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

children who have not yet become *sui juris* as they actually exist on the date of taking or vacating office, as the case may be, in accordance with the form prescribed by the N.C.C. Commission.<sup>30</sup>

The assets and liabilities which are subject to the declaration requirement shall include assets and liabilities in foreign countries and also include those which are in the possession or administration of any person, whether directly or indirectly.<sup>31</sup>

In the case where any person holding a political position under paragraph one holds more than one political position, such person shall submit separate accounts showing particulars of assets and liabilities for every position in accordance with the time prescribed for the submission of the account in respect of such position.

**Section 33.** The account showing particulars of assets and liabilities under section 32 shall be submitted together with copies of supporting documents evidencing the actual existence of such assets and liabilities as well as a copy of the personal income tax return for the previous fiscal year. The declarer shall certify the accuracy of the account and copies of the submitted documents by affixing his or her signature on every page thereof, prepare lists of the supporting documents accompanying the account showing particulars of assets and liabilities so submitted, and shall make the submission within such time as follows:

(1) in the case of the taking of office, within thirty days as from the date of taking office;

(2) in the case of the vacation of office, within thirty days as from the date of the vacation;

(3) in the case where the person holding a political position, who has already submitted the account, dies while holding office or before submitting the same after the vacation of office, an heir or an administrator of an estate of such person shall submit an account showing particulars of assets and liabilities existing on the date of such person's death within ninety days as from the date of the death.

In addition to submitting of an account under (2), a person holding the position of Prime Minister, Minister, local administrator, member of a local assembly, or person holding a political position who vacates office, shall also submit an

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<sup>30</sup> Section 32 paragraph one, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>31</sup> Section 32 paragraph two, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

account showing particulars of assets and liabilities at the expiration of one year after the vacation of office, in which case the submission shall be made within thirty days as from the date of the expiration of one year after the vacation of office.<sup>32</sup>

In the case where a person holding a political position vacates a position in order to take another political position within thirty days as from the vacation of the prior position, if there is no change in the declared assets and liabilities of such person, notice may be given to the N.C.C. Commission to request the adoption of such account showing particulars of assets and liabilities in lieu of submitting a new account. However, if there is a change in the declared assets and liabilities of such person, an account showing only the particulars of changed assets and liabilities may be submitted. Any such proceedings shall be in accordance with the rules and procedures prescribed by the N.C.C. Commission, which may also specify the use of electronic means for the declaration of account showing particulars of assets and liabilities.<sup>33</sup>

The provisions in paragraph three shall apply *mutatis mutandis* to the case of a person holding a political position who has submitted an account showing particulars of assets and liabilities and has subsequently been appointed to another position which also requires the declaration of assets and liabilities. The period for submission of account showing particulars of assets and liabilities for such other appointed position shall be as prescribed by the N.C.C. Commission.<sup>34</sup>

**Section 34<sup>35</sup>.** When it appears to the N.C.C. Commission that any person holding a political position intentionally fails to submit an account showing particulars of assets and liabilities and supporting documents to the N.C.C. Commission within the time prescribed by this Organic Act, or intentionally submits such account and supporting documents with false statements being included, or fails to disclose facts which should have been disclosed, the N.C.C. Commission shall refer such matter to the Supreme Court Criminal Division for Holders of Political Positions for adjudication. Upon a decision of the Supreme Court Criminal Division for Holders of Political Positions concurring with the proposal of the N.C.C.

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<sup>32</sup> Section 33 paragraph two, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>33</sup> Section 33 paragraph three, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>34</sup> Section 33 paragraph four, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>35</sup> Section 34, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

Commission, such person shall vacate Office as from the date of the decision of Supreme Court Criminal Division for Holders of Political Positions and such person shall not hold a political position for a period of five years as from the date of the decision of Supreme Court Criminal Division for Holders of Political Positions but shall not prejudice any acts previously done by such person as well as the salary, honorarium or other remuneration received while in office.

In case where a person holding a political position under paragraph one vacates his or her office prior to the day when the matter appears to the N.C.C. Commission, the period of five years shall be commenced as from the date such person vacates his or her office.

**Section 35**<sup>36</sup> Upon receiving the account showing the particulars of assets and liabilities and its supporting documents under section 33, the President or member entrusted by the President shall affix his or her signature or carry out any other acts in lieu of affixing his or her signature on such account showing particulars assets and liabilities in accordance with the rules and procedure prescribed by the N.C.C. Commission.

The account showing particulars of assets and liabilities and supporting documents of the Prime Minister, Ministers, Members of the House of Representatives and Senate shall be disclosed to the public without delay but not later than thirty days as from the date of the expiration of the time-limit prescribed for the submission of such account. The account showing particulars of assets and liabilities of the persons holding other positions shall be disclosed only if the disclosure is required for the trial and adjudication of cases or for the making of a determination and is requested by the courts, interested person, or the State Audit Commission, or the owner of the account consents to the disclosure.

The disclosure of an account showing particulars of assets and liabilities and supporting document under paragraph two shall be made in accordance with the rules and procedures prescribed by the N.C.C. Commission, but also with due regard the protection of personal information.

The President shall convene a meeting of the N.C.C. Commission to verify the accuracy and the actual existence of assets and liabilities without delay. The N.C.C. Commission may entrust a competent official to inspect and report to the N.C.C. Commission for consideration. The rules and procedures for entrusting, inspection and report shall be prescribed by the NCC Commission.

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<sup>36</sup> Section 35, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**Section 36.** In the case where the submission of the account is made by reason of the vacation of office or death of any person holding a political position, the N.C.C. Commission shall inspect the change of assets and liabilities of such person and prepare an inspection report. Such report shall be published in the Government Gazette.

**Section 37.** In the case where any person holding a political position vacates office or dies and it appears that such person or his or her heir or administrator of the estate intentionally fails to submit an account showing particulars of assets and liabilities, the N.C.C. Commission shall have the power to inspect the change of assets and liabilities of the person holding the political position or of the estate without relying upon the account showing particulars of assets and liabilities required to be submitted under section 33 (2) and (3). For this purpose, the N.C.C. Commission shall compare assets and liabilities which exist on the date of the vacation of office or death with the account showing particulars of assets and liabilities submitted at the time of taking office and shall then prepare an inspection report and publish it in the Government Gazette.

**Section 37/1**<sup>37</sup>. An inspection report under section 36 and section 37 shall identify whether there is an unusual increase of assets and liabilities. In the case where there is an unusual increase of assets and liabilities, or a disclosure is required under section 35 paragraph two, such changes may also be shown.

**Section 37/2**<sup>38</sup>. When conducting an inspection to verify the accuracy and actual existence of assets and liabilities, or an inspection of the change in assets from those shown in the account showing particulars of assets and liabilities, if there are any circumstances or there is a reasonable cause to suspect that the acquisition of any particular asset or liability is unlawful, or there are circumstances to believe that assets will be transferred, moved, converted or concealed, or there are circumstances indicating that an asset is held by a nominee, which constitutes an unusual increase of asset, the N.C.C. Commission shall have the power to conduct an

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<sup>37</sup> Section 37/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>38</sup> Section 37/2, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

inspection of financial transactions or the acquisition of assets and liabilities in order to file a petition to the court for an order that such asset shall devolve to the State.

The inspection of assets and liabilities of a person submitting an account that falls under any of the circumstances under paragraph one shall be conducted when an account showing particulars of assets and liabilities is submitted.

In the inspection of particulars of assets and liabilities under this Organic Act, the N.C.C. Commission shall have the power to require the disclosure of information concerning the financial transactions made by the person connected to the person having a duty to submit an account showing particulars of assets and liabilities by the Anti-Money Laundering Office or financial institution and any person under a duty to report financial transactions.

In a case of necessity for verifying the accuracy and existence and change of assets and liabilities, the N.C.C. Commission shall have the power to exercise the powers of the Anti-Money Laundering Board and Transaction Board under the Law on Anti-Money Laundering.

The provisions of section 78 shall apply *mutatis mutandis* to the verification of accuracy and existence and change of assets and liabilities of a person holding a political position under this section.

For the benefit of the inspection of assets and liabilities, the provisions of section 25(1), (2), and (3) and section 25/1 shall also apply to the inspection of assets and liabilities.

**Section 38.** In the case where the inspection report reveals an unusual increase of assets, the N.C.C. Commission shall request the person holding the political position, heir or administrator of the estate, as the case may be, to explain the acquisition of such property before the N.C.C. Commission passes a resolution that such person has an unusual increase of assets.

In the case where it appears that a person holding a political position has an unusual increase of assets, the President shall furnish all existing documents together with the inspection report to the Prosecutor-General for instituting prosecution in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions so that the unusual increased assets shall devolve to the State, and the provisions of section 80 paragraph two shall apply *mutatis mutandis*.

Pending an order of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions under paragraph two, the N.C.C. Commission

may order the provisional seizure or attachment of the unusual increased assets and the provisions of section 78 shall apply *mutatis mutandis*.<sup>39</sup>

## Part II

### Declaration of an Account Showing Particulars of Assets and Liabilities of State officials

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**Section 39.** The persons holding the following positions have the duty to submit to the N.C.C. Commission an account showing particulars of their assets and liabilities and those of their spouses and children who have not yet become *sui juris* upon taking office, every three years while being in office and upon vacation of office, in accordance with the form prescribed by the N.C.C. Commission.

- (1) President of the Supreme Court of Justice;
- (2) President of the Constitutional Court;
- (3) President of the Supreme Administrative Court;
- (4) Prosecutor-General;
- (5) Election Commissioner;
- (6) Ombudsman;<sup>40</sup>
- (7) judge of the Constitutional Court;
- (8) member of the State Audit Commission;
- (9) Vice President of the Supreme Court of Justice;
- (10) Vice President of the Supreme Administrative Court;
- (11) Chief of the Military Judicial Office;
- (12) judge of the Supreme Court of Justice;
- (13) judge of the Supreme Administrative Court;
- (14) Deputy Prosecutor-General;
- (15) person holding a high-ranking position.

The account showing assets and liabilities upon vacation of office of the persons under (1), (4), (9), (11), (12), (13), (14) and (15) shall be submitted only when such persons cease to be state officials.

The provisions of section 32, section 33 and section 35 paragraph one and paragraph three shall apply to the declaration, submission and receipt of the

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<sup>39</sup> Section 38 paragraph three, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>40</sup> Section 33 (6), as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).



account showing particulars of assets and liabilities and to the inspection of the accuracy and actual existence of the assets and liabilities of the persons under paragraph one *mutatis mutandis*.

**Section 40<sup>41</sup>**. The N.C.C. Commission has the power to prescribe by publication in the Government Gazette the positions of state officials, in addition to those specified in section 39, shall be under the obligation to submit an account showing particulars of assets and liabilities.

Upon the N.C.C. Commission prescribing the positions of state officials obliged to submit an account showing particulars of assets and liabilities under paragraph one, the following actions shall be taken:

(1) In case of a state official holding a position of a high-ranking executive, the provisions of section 32, section 33, section 35 paragraph one and paragraph three shall apply *mutatis mutandis* to the submission of an account showing particulars of assets and liabilities.

(2) In case of a state official holding a position lower than a state official under (1), the submission of an account showing particulars of assets and liabilities shall be in accordance with the rules, procedures, and periods prescribed by the N.C.C. Commission, whereby the N.C.C. Commission may prescribe that the submission of an account showing particulars of assets and liabilities shall be made periodically or an account may show only the particulars of assets and liabilities that differ from those that was previously submitted.

For the benefit of the inspection of an account showing particulars of assets and liabilities, the N.C.C. Commission shall have the power to prescribe rules and procedures for the examination of an account showing particulars of assets and liabilities of the state official.

**Section 41<sup>42</sup>**. In the case where any person under section 39 or section 40 intentionally fails to submit an account showing particulars of assets and liabilities and supporting documents to the N.C.C. Commission within the time prescribed by this Organic Act or intentionally submits an account showing particulars of assets and liabilities and supporting documents with false statements being included or fails to disclose facts which should have been disclosed, the NCC

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<sup>41</sup> Section 40, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>42</sup> Section 41, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

Commission shall refer the matter to the Supreme Court Criminal Division for Holders of Political Positions for a determination and such person shall vacate office as from the date a decision is given and shall not take a position as a state official for the five-year period commencing from the date of the vacation of office, but without prejudice to the acts previously done by such person, including salary, honorarium or other remuneration received while in office.

The N.C.C. Commission may disclose an account showing particulars of assets and liabilities and supporting document that has been submitted to an interested person if such disclosure is beneficial for the institution of prosecution or for making a determination of an offence or in the case where the owner of the account showing particulars of assets and liabilities has given consent to the disclosure in accordance with the rules provided under this Organic Act.

**Section 42<sup>43</sup>**. For the inspection of a state official's account showing particulars of assets and liabilities, the provisions of section 37/2 and section 38 shall apply *mutatis mutandis*.

#### CHAPTER IV Fact Inquiry

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**Section 43<sup>44</sup>**. Subject to section 19 and section 44, the N.C.C. Commission shall conduct a fact inquiry in accordance with the provisions of this Chapter in the following circumstances:

(1) the President of the Senate refers the matter to the N.C.C. Commission for carrying out a fact inquiry in consequence of the lodging of a petition requesting the Senate to pass a resolution removing the alleged culprit from office pursuant to section 59, or in a case where the Ombudsman refers the matter to remove any person from office on the grounds that he or she has seriously violated ethical standards;

(2) a case calls for a fact inquiry under section 66;

(3) an allegation is lodged with the N.C.C. Commission for the purpose of devolving property to the State under section 75;

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<sup>43</sup> Section 42, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>44</sup> Section 43, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

(4) there is a reasonable cause to suspect that a state official has become unusually wealthy under section 77 or has committed an offence under section 88;

(5) an allegation is made to the N.C.C. Commission against a state official under section 84.

Regulation, rules, procedure and condition prescribed by the N.C.C. Commission shall not deprive a person's rights in the judicial process and shall not diminish the rights of an accused to defend the case as prescribed by law.

**Section 44.** The N.C.C. Commission shall not conduct a fact inquiry in the following circumstances:

(1) the matter to be inquired into is the matter in respect of which the N.C.C. Commission has completed its fact inquiry and no fresh evidence which is material to the inquiry is found;

(2) the alleged culprit is the same person as the alleged culprit in the matter under inquiry, of which the cause of the allegation is the same.

**Section 44/1**<sup>45</sup>. Before conducting a fact inquiry under section 43, the N.C.C. Commission may entrust the Secretary-General to conduct the fact finding and gather evidence in regard to such allegation so as to obtain adequate evidence to continue with the fact inquiry. In this event, the Secretary-General may entrust a competent official to act on his/her behalf, which shall be in accordance with the rules, procedures and conditions prescribed by the N.C.C. Commission. The Secretary-General and competent official entrusted by the Secretary-General shall be deemed as an administrative official or police officer under the Criminal Procedure Code.

**Section 44/2**<sup>46</sup>. Upon the N.C.C. Commission's receipt of an allegation for conducting a fact inquiry, all objects or records, including evidential documents obtained under section 44/1, shall be admissible and used as supporting evidence in the case file of the fact inquiry proceedings.

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<sup>45</sup> Section 44/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>46</sup> Section 44/2, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**Section 45**<sup>47</sup>. In a fact inquiry under section 43, the N.C.C. Commission may appoint an inquiry sub-committee to carry out the proceedings on its behalf. The performance of duties of the sub-committee shall be in accordance with the rules, procedures, and conditions prescribed by the N.C.C. Commission.

The sub-committee appointed under paragraph one shall consist of a chairman of the sub-committee and members of sub-committee as determined by the N.C.C. Commission with a competent official as a sub-committee member and secretary of the sub-committee, as well as a subcommittee member and assistant secretary of the sub-committee. In the case of the appointment of a sub-committee for an inquiry under section 63 or section 66, the chairman of the sub-committee shall be a member of the N.C.C. Commission. In any event, the appointment of a sub-committee shall take into account the appropriateness to the status and level of the position and the reasonable protection of the alleged culprit.

**Section 45/1**<sup>48</sup>. In a fact inquiry, the N.C.C. Commission may entrust an inquiry official to conduct the fact inquiry, gather evidence, and summarize the case before reporting to the N.C.C. Commission for consideration and decision. The aforementioned shall be in accordance with the regulation prescribed by the N.C.C. Commission.

In a fact inquiry, an inquiry official entrusted under paragraph one shall have the powers prescribed under section 25(1), (2), and (3).

**Section 46.** The person under the following circumstances shall not be appointed as a member of an inquiry sub-committee:

(1) having knowledge of the events or having previously conducted an inquiry or considered the alleged matter in a capacity other than a competent official or inquiry official;<sup>49</sup>

(2) being interested in the matter to which the allegation relates;

(3) having current animosity towards the person making the allegation or the alleged culprit;

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<sup>47</sup> Section 45, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>48</sup> Section 45/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>49</sup> Section 46(1), as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

(4) being the person making the allegation or such person's or the alleged culprit's spouse, ancestor, descendant, or brother or sister of full or half blood;

(5) having a close relationship with the person making the allegation or the alleged culprit in the capacity as such person's relative or being a such person's partner or having mutual commercial benefits or conflicting interests vis-à-vis the person making the allegation or the alleged culprit.

In the case where it appears that a person under paragraph one is appointed as a member to an inquiry sub-committee, such member shall inform the chairman thereof without delay. In the meantime, such member shall not be involved in the proceedings of the inquiry sub-committee.

The provisions of paragraph two shall also apply *mutatis mutandis* to the case where any member of the sub-committee is challenged by the alleged culprit that he or she is under the circumstance under paragraph one.

The submission of a challenge, the consideration of a challenge and the appointment of a replacing member of the inquiry sub-committee shall be in accordance with the rules and procedures prescribed by the N.C.C. Commission.<sup>50</sup>

**Section 47.** In a fact inquiry, the alleged culprit shall be given notice of the allegations and there shall be fixed a reasonable time within which the alleged culprit may give explanations, present evidence or bring witnesses to testify in support of the explanations.

In giving explanations and testimonies of the alleged culprit, the alleged culprit shall have the right to have the presence of his or her attorney or the person upon whom he or she reposes confidence for hearing the explanations or testimonies.

**Section 48.** In the case where an inquiry sub-committee is appointed, the presence of at least two members of the sub-committee, at least one of whom must be a member who is a competent official, is required for the hearing of the alleged culprit's explanations or the examination of the alleged culprit and witnesses. But, if it is the hearing of the explanations or the examination of the person under section 58, the presence of the member of the sub-committee who is also a member is also required.

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<sup>50</sup> See detail in “the Regulation of the NCC Commission on the performance of duties of the inquiry sub commission B.E. 2547 (2004)”

A member of the inquiry sub-committee shall not commit or cause to be committed any act which amounts to a deception, threat or promise to the alleged culprit or witness with a view to inducing them to give any statements with respect to the matters to which the allegation relates.

**Section 49.** For the benefit of the performance of duties of the inquiry sub-committee, the inquiry sub-committee shall have the power to carry out the acts under section 25 (1), (2) or (3) or section 26 as entrusted by the N.C.C. Commission.

**Section 50.** Upon the completion of the collation of evidence, the inquiry file shall be prepared and submitted to the President. Such file shall contain the following particulars:

(1) the names and positions of the person making the allegation and the alleged culprit;

(2) the matter to which the allegation relates;

(3) the allegation, reply to the allegation, and summary of facts and relevant evidence obtained from the fact inquiry;<sup>51</sup>

(4) reasons given in the consideration and decision of both issues of fact and issues of law;

(5) the provisions of law relied upon;

(6) the summary of the opinion on the matter to which the allegation relates.

**Section 51.** When the President has received the inquiry file under section 50, the President shall cause to be held a meeting for considering it within thirty days.

In the interest of justice, in the case where an inquiry sub-committee has been appointed, the N.C.C. Commission may pass a resolution directing the same sub-committee to inquire into additional facts or appointing a new inquiry sub-committee to inquire into additional facts on its behalf.

**Section 52.** The member who is under the circumstance under section 46 shall not attend the meeting for considering the inquiry file, with the exception of the member whose knowledge of the events to which the allegation

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<sup>51</sup> Section 50(3), as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

relates is obtained on account of being appointed as a member of the inquiry sub-committee.

**Section 53<sup>52</sup>.** The N.C.C. Commission shall consider the inquiry file and pass a resolution as to whether the allegation has a prima facie case. In the case where the N.C.C. Commission passes a resolution that the allegation has no prima facie case, such allegation shall lapse.

In the case where the N.C.C. Commission passes a resolution that the allegation has no prima facie case under paragraph one, the N.C.C. office shall allow the public to have access to such resolution to examine the reasons behind the resolution of the N.C.C. Commission in accordance with the regulation prescribed by the N.C.C. Commission.

**Section 54.** When the N.C.C. Commission has passed a resolution under section 53, if such allegation is the matter referred to the Commission by the President of the Senate under section 43 (1) or is the matter in respect of which the injured person lodged a request for taking legal proceeding against the alleged culprit under section 43 (2), the President shall furnish a report to the President of the Senate or inform the injured person thereof, as the case may be, without delay.

The report under paragraph one shall be signed by the members having attended the consideration and shall specify the background or the allegation, the summary of facts obtained from the inquiry, reasons given in the consideration and decision and provisions of the Constitution and laws relied upon.

**Section 55<sup>53</sup>.** In the case where the N.C.C. Commission passes a resolution that the allegation has a prima facie case and such allegation is the matter referred to the Commission under section 43 (1) or (2), then, as from the day the N.C.C. Commission passes that resolution, the alleged culprit shall not continue the performance of duties until the Senate passes a resolution or the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions passes a judgment, as the case may be.

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<sup>52</sup> Section 53, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>53</sup> Section 55, as amended by the Act amending the Organic Act on Counter Corruption B.E. 2542 B.E. 2550 (2007).

**Section 56.** In the case where the N.C.C. Commission passes a resolution that the allegation has a prima facie case, the President shall furnish a report under section 54 paragraph two, existing documents as well as the opinion to:

(1) the President of the Senate, if such allegation is a matter under section 43 (1) or (2);<sup>54</sup>

(2) the Prosecutor-General, if the inquiry reveals a prima facie case for a criminal offence or unusual wealth and the alleged culprit is the person under section 58 except the Prosecutor-General or is a political official other than the persons under section 58 (1) and (2);

(3) the Prosecutor-General, if the inquiry reveals a prima facie case for a criminal offence or unusual wealth and the alleged culprit is a state official who is not a person holding a political position and a person holding a high-ranking position;

(4) the superior or the person who has the power to appoint or remove the alleged culprit, if the inquiry reveals a prima facie case for a disciplinary offence or a prima facie case justifying the removal from office, and the alleged culprit is a State official who is not a person holding a political position.

In the case where the N.C.C Commission is of the opinion that any allegation referred to the Commission by the President of the Senate under section 43 (1) is of particular importance, the N.C.C. Commission may prepare a separate report specifically on such allegation and furnish the same to the Senate for consideration in advance.

**Section 57.** During the fact inquiry, if the alleged culprit vacates office or vacates the government service by any reason other than death, the N.C.C. Commission shall have the power to proceed with the fact inquiry for the purpose of taking criminal proceedings, initiating disciplinary action, or making a request that the property devolve to the State.

In the case where the alleged culprit vacates office or vacates the government service by reason of death, the N.C.C. Commission shall have the power to conduct a fact inquiry to petition for the devolvement of property to the State.

## CHAPTER V

### Removal from Office

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<sup>54</sup> Section 56(1), as amended by the Act amending the Organic Act on Counter Corruption B.E. 2542 B.E. 2550 (2007).



**Section 58<sup>55</sup>**. When it appears that any person holding any of the following positions is under the circumstance of unusual wealth or under circumstances indicative of the commission of corruption, malfeasance in office, malfeasance in judicial office, an intentional exercise of power contrary to the Constitution or the law or serious violation or failure to comply with ethical standards, the Senate has the power to initiate the removal of such person from office in accordance with the provisions of this Chapter:

- (1) Prime Minister;
- (2) Minister;
- (3) Member of the House of Representatives;
- (4) Senator;
- (5) President of the Supreme Court of Justice;
- (6) President of the Constitutional Court;
- (7) President of the Supreme Administrative Court;
- (8) Prosecutor-General;
- (9) judge of the Constitutional Court;
- (10) Election Commissioner;
- (11) Ombudsman;
- (12) member of the State Audit Commission;
- (13) State Audit Governor;
- (14) Vice President of the Supreme Court of Justice;
- (15) Vice President of the Supreme Administrative Court;
- (16) Chief of the Military Judicial Office;
- (17) Deputy Prosecutor-General;
- (18) judge or prosecutor as prescribed by a publication of the N.C.C. Commission;
- (19) person holding a high-ranking position or person holding an equivalent position.

**Section 58/1<sup>56</sup>**. In the case where the N.C.C. Commission receives a report from the Ombudsman petitioning for the removal of the Prime Minister, Minister, Member of the House of Representatives, Senator or a person holding other political position or holding a high-ranking position from office on the grounds of a

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<sup>55</sup> Section 58, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>56</sup> Section 58/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

serious violation or failure to comply with ethical standards, the N.C.C. Commission shall promptly follow the procedures under Chapter 4 Fact Inquiry.

In the case where the N.C.C. Commission passes a resolution finding a prima facie case that a person holding a position under paragraph one has seriously violated or failed to comply with the ethical standards, the N.C.C. Commission shall report to the President of the Senate so that the President of the Senate shall promptly convene a meeting to deliberate on the removal of the person holding such position and the provisions of section 64 paragraph two shall apply *mutatis mutandis*.

**Section 59.** Members of the House of Representatives of not less than one-fourth of the total number of the existing Members of the House of Representatives or eligible voters of not less than twenty thousand in number have the right to lodge with the President of the Senate a petition for the Senate to pass a resolution to remove a person holding a position under section 58 from office.<sup>57</sup>

Senators of not less than one-fourth of the total number of the existing members of the Senate have the right to lodge with the President of the Senate a petition for the Senate to pass a resolution to remove a Senator from office.

**Section 60.** In the case of the lodging by the people of a petition for the removal of a person holding a position under section 58 from office, there shall be not more than one hundred initiators for the purposes of preparing the petition and attesting the signatures of voters of not less than twenty thousand in number who shall have participated in the petition.<sup>58</sup>

The initiators and participants shall be the persons entitled to vote under the organic law on election of Members of the House of Representatives and Senators.

The initiators shall, in person, identify themselves to the President of the Senate before commencing the gathering of names of the people entitled to participate in the request.

**Section 61.** The request for the removal from office under section 59 and section 60 shall be in writing, specify the names, age, numbers of the civic

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<sup>57</sup> Section 59 paragraph one, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>58</sup> Section 60 paragraph one, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

identification cards of the persons making the request, be accompanied by copies of the civic identification cards or expired civic identification cards or any other cards or evidence issued by the Government bearing the photographs capable of identification and signed by the persons making the request with the clear statement as to the date, month and year of the signatures. The request shall also clearly itemise circumstances in which the person holding the position under section 58 has allegedly become unusually wealthy, committed corruption or committed an offence of malfeasance in office or malfeasance in judicial office or intentional exercise of power contrary to the provisions of the Constitutions or any law and shall so reasonably and sufficiently specify evidence or clue as to enable the N.C.C. Commission to proceed with a fact inquiry. Such request shall be submitted to the President of the Senate within one hundred eighty days as from the date the initiators identify themselves in person to the President of the Senate.

**Section 62.** In the case where Members of the House of Representatives lodge a petition for the removal of a person holding a position under section 58 from office or in the case where Senators lodge a petition for the removal of a Senator from office, the provisions of section 61 shall apply *mutatis mutandis*.

**Section 63<sup>59</sup>.** Upon receipt of a petition, the President of the Senate shall complete the examination and consideration of its correctness and conformity with the provisions of the Constitution and with section 61 or section 62 within thirty days as from the date the request is received. In case where the President of the Senate considers that it is correct and conforms to the said provisions, the President of the Senate shall promptly refer the matter to the N.C.C. Commission for further proceeding in accordance with Chapter 4 Fact Inquiry. If the President of the Senate considers that it is not correct or does not conform to the said provisions, the President of the Senate shall notify it to the persons entering the petition or the initiators for taking corrective action. The persons entering the petition or the initiators shall complete the undertaking within thirty days as from the date of receipt of the notification from the President of the Senate.

In the case where the President of the Senate receives a petition that has been corrected under paragraph one, the President of the Senate shall complete the examination of whether the petition as corrected conforms to the notification of the President of the Senate within seven days as from the date of the receipt of such

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<sup>59</sup> Section 63, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

petition. If the President of the Senate finds that the persons entering the petition or the initiators have made proper or complete corrections, the President of the Senate shall promptly refer such matter to the N.C.C. Commission to proceed in accordance with Chapter 4, Fact Inquiry. If the President of the Senate finds that the petition has not been properly or completely corrected, the President of the Senate shall return the petition to the persons entering the petition or the initiators without prejudice to the rights of the persons entering the petition or the initiators to enter a new petition on the same issue.

**Section 64.** Upon the N.C.C. Commission passing a resolution by a majority vote that the allegation in the petition for the Senate to pass a resolution to remove the alleged culprit from office has a prima facie case and has furnished a report to the President of the Senate under section 56(1), the President of the Senate shall convoke a sitting of the Senate for deliberating on a resolution without delay.<sup>60</sup>

In the case where the N.C.C. Commission submits the report out of session of the Senate, the President of the Senate shall inform the President of the National Assembly in order to tender a petition to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly for deliberation of the matter. The President of the Senate shall countersign the Royal Command.

**Section 65.** A Senator has autonomy in casting a vote, which must be by secret ballot. A resolution for the removal of any person from office shall be passed by the votes of not less than three-fifths of the total number of the existing members of the Senate.

A person who is removed from office shall vacate office or be released from government service as from the date of the resolution of the Senate. Such person shall be deprived of the right to hold any political position or a position in a state agency or to serve in the government service for five years.

The resolution of the Senate under this section shall be final and no petition for the removal of such person from office shall be made on the same grounds, but without prejudice to the trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions or a court having competent jurisdiction to try and adjudicate the case, as the case may be.

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<sup>60</sup> Section 64 paragraph one, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

When the Senate has passed a resolution removing any person from office, the President of the Senate shall, without delay, notify the resolution to the N.C.C. Commission, the person who is removed from office, Secretary-General to the Cabinet and state official concerned.

**CHAPTER VI**  
**Criminal Proceedings Against Persons Holding Political Positions**  
**under Section 275 of the Constitution<sup>61</sup>**

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**Section 66<sup>62</sup>**. In the case where the N.C.C. Commission finds reasonable cause to suspect or there is an allegation that a person holding the position of Prime Minister, Minister, Member of the House of Representatives, Senator or any other political official has become unusually wealthy, or committed an offence of malfeasance in office under the Penal Code or malfeasance in office or corruption under other law, the N.C.C. Commission shall promptly initiate a fact inquiry, except where the allegor is not an injured person and the allegation does not specify adequate evidence for a fact inquiry to proceed, in which case the N.C.C. Commission may not initiate a fact inquiry.

The N.C.C. Commission has the power to prescribe regulations pertaining to the allegation under paragraph one.<sup>63</sup>

The provisions under paragraph one shall also apply to the case where the said person or other person is the principal, instigator or aider and abettor, including the donor, requested donor or pledged donor of property or other benefits to the person under paragraph one in order to induce an act or omission or delay of an act which constitute a malfeasance in office.<sup>64</sup>

In the case where the N.C.C. Commission has reasonable cause to suspect that an injured person will enter a petition to the general meeting of the Supreme Court of Justice to allege the Prime Minister, Minister, President of the House of Representatives, or President of the Senate that an offence under

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<sup>61</sup> Title of Chapter 6, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>62</sup> Section 66, as amended by the Act amending the Organic Act on Counter Corruption B.E. 2542 B.E. 2550 (2007)

<sup>63</sup> See details in “the Regulation of the NCC Commission on the allegation of a person under section 66 of the Organic Act on Counter Corruption B.E. 2542 B.E. 2545 (2002)”

<sup>64</sup> Section 66 paragraph three, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

paragraph one has been committed, if the N.C.C. Commission passes a resolution with the votes of not less than one-half of the existing members to accept such allegation, the injured person, in this case, cannot enter a petition to the general meeting of the Supreme Court of Justice.<sup>65</sup>

In the case of paragraph four, the N.C.C. Commission shall conduct a fact inquiry without delay and the provisions of Chapter 4, Fact inquiry, and Chapter 5, Removal from Office, shall apply *mutatis mutandis*.<sup>66</sup>

**Section 67.** *(repealed)*<sup>67</sup>

**Section 68.** *(repealed)*<sup>68</sup>

**Section 69.** *(repealed)*<sup>69</sup>

**Section 70.** In the case where the N.C.C. Commission passes a resolution that an allegation has a prima facie case for an offence under section 66, the President shall refer the report, existing documents and the opinion to the Prosecutor-General for the purpose of instituting a prosecution in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions in accordance with the organic law on criminal proceedings against persons holding political positions.

**Section 71.** The provisions of section 70 shall apply *mutatis mutandis* to the case where the N.C.C. Commission passes a resolution that the allegation made in the request to the Senate under section 59 has a prima facie case under section 66.

**Section 72.** In the case where the injured person or the N.C.C. Commission lodges, with the administrative official or police official having jurisdiction

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<sup>65</sup> Section 66 paragraph four, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>66</sup> Section 66 paragraph five, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>67</sup> Section 67, repealed by the Act amending the Organic Act on Counter Corruption B.E. 2542 B.E. 2550 (2007)

<sup>68</sup> Section 68, repealed by the Act amending the Organic Act on Counter Corruption B.E. 2542 B.E. 2550 (2007)

<sup>69</sup> Section 69, repealed by the Act amending the Organic Act on Counter Corruption B.E. 2542 B.E. 2550 (2007)

over the territory in which the offence concerned was committed, a complaint against the person specified in section 66 accusing that person of having committed an offence provided in section 66, the administrative official or police official receiving the complaint shall have the power to submit a motion to the competent Court for issuing a warrant of arrest for arresting such person. In the case where other necessary grounds arises which justifies an arrest without a warrant as provided by law, the administrative official or police official shall have the power to arrest such person.

The administrative official or police official who arrests such person shall refer the arrested person together with the arrest record to the N.C.C. Commission within forty-eight hours.

**Section 73.** In the case where it is not necessary to keep the arrested person in custody, the N.C.C. Commission may grant a provisional release with or without bail.

In the case where it is necessary to keep the arrested person in custody, the N.C.C. Commission may submit a motion to the Criminal Court for the Court's issuance of a warrant of detention in accordance with the rules and for the length of time prescribed in the Criminal Procedure Code for the offence to which the complaint relates.

**Section 73/1**<sup>70</sup>. In the case where a prosecution has been filed against an alleged culprit in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions, if the act of the alleged culprit caused damage to property or constituted a tort against a state agency or other persons, the Prosecutor-general may file a motion in court for a judgment to annul such act or wrongful order constituting a tortuous act.

For damages occurred under paragraph one, the N.C.C. Commission shall notify the relevant state agencies to take action against the alleged culprit or any person related to such damage to indemnify the damages under the law governing such matter.

**Section 74.** When the prosecution is intended to be instituted under section 70, the N.C.C. Commission shall inform, in writing, the alleged culprit to

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<sup>70</sup> Section 73/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

appear before, and report to, the person entrusted by the N.C.C. Commission on the date and at the time specified.

If the alleged culprit fails to enter an appearance and report within the specified time, the N.C.C. Commission shall inform the administrative official or police official for the purpose of acquiring custody of the alleged culprit and remittance to the Prosecutor-General or the N.C.C. Commission, as the case may be, for further proceeding with the case.

The custody of the alleged culprit and the provisional release shall be within the power of the N.C.C. Commission, the person entrusted by the N.C.C. Commission or the Prosecutor-General, as the case may be. For this purpose, the organic law on criminal proceedings against persons holding political positions or the Criminal Procedure Code, as the case may be, shall apply *mutatis mutandis*.

**Section 74/1**<sup>71</sup>. In criminal proceedings under this Chapter, if an alleged culprit escapes during the prosecution, the time an alleged culprit escapes shall not be reckoned in the limitation period.

## CHAPTER VII

### Petition for the Devolvement of Property to the State

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**Section 75**<sup>72</sup>. In the case where an allegation is made that any person holding a political position or any state official has become unusually wealthy, the person making the allegation shall submit the allegation to the N.C.C. Commission at the time the alleged culprit is a state official or has ceased to be a state official for not more than five years, and the N.C.C. Commission shall conduct a preliminary determination as to whether the circumstances or the matter specified in the allegation falls within the competence of the N.C.C. Commission. If the alleged culprit is a person who has already submitted an account showing particulars of assets and liabilities, the N.C.C. Commission shall also take such account into consideration.

In the case where a person holding a political position or state official has vacated the political office or has ceased to be a state official for more than five

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<sup>71</sup> Section 74/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>72</sup> Section 75, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).



years, the allegation under paragraph one against the person holding a political position or state official may not be made, but without prejudice to the powers of the N.C.C. Commission to proceed to with inquiry on the allegation having been made or if there is a reasonable cause to suspect that a person holding a political position or state official is unusual wealthy. However, the N.C.C. Commission shall not proceed after ten years as from the date a person holding a political position or state official vacated the political office or ceased to be a state official, as the case may be.

**Section 76**<sup>73</sup>. An allegation under section 75 may be made orally or in writing in accordance with the regulations prescribed by the N.C.C. Commission.

**Section 77**<sup>74</sup>. In the case where the allegation meets the requirements in section 75 or the in case where there is a reasonable cause to suspect that a person holding a political position or a state official has become unusually wealthy, the N.C.C. Commission shall proceed in accordance with Chapter 4, Fact Inquiry.

**Section 78.** In the case where the N.C.C. Commission discovers that any property of the alleged culprit is connected with the unusual wealth and is under the circumstance convincingly indicative of the possibility of its transfer, move, transformation or concealment, the N.C.C. Commission shall have the power to issue an order of temporary seizure or attachment of that property , without prejudice to the right of the alleged culprit to submit an application for taking such property for use with or without bail or security.

When there occurs a temporary seizure or attachment of the property under paragraph one, the N.C.C. Commission shall cause to be conducted proof of the property without delay. In the case where the alleged culprit is unable to present evidence that the property under temporary seizure or attachment is not connected with the unusual wealth, the N.C.C. Commission shall have the power to continue its seizure or attachment until the N.C.C. Commission passes a resolution that the allegation has no prima facie case, which must be within one year as from the date of the seizure or attachment or until the Court passes a final judgment

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<sup>73</sup> Section 76, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>74</sup> Section 77, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

dismissing that case. But, if the proof is successful, the property shall be returned to such person.

**Section 79.** For the purpose of a fact inquiry, the N.C.C. Commission shall order the alleged culprit to show particulars of assets and liabilities of the alleged culprit in accordance with items and procedures and within the time prescribed by the N.C.C. Commission, which shall not be less than thirty days and shall not be more than sixty days.

**Section 80.** If the N.C.C. Commission has conducted a fact inquiry and passed a resolution that the alleged culprit has become unusually wealthy, the N.C.C. Commission shall proceed as follows:

(1) in the case where it is the alleged culprit under section 66, the President shall refer the matter to the Prosecutor-General for submission of a motion to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions requesting the Court to order that the property devolve upon the State;

(2) in the case where the alleged culprit is a person holding the position of President of the Supreme Court of Justice, President of the Constitutional Court, President of the Supreme Administrative Court, judge of the Constitutional Court, Election Commissioner, Ombudsman, member of the State Audit Commission, Vice President of the Supreme Court of Justice, Vice President of the Supreme Administrative Court, Chief of the Military Judicial Office, Deputy Prosecutor-General or is a person holding a high-ranking position, the President shall refer the matter to the Prosecutor-General for submission of a motion to the court having competence to try and adjudicate the case requesting the Court to order that the property devolve upon the State;<sup>75</sup>

(3) in the case where the alleged culprit is a person holding the position of Prosecutor-General, the President shall submit a motion to the court having competence to try and adjudicate the case requesting the Court to order that the property devolve upon the State;

(4) in the case where the alleged culprit is a State official who is not a person under (1), (2) and (3), the President shall refer the matter to the Prosecutor-General for submission of a motion to the Court having competence to try and adjudicate the case requesting the Court to order that the property devolve upon the State, and the President shall notify the superior or the person having the power

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<sup>75</sup> Section 80(2), as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

to appoint or remove the alleged culprit for the purpose of issuing a punitive order of expulsion or dismissal on the deemed ground of the commission of corruption, except that in the case where the alleged culprit is a judicial official under the law on judicial service, judge of the Administrative Court under the law on establishment of Administrative Courts and Administrative Court procedures or public prosecutor under the law on public prosecutors service, the President shall notify the President of the Judicial Commission, the President of the Judicial Commission of Administrative Courts or the President of the Public Prosecutors Commission, as the case may be, for considering and proceeding with the matter in accordance with the law on judicial service, the law on establishment of Administrative Courts and Administrative Court procedures or the law on public prosecutors service.

In the case under (1) or (2), when the Prosecutor-General receives the report and documents together with the opinion from the N.C.C. Commission and is of the opinion that the report, documents and opinion referred to by the N.C.C. Commission are not so complete as to justify the institution of legal proceedings, the Prosecutor-General shall notify the N.C.C. Commission for further action. For this purpose, the incomplete items shall fully be specified at the same time. In this case, the N.C.C. Commission and Prosecutor-General shall appoint a working committee consisting of representatives of each side in an equal number for the purpose of collecting full evidence to be referred to the Prosecutor-General for further submission of a motion to the Supreme Court of Justice's Criminal Division of Persons Holding Political Positions or the court having competence to try and adjudicate the case, as the case may be, requesting the Court to give a subsequent order that the property devolve upon the State. In the case where such working committee fails to reach an agreement as to the legal proceedings, the N.C.C. Commission shall have the power to submit a motion to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions or the Court having competence to try and adjudicate the case, as the case may be, requesting the Court to order that the property devolve upon the State.

The proceedings under paragraph one shall be exempt from court fees. As for cases under (2), (3) or (4), the Civil Procedure Code shall apply *mutatis mutandis*.<sup>76</sup>

**Section 81.** The Prosecutor-General or the President, as the case may be, shall submit a motion requesting the Court to order that the property devolve

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<sup>76</sup> Section 80 paragraph three, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

upon the State under section 80 within ninety days as from the date the matter is received from the N.C.C. Commission.

In the case in which a request is made that the property be ordered to devolve upon the State, onus of proof to the Court that the said property does not result from the unusual wealth is upon the alleged culprit.

**Section 81/1**<sup>77</sup>. In case where there is a final order of the court to dismiss the motion of the prosecutor-general or the President that is submitted under section 81 and if such alleged culprit is not a person holding a political position and has been punished with a disciplinary penalty based on the resolution of the N.C.C. Commission which specified that such alleged culprit is unusual wealthy, the superior of the alleged culprit shall annul the punishment order and offer restitution in accordance with the law, regulation or by-law concerning personal management for such alleged culprit. If there is no such law, regulation, or by-law, the superior of alleged culprit shall proceed in accordance with the resolution of the Council of Ministers. When conducting such proceeding, the state agencies shall not invoke the statute of limitation that may result in the person not receiving just restitution.

In case where the alleged culprit against whom the proceedings under paragraph one is instituted is a person holding a political position, the N.C.C. Commission shall reasonably provide just restitution to such person in accordance with the law, regulation, or by-law concerning personal management for holding such political position, as the case may be, and paragraph one shall apply *mutatis mutandis* in accordance with the regulation prescribed by the N.C.C. Commission.

**Section 82.** A transfer or any act in connection with the property of the state official which is done after the N.C.C. Commission has ordered such state official to declare particulars of assets and liabilities under section 79 may, if the N.C.C. Commission or the Prosecutor-General, as the case may be, files an application by way of motion, be cancelled or suspended by an order of the Court, unless the transferee or the beneficiary satisfies the Court that the property or benefit has been acquired in good faith and in return for remuneration.

**Section 83.** If the Court gives an order that the alleged culprit's property in respect of which the N.C.C. has passed a resolution confirming its

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<sup>77</sup> Section 81/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

representing the unusual wealth or that the unusual increase shall devolve upon the State but execution cannot be conducted of the whole or part of such property, the execution may be conducted of other property of the alleged culprit within the limitation period of ten years, provided that it shall not be conducted in excess of the value of the property ordered by the court to devolve upon the State.

## CHAPTER VIII

### Inspection of State officials Not Being Persons Holding Political Positions under Section 275 of the Constitution<sup>78</sup>

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**Section 84**<sup>79</sup>. Subject to section 19, an allegation that the following state officials committed an offence of corruption, malfeasance in office or malfeasance in judicial office shall be submitted to the N.C.C. Commission at the time the person against whom the allegation is made is a state official or has ceased to be a state official for not later than five years;

(1) a person holding a political position or high ranking executive who is not a person under section 66;

(2) judge;

(3) public prosecutor;

(4) state official in agency of the court and constitutional organs;

(5) local administrator, deputy local administrator, assistant local administrator, and member of a local assembly;

(6) state official in the Office of the Secretariat of the House of Representatives and the Office of the Secretariat of the Senate;

(7) state official in an anti-corruption agency under the law governing such matter;

(8) state official who committed an offence having the characteristics which the N.C.C. Commission finds that proceedings should be taken as prescribed by the N.C.C. Commission;

(9) state official who jointly commit an offence with a person under (1) (2) (3) (4) (5) (6) (7) or (8). The allegation under paragraph one may be made orally or in writing as prescribed in the regulation prescribed by the N.C.C. Commission.

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<sup>78</sup> Title of Chapter, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>79</sup> Section 84, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

The provisions of paragraph one shall apply to the case where a state official or other person is a principal, instigator or aider and abettor

Subject to the provisions of the law on statute of limitations, in the case where the state official under paragraph one has ceased to be a state official for more than five years, the power of the N.C.C. Commission's power to proceed with an inquiry of an allegation having been made or where there is a reasonable cause to suspect that a person holding a political position or state official committed an offence shall not be prejudiced, provided that the proceedings are not taken after the expiration of ten years as from the date a person holding a political position vacate office or the state official ceased to be a State official, as the case may be.

**Section 85.** The allegation under section 84 shall at least contain the following particulars:

- (1) the name and address of the person making the allegation;
- (2) the name or position of the alleged culprit;
- (3) the allegation and circumstances under which the alleged offence was committed, together with, or by reference to, evidence.

**Section 86.** The N.C.C. Commission shall not accept or invoke for consideration an allegation under section 84 which is of the following descriptions:

- (1) a matter involving the same allegation or issue as that in respect of which the N.C.C. Commission has given its final decision, for which no fresh evidence which is material to the case is found;
- (2) a criminal case with the same issue that has been admitted by the Court or has been adjudicated by a Court's final decision or order, except for a case that has been withdrawn or abandoned or a case where the court has not yet determined the substance of the case, the N.C.C. Commission may accept or invoke such allegation for consideration.<sup>80</sup>

**Section 87<sup>81</sup>.** The N.C.C. Commission may refuse to accept or invoke for consideration the allegation which is of the following descriptions:

- (1) a matter for which no clear evidence or no clear circumstances of the commission of the offence is so sufficiently specified as to enable a fact inquiry;

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<sup>80</sup> Section 86 (2), as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>81</sup> Section 87, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

(2) a matter that has lapsed for a period of more than five years as from the date of its occurrence to the date of the allegation, for which evidence cannot be so sufficiently obtained as to enable a further inquiry;

(3) an allegation against a state official whom the N.C.C. Commission finds that proceedings against such alleged culprit under other law has been completed and properly conducted, and there is no reasonable cause to suspect that such proceedings were unjustly carried out.

**Section 87/1**<sup>82</sup>. In regard to an allegation against any state official that has been admitted for consideration by an agency having the powers and duties of countering corruption, if the N.C.C. Commission finds that such matter is of particular significance having an impact on public interests, or the N.C.C. Commission finds that it has the competence to consider such an allegation, the N.C.C. Commission shall have the power to call upon such agency to transfer such case to the N.C.C. Commission and require the submission of relevant document to the N.C.C. Commission to enable proceedings under this Organic act.

**Section 88.** When the N.C.C. Commission has received the allegation against a state official under section 84 or has reasonable cause to suspect that any state official has committed an offence of corruption, malfeasance in office or malfeasance in judicial office, the N.C.C. Commission shall proceed in accordance with Chapter 4, Fact Inquiry.

**Section 89.** In the case where the injured person has lodged a complaint, or an allegation is made, to the inquiry official requesting for an action against a state official who is not a person under section 66 in consequence of the commission of an act under section 88, the inquiry official shall refer the matter to the N.C.C. Commission within thirty days as from the date of the complaint or allegation so as to initiate proceedings in accordance with the provisions of this Chapter. In this connection, if the N.C.C. Commission, having considered the matter, is of the opinion that it is not a case under section 88, the N.C.C. Commission shall return the matter to the investigation officer for proceedings in accordance with the Criminal Procedure Code.

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<sup>82</sup> Section 87/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**Section 89/1**<sup>83</sup>. In case where an alleged culprit is detained under judicial powers due to an arrest of the alleged culprit during proceedings under section 89, the investigation officer shall have the power to petition the court to continue detaining such alleged culprit and the responsible investigation officer shall notify the N.C.C. Commission in order to continue with the proceeding under the criminal procedure code, without having to remit the matter to the N.C.C. Commission for consideration.

In case where an investigation officer or prosecutor issues a non-prosecution order against the alleged culprit, he or she shall notify the N.C.C. Commission. In such a case, the N.C.C. Commission may summon the investigation file and relevant documents from the investigation officer or prosecutor for consideration or proceed with a new fact inquiry.

The actions of an investigation officer under paragraph one does not prejudice the N.C.C. Commission's power to initiate its own fact inquiry or entrust an inquiry official to co-investigate with an investigation officer.

An investigation officer shall also notify the superior or a person having the power to appoint or remove an alleged culprit to proceed with a disciplinary action under the law, rules, by-law or regulation applicable to such alleged culprit.

**Section 89/2**<sup>84</sup>. In the case where the N.C.C. Commission thinks fit, the N.C.C. Commission may refer an allegation against a state official who is not a person under section 66 in regard to an offence of corruption, malfeasance in office or malfeasance in judicial office has been committed that is pending proceedings to the superior or a person having power to appoint or remove in order to commence disciplinary proceedings or proceed in accordance with their powers and duties, as the case may be, or refer the case to an investigation official to proceed under the Criminal Procedure Code.

**Section 89/3**<sup>85</sup>. When an investigation officer receives a matter from the N.C.C. Commission, the investigation officer shall investigate such offence as an

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<sup>83</sup> Section 89/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>84</sup> Section 89/2, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>85</sup> Section 89/3, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).



allegation under the Criminal Procedure Code and report to the N.C.C. Commission. The investigation officer shall also notify the superior or person having the power to appoint or remove such alleged culprit to proceed with a disciplinary action under the law, rules, by-law or regulation applicable to such alleged culprit.

In the case where the N.C.C. Commission disagrees with an opinion of the inquiry officer or prosecutor under paragraph one, the N.C.C. Commission shall issue an order or summon the investigation file to proceed with a new fact inquiry. Any proceedings conducted by an investigation officer shall be valid and may be deemed wholly or partly as the fact inquiry file of the N.C.C. Commission.

In the case where the superior or a person having the power to appoint or remove an alleged culprit has proceeded with disciplinary proceedings under paragraph one and issued a disciplinary order, section 89/4 shall apply to such disciplinary penalty.

**Section 89/4**<sup>86</sup>. In the case where the superior or a person having power to appoint or remove has accepted a matter from the N.C.C. Commission for proceedings in accordance with his/her powers and duties, the superior or person having the power to appoint or remove shall investigate the offence in accordance with the law, rules, by-law or regulation applicable to the disciplinary proceedings of the alleged culprit, or to appoint or remove such alleged culprit and report to the N.C.C. Commission for further consideration which shall be in accordance with section 92.

Upon the acceptance of the report under paragraph one, if the N.C.C. Commission finds that such disciplinary proceedings or proceedings relating to an appointment or removal is incorrect or inappropriate, the N.C.C. Commission may proceed under section 95.

**Section 90.** In conducting a fact inquiry, if the N.C.C. Commission is of the opinion that the continued performance of the alleged culprit shall cause injury to the government service or cause an impediment to the inquiry, the N.C.C. Commission shall refer the matter to the superior of the alleged culprit for an order of suspension from the government service or from work pending the decision of the N.C.C. Commission. If the superior of the alleged culprit has ordered a suspension from government service or from work and a subsequent outcome of the inquiry reveals that the allegation has no prima facie case, the N.C.C. Commission shall

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<sup>86</sup> Section 89/4, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

inform the superior of the alleged culprit thereof for the purpose of issuing an order allowing the alleged culprit to resume the government service or work in the original position.

**Section 91.** When the N.C.C. Commission has conducted a fact inquiry and passed a resolution that a particular allegation has no prima facie case, such allegation shall lapse. Any allegation which, according to the N.C.C. Commission's resolution, has a prima facie case shall be pursued as follows:

(1) if a prima facie case for a disciplinary offence is found, it shall be proceeded with in accordance with section 92;

(2) if a prima facie case for a criminal offence is found, it shall be proceeded with in accordance with section 97.

**Section 92.** In the case where a prima facie case for a disciplinary offence is found, when the N.C.C. Commission, after having considered the circumstances of the commission of the offence, passes a resolution that a particular alleged culprit has committed a disciplinary offence, the President shall send the report and existing documents together with an opinion to the superior or the person who has the power to appoint or remove such alleged culprit for the purpose of considering the disciplinary penalty for the offence in respect of which the N.C.C. Commission has passed the resolution, without the appointment of a disciplinary inquiry committee. In considering the disciplinary penalty to be inflicted upon the alleged culprit, it shall be deemed that the report, documents and opinion of the N.C.C. Commission is the disciplinary inquiry file of the disciplinary inquiry committee under the law, rules or regulations on personnel administration applicable to such alleged culprit, as the case may be.

In the case where the alleged culprit is a judicial official under the law on judicial service, judge of the Administrative Court under the law on establishment of Administrative Courts and Administrative Court procedures or public prosecutor under the law on public prosecutor service, the President shall send the report and existing documents together with an opinion to the President of the Judicial Commission, the President of the Judicial Commission of the Administrative Courts or the President of the Public Prosecutors Commission, as the case may be, for considering and proceeding with the matter in accordance with the law on judicial service, the law on establishment of Administrative Courts and Administrative Court procedures or the law on public prosecutors service without delay. In this connection, the report and documents of the N.C.C. Commission shall also be regarded as part of the inquiry file. The outcome shall be furnished to the N.C.C.

Commission for information within fifteen days as from the date the order of the disciplinary penalty is issued or the date a decision is given that no disciplinary offence is found.

In the case of the alleged culprit to whom no laws, rules or regulations on disciplines are found applicable, the President shall, upon the N.C.C. Commission's resolution that such alleged culprit has committed an offence as alleged, send the report and existing documents together with the opinion of the N.C.C. Commission to the superior or the person who has the power to appoint or remove such alleged culprit for the purpose of proceedings in accordance with his or her powers and duties.

**Section 93.** Upon receipt of a report under section 92 paragraph one and paragraph three, the superior or the person having the power to order the appointment and removal shall consider the penalty within thirty days as from the date of receipt thereof, and the superior or the person having the power to order the appointment and removal shall furnish a copy of the penalty order to the N.C.C. Commission for information within fifteen days as from the date the order is issued.

**Section 94.** Any superior or the person having the power to order the appointment and removal who fails to take action under section 93 is deemed to commit a disciplinary offence or a legal offence under the law, rule or regulation on personnel administration applicable to the alleged culprit in question.

**Section 95.** In the case where the superior of the alleged culprit fails to take the disciplinary action under section 93 or the N.C.C. Commission considers that the disciplinary action taken by the superior under section 93 is incorrect or inappropriate, the N.C.C. Commission shall present its opinion to the Prime Minister and the Prime Minister shall have the power to give an order as the Prime Minister thinks fit. In the case of necessity, the N.C.C. Commission may order the Civil Service Commission under the law on civil service or other commission having the duty to control and supervise the execution of the law, rule and regulation on personnel administration for State officials or the commission which performs the management of the State enterprise or the person who has given an order appointing a member of a commission, committee or sub-committee or an employee of a government agency, state agency or state enterprise, as the case may be, to consider and take correct and appropriate action within the powers and duties, except that in the case where the alleged culprit is a judicial official under the law on judicial service, a judge of the administrative court under the law on establishment of Administrative

Courts and Administrative Courts Procedure, or a public prosecutor under the law on public prosecutors service, the N.C.C. Commission shall furnish its opinion to the President of the Judicial Commission, President of the Judicial Commission of the Administrative Courts or President of the Public Prosecutors Commission, as the case may be.

**Section 96<sup>87</sup>.** An alleged culprit punished under section 89/4 or section 93 may exercise the right to appeal against the exercise of the superior's discretion in giving the penalty order, in accordance with the law, rule or regulation on personnel administration applicable to such alleged culprit, provided that such right must be exercised within thirty days as from the date of receiving such order.

**Section 97.** In the case where the N.C.C. Commission passes a resolution that any matter put in the allegation amounts to a criminal offence, the President shall furnish a report, documents and opinion to the Prosecutor-General or, in the case where the alleged culprit is the Prosecutor-General, proceed with the prosecution, for the purpose of criminal proceedings before the court having competence to try and adjudicate the case. In this instance, the report of the N.C.C. Commission shall be deemed as the inquiry file under the Criminal Procedure Code and the court shall accept the case without conducting a preliminary examination.

When the Prosecutor-General has received the report and documents together with the opinion from the N.C.C. Commission under paragraph one and considers that the report, documents and opinion furnished by the N.C.C. Commission are not so complete as to justify the institution of a prosecution, the Prosecutor-General shall inform the N.C.C. Commission thereof for further proceeding. In this instance, the incomplete items shall, at the same time, fully be specified. In this case, the N.C.C. Commission and the Prosecutor-General shall appoint a working committee consisting of representatives of each side in an equal number, for the purpose of collecting full evidence and furnish it to the Prosecutor-General for instituting the prosecution. In the case where such working committee fails to arrive at a conclusion as to the prosecution, the N.C.C. Commission shall have the power to initiate the prosecution of its own motion or appoint an attorney to institute the prosecution on its behalf.

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<sup>87</sup> Section 96, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

In case where an alleged culprit is a military official, a Prosecutor-General shall prosecute as a military prosecutor under the law on Organization of Military Court or may entrust a military prosecutor to prosecute.<sup>88</sup>

**Section 98<sup>89</sup>**. When the prosecution is intended to be instituted under section 97, the provisions of section 72, section 73, section 74 and section 74/1 shall apply *mutatis mutandis*.

**Section 98/1<sup>90</sup>**. In the case where the prosecution against an alleged culprit is instituted at the court having jurisdiction over the case, the court having the power to adjudicate shall rely upon the report and inquiry file of the N.C.C. Commission in the adjudication of the court and may conduct an inquiry for additional facts and evidence as it thinks fit.

In the institution of prosecution under paragraph one, the court shall apply the inquisitorial system to the proceedings of the case in accordance with the rules prescribed by the general meeting of the Supreme Court of Justice published in the Government Gazette.

The provisions in paragraph one and paragraph two shall apply to the adjudication of the military court *mutatis mutandis* except for proceedings of the case which shall be in accordance with the regulation prescribed by the general meeting of the Supreme Military Court and published in the Government Gazette.

**Section 98/2<sup>91</sup>**. The provisions of section 73/1 shall apply to the prosecution against a state official *mutatis mutandis*.

**Section 99**. In the case where the N.C.C. Commission passes a resolution that a particular allegation has a prima facie case for an offence under section 91, if, in addition to proceeding in accordance with section 92 or section 97, the inquiry by the N.C.C. Commission reveals that the alleged culprit granted approval or permission conferring rights or benefits on, or issued a document of title

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<sup>88</sup> Section 97 paragraph three, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>89</sup> Section 98, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>90</sup> Section 98/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>91</sup> Section 98/2, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

to, any person contrary to the law or official regulation to the detriment of the Government service, the President shall furnish the report and existing documents together with his/her opinion to the superior or head of the agency concerned for the purpose of filing an application to the Court for an order or judgment cancelling or revoking the right or document of title in respect of which the alleged culprit granted approval or permission.

The provisions of section 93, section 94 and section 95 shall apply to the case under paragraph one *mutatis mutandis*.

## CHAPTER IX

### Conflicts Between Personal Interest and Public Interest

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**Section 100.** A State official shall not carry out the following acts:

(1) being a party to or having interest in a contract made with a government agency where such state official performs duties in the capacity as state official who has the power to conduct supervision, control, inspection or legal proceedings;

(2) being a partner or shareholder in a partnership or company which is a party to a contract made with a government agency where such state official performs duties in the capacity as a state official who has the power to conduct supervision, control, inspection or legal proceedings;

(3) being a concessionaire or continuing to hold a concession from the state, state agency, state enterprise or local administration or being a party to a contract of a directly or indirectly monopolistic nature made with the state, a government agency, state agency, state enterprise or local administration, or being a partner or shareholder in a partnership or company which is a concessionaire or a contractual party in such manner;

(4) being interested in the capacity as a director, counsel, representative, official or employee in a private business which is under supervision, control or audit of the state agency to which such state official is attached or where such state official performs duties in the capacity as state official, provided that the nature of the interest of the private business may be contrary to or inconsistent with public interest or the interest of the government service or may affect the autonomy in the performance of duties of such state official.

The positions of state officials prohibited from carrying out the activities under paragraph one shall be prescribed and published in the Government Gazette by the N.C.C. Commission.

The provisions of paragraph one shall apply to spouses of the state officials under paragraph two. For this purpose, the activities carried out by the spouse shall be deemed as the activities carried out by the state official.

**Section 101.** The provisions of section 100 shall apply *mutatis mutandis* to the activities carried out by the person who has already ceased to be a state official for less than two years, with the exception of the holding of shares of not more than five percent of the total number of shares issued by a public limited company which is not a party to a contract made with the state agency under section 100 (2), for which permission is obtained under the law on securities and securities exchange.

**Section 102.** The provisions of section 100 shall not apply to the carrying out of activities of the state official who is entrusted, by the government agency having the power to supervise, control or inspect the operation of a limited company or a public limited company, to perform duties in the limited company or public limited company in which the state agency holds shares or with which it participates in an undertaking.

**Section 103.** A State official shall not receive property or any other benefit from any person other than the legitimate property or benefit derived under the law, rules or regulations issued by virtue of the provisions of law, with the exception of the acceptance of the property or any other benefit on the ethical basis in accordance with the rules and in such amount as prescribed by the N.C.C. Commission.

The provisions of paragraph one shall apply *mutatis mutandis* to the acceptance of property or any other benefit by the person who has ceased to be a state official for less than two years.

**Section 103/1**<sup>92</sup>. All offences prescribed under this Chapter shall be deemed as an offence of corruption, malfeasance in office or malfeasance in judicial office under the Penal Code.

## CHAPTER IX/I

### Promotion of Counter Corruption<sup>93</sup>

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<sup>92</sup> Section 103/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

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**Section 103/2.** In the case where the N.C.C. Commission finds it appropriate in a case to provide protection measures for the alleged culprit, injured person, petitioner, alleged, person giving testimony or person providing a clue or trace pertaining to the corruption, unusual wealth or other information that is beneficial to proceedings under this Organic Act, the N.C.C. Commission shall notify the relevant agencies to provide protection measures for such person. Such person shall be deemed as a witness entitled to protection under the law on witness protection. In this event, the N.C.C. Commission shall also submit an opinion on whether to apply general measures or special measures for such person under such law.

In the case of a loss of life, body, health, reputation, property or other rights of a person under paragraph one, or the husband, wife, ascendant, descendant or other persons having a close relationship with such person due to an intentionally committed criminal offence as a consequence of proceedings or testimony or the provision of clues or information to the N.C.C. Commission, such person shall have the right to file an application to the responsible agency to request for compensation as necessary and appropriate under the law on witness protection.

**Section 103/3.** The N.C.C. Commission shall provide a bribe for persons under section 30 or may provide a reward or other benefits to persons under section 103/2 paragraph one as the case may be from budgetary appropriations in accordance with regulations prescribed by the N.C.C. Commission.

**Section 103/4.** In the case where a person under section 103/2 paragraph one is a state official and the N.C.C. Commission finds that the action or testimony or clue or information given by such person is highly beneficial to counter corruption and should be recognized as exemplary for state officials and the general public, the N.C.C. Commission may propose to the Council of Ministers to consider the promotion of salary scale and positional level of such person on an *ad hoc* basis. The said undertakings shall be in accordance with the rules, procedures and conditions prescribed by the N.C.C. Commission with the approval of the Council of Ministers.

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<sup>93</sup> Chapter 9/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).



**Section 103/5.** In the case where a person under section 103/2 paragraph one is a state official, upon such person filing a petition to the N.C.C. Commission that his/her continued performance of duties in the current assignment may result in abuses or unfair treatment due to the allegation or testimony or provision of clue of information, and the N.C.C. Commission finds that there is prima facie evidence to suggest that such a cause does exist, a proposal shall be made to the Prime Minister to consider the issue of protection or other measures as deemed appropriate.

**Section 103/6.** Where a person or alleged culprit involved in the commission of an offence by a state official that is an alleged culprit in another case gives testimony or provides a clue or information which constitutes an essential substance in the evidence relied upon in the decision on the prima facie case against such other state official, and the N.C.C. Commission finds it appropriate, such person may be protected as a witness and not be subject to legal proceedings. The aforesaid shall be in accordance with the rules, procedures and conditions prescribed by publication of the N.C.C. Commission.

**Section 103/7.** A state agency shall prepare details on expenses relating to procurement, especially the reference price and the calculation of the reference price in its electronic information system in order to allow access to the public.

For the benefit of countering corruption, in the case of a contract entered into between a state agency and a person or juristic person who is a contracting party to the state agency, the person or juristic person who is a contracting party to the state agency shall be under a duty to declare an income and expenditure account of the project contracted with the state agency to the Revenue Department in addition to the annual financial statements so as to allow examinations relating to the expenditure of funds and calculation of taxes in such project contracted with the state agency. The aforesaid shall be in accordance with rules prescribed by the N.C.C. Commission.

In the case where it appears from an inspection or inquiry carried out by the N.C.C. Commission that a person or juristic person is involved in a corrupt act committed by a state official and there is a case of necessity to examine the financial transaction or tax payment of such person or juristic person, as the case may be, the N.C.C. Commission shall have the power to coordinate and order the relevant state agencies to accept the matter and take action in accordance with their respective

powers and duties, after which those state agencies shall have the duty to report the outcome of their actions to the N.C.C. Commission.

In addition to the cases under paragraph one and paragraph two, if the N.C.C. Commission finds it appropriate to take any action to counter corruption arising from the exercise of functions by a state official and the N.C.C. Commission finds it reasonable to prescribe measures as a directive for the state agency, the N.C.C. Commission may order such state agency to take actions in accordance with the measures prescribed by the N.C.C. Commission on such matter and report to the N.C.C. Commission.

**Section 103/8.** The N.C.C. Commission shall have the duty to report to the Council of Ministers to issue an order to a state agency to prepare procurement data under section 103/7 paragraph one which shall be completed by the state agency within one hundred and eighty days as from the date of Council of Ministers resolution approving such action. The N.C.C. Commission also shall have the duty to monitor the implementation of the Council of Ministers resolution in such case.

Where a state agency violates or fails to act under paragraph one, the responsible person shall be deemed as having committed a disciplinary offence or shall constitute a cause for removal from office, or shall vacate office, as the case may be.

**Section 103/9.** The N.C.C. Commission shall arrange for the disclosure of the processes and steps for conducting a fact inquiry of a case pending inquiry in order to allow public access. Such information shall be provided in the electronic information system of the Office of the N.C.C. Commission. Regard shall also be given to the protection of personal rights and the impact on the case.

## CHAPTER IX/II

### Provincial Counter Corruption Commission<sup>94</sup>

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**Section 103/10.** There shall be a Provincial Counter Corruption Commission comprising not less than three but not more than five persons as prescribed by the N.C.C. Commission, consisting of one President of the Provincial

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<sup>94</sup> Section 103/9, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

Counter Corruption Commission and members of the Provincial Counter Corruption Commission appointed by the N.C.C. Commission.

The Director of the Provincial Office of the N.C.C. shall act as the secretary.

**Section 103/11.** A person eligible for selection as a member of the Provincial Counter Corruption Commission must have the qualifications and not have the disqualifications as follows:

(A) Qualifications.

- (1) having apparent integrity;
- (2) having the knowledge and skills and recognized works in the field of counter corruption;
- (3) having Thai nationality;
- (4) having attained not less than forty-five years of age;
- (5) serving or having served in the government service at a level not lower than a division director or its equivalent, or being a qualified person with knowledge and experience or recognized works that would be beneficial to the promotion of counter corruption, or being a person certified by a private development organisation or professional organisation recognized by law as having worked for not less than ten consecutive years.

(B) Disqualifications.

- (1) being insane or mentally disabled;
- (2) imprisoned by a warrant of the court or by a lawful order;
- (3) being addicted to narcotic drugs;
- (4) being bankrupt or having been a fraudulent bankrupt;
- (5) being subject to an imprisonment sentence even if such case is not yet final or the sentence has been suspended, or having been imprisoned by a final judgment, except for an offence committed negligently or a petty offence;
- (6) having been expelled, dismissed or discharged from government service, a state agency or state enterprise;
- (7) having been subject to a judgment or court order to devolve assets to the state due to unusual wealth or unusual increase in assets;
- (8) having been removed from office for any cause.

**Section 103/12.** In the appointment of a Provincial Counter Corruption Commission, there shall be a selection committee comprising nine members to perform the duty of selecting suitable persons for nomination as members of the Provincial Counter Corruption Commission, consisting of

representatives of agencies or organs in each province pursuant to (1) to (9) who shall select among themselves one person from each agency or organ.

(1) association or society of teachers, instructors or an educational association;

(2) Law Society or legal practitioners;

(3) association or society of state enterprise employees or labour council or labour union;

(4) Provincial Chamber of Commerce or Provincial Chamber of Industry or Provincial Banking Society;

(5) volunteer group;

(6) non-governmental organisation;

(7) agricultural organisation;

(8) media association or society;

(9) head of a provincial government agency.

In the case where there are insufficient representatives of agencies or organs under paragraph one, or the selection of members of the Provincial Counter Corruption Commission cannot be undertaken, action shall be taken as determined by the N.C.C. Commission.

Persons selected under paragraph one shall meet and select one among themselves to become the chairman of the selection committee.

The Secretary-General shall appoint an official of the Office of the N.C.C. to act as the secretary of the selection committee.

The rules and procedures for selection of selection committee members under paragraph one shall be as prescribed by publication of the N.C.C. Commission.

**Section 103/13.** The selection of members of the Provincial Counter Corruption Commission shall proceed as follows:

(1) A person eligible for selection as a member of the Provincial Counter Corruption Commission shall submit his/her intent to enter in the selection to the chairman of the selection committee. The submission shall specify the province for which selection is sought.

(2) The selection committee shall compile a list of nominated persons containing twice the number of members of the Provincial Counter Corruption Commission in each province and make a submission to the President, which shall in turn be submitted to the N.C.C. Commission for selection. The nomination must be made with the consent of the nominees.

(3) The N.C.C. Commission shall select persons under (2) and shall appoint such persons to become members of the Provincial Counter Corruption Commission.

(4) The Office of the N.C.C. shall announce the list of appointed members of the Provincial Counter Corruption Commission in the Government Gazette.

The rules and procedures for entering into the selection, review of qualifications and procedures for selecting members of the Provincial Counter Corruption Commission shall be in accordance with the regulation prescribed by the N.C.C. Commission.

**Section 103/14.** A person appointed to become a member of the Provincial Counter Corruption Commission must:

(1) not be a board member or advisor of a state enterprise or state agency;

(2) not hold any position in a partnership, company or business entity which seeks to generate profit or revenues for sharing or be an employee of any person;

(3) not engage in any independent profession;

(4) not be a Member of the House of Representatives, Senator, political official, member of a local assembly or local administrator;

(5) not be a member, official or holder of other position in a political party;

(6) not be a Buddhist priest, novice, monk or clergy;

(7) not be a state official under this Organic Act.

Upon the N.C.C. Commission's appointment of persons under (1), (2), (3), (4), (5), (6) or (7), the appointee may commence the exercise of duties only after resigning or relinquishing the status under (1), (2), (4), (5), (6) or (7), or providing evidence to reasonably suggest that he/she has ceased to engage in an independent profession under (3), which must be done within fifteen days as from the day of appointment. However, if such person does not resign or relinquish or cease to engage in the independent profession within the prescribed period, it shall be deemed that such person has never been appointed to become a member of the Provincial Counter Corruption Commission, and new selection and appointment shall be undertaken.

**Section 103/5.** A member of the Provincial Counter Corruption Commission shall hold office for a term of four years as from the date of

appointment and may not hold office for more than one consecutive term regardless of the province.

A member of the Provincial Counter Corruption Commission who vacates office upon the expiration of term shall continue to perform duties until the newly appointed member of the Provincial Counter Corruption Commission assumes duties.

In order to install new members of the Provincial Counter Corruption Commission at the expiration of term of the prior Provincial Counter Corruption Commission, the selection of new members shall be undertaken reasonably in advance.

**Section 103/16.** In addition to the vacation of office upon the expiration of term, a member of the Provincial Counter Corruption Commission vacates office upon:

- (1) death;
- (2) attainment of seventy years of age;
- (3) resignation;
- (4) lack of qualifications or being disqualified under section 103/11 or committing a violation under section 103/14;
- (5) commission of a serious breach of ethical standards as prescribed by the N.C.C. Commission;
- (6) commission of any act which constitutes a conflict between personal and collective interests as provided by law;
- (7) in the case where not less than five thousand eligible voters enter a petition to the N.C.C. Commission that a member of the Provincial Counter Corruption Commission has acted unjustly or intentionally violated the Constitution or law, or is under circumstances seriously detrimental to the dignity of the office;
- (8) the N.C.C. Commission passes a resolution finding corruption or unusual wealth or an intentional failure to submit an account of assets showing particulars of assets and liabilities and supporting documents, or intentionally submit an account showing particulars of assets and liabilities and supporting documents containing false statements or failure to disclose facts that should have been disclosed as provided under this Organic Act;
- (9) being removed by resolution of the N.C.C. Commission.

In the case where a member of the Provincial Counter Corruption Commission is alleged under (7) or (8), or in the case of reasonable cause of suspicion, the N.C.C. Commission may determine that such member of the Provincial Counter Corruption Commission shall cease to perform duties.

**Section 103/17.** In the case where a member of the Provincial Counter Corruption Commission vacates office under section 103/16, the N.C.C. Commission shall promptly carry out a new selection and appointment and the newly appointed person shall serve the remaining term of the replaced person, except where the remaining term is less than one hundred and eighty days.

In the case where a member of the Provincial Counter Corruption Commission is unable to continue performing duties, the N.C.C. Commission shall have the power to proceed as appropriate.

**Section 103/18.** A Provincial Counter Corruption Commission shall have the following powers and duties within the province boundaries:

(1) to promote counter corruption by coordinating collaborations between the people and government agencies in the dissemination of knowledge to the public at all levels with a view to the appreciation of the impact of corruption; to carry out the prevention of corruption and foster attitudes and values relating to integrity, as well as to facilitate the participation of the public and groups in all sectors in countering corruption;

(2) to consider the proposal of measures, opinions or suggestions to the N.C.C. Commission for the benefit of countering corruption;

(3) to conduct a fact inquiry on allegations against state officials and collate evidence for submission to the N.C.C. Commission;

(4) to verify the accuracy and existence as well as changes in assets and liabilities declared in the account showing particulars of assets and liabilities and supporting documents submitted to the N.C.C. Commission;

(5) to perform other duties as entrusted by the N.C.C. Commission, except for a fact inquiry under section 43.

The rules and procedures for performance of duties by members of the Provincial Counter Corruption Commission under (3) and (4) shall be as prescribed by regulation of the N.C.C. Commission.

In the case of paragraph one, the President of the Provincial Counter Corruption Commission or Director of the Provincial Office of the N.C.C. shall have the power to sign the letter of implementation.

**Section 103/19.** A member of the Provincial Counter Corruption Commission has the duty to submit an account showing particulars of assets and liabilities under section 39.

**Section 103/20.** A member of the Provincial Counter Corruption Commission has the right to receive remuneration or other benefits as prescribed by the N.C.C. Commission.

**Section 103/21.** The Provincial Office of the National Counter Corruption Commission, abbreviated as “Provincial Office of the N.C.C.”, is a government agency within the Office of the N.C.C. headed by the Director of the Provincial Office of the N.C.C.. Officials and personnel shall report directly to the Secretary-General of the N.C.C. Commission and shall be responsible for the functions of the Provincial Counter Corruption Commission or other tasks as assigned by the N.C.C. Commission.

## CHAPTER X

### Office of the National Counter Corruption Commission

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**Section 104<sup>95</sup>.** There shall be the Office of the National Counter Corruption Commission called the "Office of the N.C.C." in brief, as an independent government agency under the Constitution having juristic person status.

**Section 105.** The Office of the N.C.C. has the powers and duties in connection with the general official affairs of the N.C.C. Commission and shall have the powers and duties as follows:

- (1) to be responsible for the administrative work of the N.C.C. Commission;
- (2) to study and gather data related to the work of the N.C.C. Commission;
- (3) to study, and encourage the studies and research in, and disseminate knowledge about corruption in the governmental and political circles;
- (4) to perform other acts as entrusted by the N.C.C. Commission.

**Section 106.** A government official of the Office of the N.C.C. is the person recruited and appointed as the Government official under this Organic Act.

A government official of the Office of the N.C.C. shall be a government official under the law on Officials' Pension Fund.

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<sup>95</sup> Section 104, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2001).



**Section 107.** The N.C.C. Commission shall have the power to issue regulations or notifications with respect to general administration, personnel administration, budget, finance and property and other businesses of the Office and, in particular, with respect to the following matters:

(1) internal organisation of the Office of the N.C.C. and the scope of duties of such government agency;

(2) qualifications, selection, recruitment, appointment, trial performance of official duties, transfer, elevation of position, vacation of office, elevation of salary scale, special remuneration, resignation from official service, suspension of official service, temporary dismissal from official service, disciplines, disciplinary inquiry and penalty, the lodging of a complaint and the appeal against a penalty, in respect of government officials and employees of the Office;

(3) the acting for and acting as the holder of a position of government official of the Office of the N.C.C.;

(4) the prescription of working days and hours, traditional holidays, annual holidays and leave of absence of Government officials of the Office of the N.C.C.;

(5) the prescription of the uniform and dress code of the government officials of the Office of the N.C.C.;

(6) the employment and appointment of a person as an expert or specialist beneficial to the performance of official duties of the N.C.C. Commission as well as the rate of remuneration therefor;

(7) the appointment of a person or a group of persons for carrying out any act as entrusted;

(8) the budget and procurement administration and management of the Office of the N.C.C.;

(9) the provision of welfare or other aids to government officials of the Office of the N.C.C.;

(10) the keeping of the personnel record and the control of retirement of government officials of the Office of the N.C.C.;

(11) the prescription of procedures and conditions for the employment of employees of the Office of the N.C.C. and the prescription of the uniform and dress, working days and hours, traditional holidays, annual holidays, leave of absence and the provision of welfare or other aids to employees of the Office of the N.C.C.

(12)<sup>96</sup> the prescription of meeting allowances of the sub-committee and groups of persons appointed by the N.C.C. Commission;

(13)<sup>97</sup> to prescribe regulations on production, disclosure, dissemination, custody and destruction of documents and data in the possession of the N.C.C. Commission and Office of the N.C.C. provided that such document and data shall be in the form, procedure, or channel that is accessible and usable by disables.

The regulations and notifications under paragraph one shall be signed by the President and shall come into force upon their publication in the Government Gazette.

**Section 108.** The Office of the N.C.C. shall have a Secretary-General of the National Counter Corruption Commission who shall be responsible for the work performance of the Office of the N.C.C. and directly answerable to the President and shall be the superior of government officials and employees of the Office of the N.C.C. For these purposes, there may also be a Deputy Secretary-General or Assistant Secretary-General of the National Counter Corruption Commission to assist in directing and performing official duties.

The Secretary-General shall represent the Office of the N.C.C. in its affairs *vis-à-vis* third persons. For this purpose, the Secretary-General may delegate powers to any person to perform any particular act, in accordance with the regulations prescribed and published in the Government Gazette by the N.C.C. Commission.

**Section 109.** The Secretary-General shall hold office for a term of six years and shall serve for only one term.

In addition to vacation of office at the expiration of the term, the Secretary-General vacates office upon:

- (1) death;
- (2) termination of official service under the law on official pensions;
- (3) resignation;
- (4) removed by the Royal Command upon approval of the N.C.C. Commission and the Senate;
- (5) being expelled or dismissed in accordance with the disciplinary penalty;

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<sup>96</sup> Section 107(12), added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2001).

<sup>97</sup> Section 107(13), added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2001).

- (6) being a bankrupt;
- (7) being imprisoned by a final judgment except for an offence committed through negligence or a petty offence;
- (8) being an incompetent person or a quasi-incompetent person;
- (9) being a political official, Senator, Member of the House of Representatives, member of a political party, or executive member or holder of a position with the responsibility in the administration of a political party;
- (10) being a manager, director, counsel, representative or employee of a person, partnership, company or any organisation carrying out business for profits.

**Section 110<sup>98</sup>**. The N.C.C. Commission shall be an central agency for personnel administration of the Office of N.C.C. and shall have the power to prescribe positions and emoluments of government officials of the Office of the N.C.C. by comparison of the prescription of the positions as prescribed by the law on civil service.

The prescription of positions of government officials of the Office of the N.C.C shall be classified by the position as a position in justice proceedings and general position with regard to professional branch, knowledge, skill, and power and duty of each position.

For the performance of duties of the N.C.C. Commission as a central agency for personnel administration, the expression "C.S.C." shall mean the N.C.C. Commission and the expression "government agency ascribed the status of a Department the head of which is responsible for the performance of official duties with direct answerability to the Prime Minister" shall mean the Office of the N.C.C.

The NCC Commission may appoint qualified members having knowledge and experience in the field of personal management as members to perform the duties of a central agency for personnel administration.

In regard to the personal management of the office of the N.C.C., the N.C.C. Commission has the power to appoint sub-committees to perform the duties of a sub-committee on government officials of the Office of the N.C.C. whose composition and powers and duties shall be in accordance with rules and procedures prescribed by the N.C.C. Commission.

The sub-committee appointed shall perform duties as a Ministerial Ordinary Civil Service Sub-Commission under the law on civil service.

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<sup>98</sup> Section 110, as amended by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

In performing the duties as a central agency for personnel administration, the N.C.C. Commission as well as the appointed sub committee shall be entitled to the same meeting allowances as the Civil Service Commission.

**Section 110/1<sup>99</sup>.** When classifying a position of government official of the Office of the N.C.C. as a position in the judicial process branch, such person shall be a person having knowledge in the level of Barrister-at-Law, or has attained a bachelor of laws, and possess the knowledge and experience in inquiry and determination of cases or giving legal opinion in accordance with the rules and procedure as prescribed by publication of the N.C.C. Commission.

A position of government official in the category of general administration shall be classified according to the vocational branch and nature of work assigned. Technical positions under the law on civil service may also be prescribed.

Administrative positions shall be prescribed by the N.C.C.

**Section 111.** The law on salaries and emoluments shall apply *mutatis mutandis* to the salary scales, rates of emolument and the entitlement to emoluments of Government officials of the Office of the N.C.C.

The payment of salaries and emoluments to government officials of the Office of the N.C.C. shall be in accordance with the law on that particular matter.

**Section 112.** The recruitment of persons to be government officials of the Office of the N.C.C. and their appointment to any positions shall be made by the following persons:

(1) with respect to the recruitment and appointment to the position of Secretary-General, the President shall make the recruitment with the approval of the N.C.C. Commission and the Senate and shall present it to the King for appointment;

(2) with respect to the recruitment and appointment to the position of Deputy Secretary-General or its equivalent, the President shall make the recruitment and present it to the King for appointment;

(3) with respect to the recruitment and appointment to any position other than in (1) and (2), the Secretary-General shall make the recruitment and appointment.

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<sup>99</sup> Section 110/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2001).

**Section 113.** *(repealed)*<sup>100</sup>

**Section 114.** Government officials of the Office of the N.C.C. are entitled to the same pensions and benefits in accordance with the laws on such matters as those to which ordinary government officials are entitled.

**Section 115.** The Office of the N.C.C. shall present to the Council of Ministers the budget in accordance with the resolution of the N.C.C. Commission for the purpose of incorporating it in the annual appropriations bill or the supplementary appropriations bill, as the case may be, in order to set it aside as subsidies of the N.C.C. Commission and the Office of the N.C.C.. In this instance, the Council of Ministers may also prepare the opinion with regard to the allocation of budget of the N.C.C. Commission and the Office of the N.C.C. and enclose the opinion in the memorandum pertaining to the introduction of the annual appropriations bill or the supplementary appropriations bill.

**Section 116.** In introducing or considering the budget, the annual appropriations bill or the supplementary appropriations bill under section 115 or in considering any matter in connection with the N.C.C. Commission or the Office of the N.C.C., if the Secretary-General makes a request, the Council of Ministers, the House of Representatives, the Senate or the parliamentary committee concerned may allow the Secretary-General or the person entrusted by the Secretary-General to give explanations.

**Section 117.** The Office of the N.C.C. shall be the audit reception centre under the organic law on State audit.

When the Office of the State Audit has audited and certified all types of accounts and financial matters of the N.C.C. Commission and the Office of the N.C.C., it shall present the audit report to the House of Representatives, the Senate and the Council of Ministers without delay.

## CHAPTER XI

### Penalties

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<sup>100</sup> Section 113, repealed by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**Section 118.** Any person who fails to comply with an order of the N.C.C. Commission under section 25 (1) or section 79 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

**Section 119.** Any state official who intentionally fails to submit an account showing assets and liabilities and supporting documents to the N.C.C. Commission within the time prescribed by this Organic Act or intentionally submits an account showing assets and liabilities and supporting documents with false statements being included therein or conceals facts which should have been disclosed shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

**Section 120.** Any person who discloses statements, facts or information obtained in consequence of the performance of duties under this Organic Act without authorisation by the N.C.C. Commission and without such act being committed in discharge of official duties or for the purpose of verifying or inquiring into facts or for official or public interest shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

**Section 121.** Any person who has in possession or keeps the property, accounts, documents or any other evidence seized, attached or ordered to be furnished by the N.C.C. Commission, or damages, destroys, conceals, takes away, causes such property, accounts, documents or evidence to be lost or useless shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand Baht or to both.

**Section 122.** Any state official who violates the provisions of section 100, section 101 or section 103 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand Baht or to both.

In the case of an offence under section 100 paragraph three, if any State official proves that he or she has not connived at his or her spouse's carrying out the activities under section 100 paragraph one, it shall be deemed that such person is not guilty of the offence.

**Section 123.** Any state official who performs or refrains from performing any act in the circumstance likely to cause others to believe that he or

she holds a particular position or has a particular duty despite not holding such position or not having such duty, for acquiring illegitimate benefits for himself or herself or for others shall be liable to imprisonment for a term of one to ten years or to a fine of two thousand to twenty thousand Baht or to both.

**Section 123/1**<sup>101</sup>. Any state official who wrongfully exercises or refrains from exercising any of his functions or duties, or wrongfully exercises his power in the position or duties with intention to cause damages to any person or dishonestly exercises or omits to exercise such powers or duties shall be punished from one year to ten years or fine of twenty thousand to two hundred thousand baht, or both.

**Section 124.** *(repealed)*<sup>102</sup>

**Section 125.** Any person, being the President, member, member of a sub-committee, competent official or person entrusted by the N.C.C. Commission, who performs duties unjustly, commits an offence of corruption or an offence of malfeasance in office shall be liable to twice the penalty provided by the law for such offence.

### Transitional Provisions

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**Section 126.** In the case where the selection of members takes place while there is not yet President of the Supreme Administrative Court, the Selection Committee under section 7 shall have fourteen persons consisting of the President of the Supreme Court of Justice, the President of the Constitutional Court, Rectors of all State higher education institutions which are juristic persons, being elected among themselves to be seven in number, and representatives of all political parties having a member who is a Member of the House of Representatives, provided that each party shall have one representative and all such representatives shall elect among themselves to be five in number, as members.

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<sup>101</sup> Section 123/1, added by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

<sup>102</sup> Section 124, repealed by the Organic Act on Counter Corruption (No. 2) B.E. 2554 (2011).

**Section 127.** The members elected by the resolution of the Senate under section 315 paragraph three of the Constitution of the Kingdom of Thailand shall hold office for half a term of that provided in section 12 and the provisions allowing members to serve for only one term shall not apply to such members.

**Section 128.** All allegations made against State officials, being the allegations falling within the powers and duties of the Office of the Counter Corruption Commission, which have been accepted by the Office of the Counter Corruption prior to the date of the entry into force of this Organic Act and pending the procedure under the Counter Corruption Act, B.E. 2518 (1975) shall be proceeded by the National Counter Corruption Commission in accordance with this Organic Act. For this purpose, the activities already carried out by the Counter Corruption Commission shall be valid and further proceeding shall be as determined by the National Counter Corruption Commission.

In the case where the allegation under paragraph one is the allegation in respect of which the Counter Corruption Commission passes a resolution that a State official committed corruption, the National Counter Corruption Commission shall refer the matter to the superior or the State agency concerned for further proceeding.

**Section 129.** The accounts showing assets and liabilities submitted by State officials under the Counter Corruption Act, B.E. 2518 and kept by the Office of the Counter Corruption Commission shall be kept by the Office of the National Counter Corruption Commission for the purpose of the performance under this Organic Act and, if such state officials have vacated office for more than five years, may be destroyed.

**Section 130.** All rules, regulations, notifications or orders issued by virtue of the Constitution of the Kingdom of Thailand or the Counter Corruption Act, B.E. 2518 and remaining in force on the date of the entry into force of this Organic Act shall continue to be in force insofar as they are not contrary to or inconsistent with the provisions of this Organic Act until regulations or notifications under this Organic Act are issued.

**Section 131.** All undertakings, property, rights, liabilities, Government officials, employees and budget of the Office of the Counter Corruption Commission under the Counter Corruption Act, B.E. 2518 shall be transferred to the Office of the National Counter Corruption Commission under this Organic Act.



The government officials and employees transferred under paragraph one shall hold office and receive salaries and emoluments not lower than their original office and entitlement.

**Section 132.** The Secretary-General of the Counter Corruption Commission under the Counter Corruption Act, B.E. 2518 shall perform the duty as Secretary-General of the National Counter Corruption Commission under this Organic Act until appointment of the Secretary-General of the National Counter Corruption Commission is made.

**Section 133.** The state official under section 100 who obtains a concession from the State, a government agency, state agency, state enterprise or local administration or becomes a party to a contract of a directly or indirectly monopolistic nature made with the State, a government agency, state agency, state enterprise or local administration or becomes a partner or shareholder in a partnership or company which is a concessionaire or a contractual party in such manner may, if the concession, the contract, the entry into partnership or the shareholding with or in a partnership or a company which is a concessionaire or a contractual party in such manner is in existence on the date of the entry into force of this Organic Act, continue to hold such concession or to be a contractual party, partner or shareholder in the partnership or the company which is a concessionaire or a contractual party in such manner until the expiration of the concession or the contract.

Countersigned by:  
Chuan Leekpai  
Prime Minister

**Remark:** The reason for the promulgation of this Organic Act is that section 301 of the Constitution of the Kingdom of Thailand provides that the National Counter Corruption Commission has the powers to inspect assets and liabilities of persons holding political positions and other State officials, to conduct a fact inquiry and prepare an opinion in the case where a request is lodged for removing high-ranking State officials from office and to inquire and give a decision as to whether a State official has become unusually wealthy or committed an offence of corruption or malfeasance in office, and in this connection, section 329 provides that the organic law on counter corruption shall be enacted within two years as from the date of the

promulgation of the Constitution of the Kingdom of Thailand. In this instance, section 331 provides that such organic law shall have the essential substance with regard to the acts amounting to unusual wealth and corruption, acts amounting to conflict of interest between personal interest and public interest, the rules, procedures and process for the inquiry of facts related to the allegation and penalties to be inflicted upon the President or a member of the National Counter Corruption Commission in the event of carrying out an act unjustly, committing an offence of corruption or malfeasance in office. In addition, section 302 provides that the National Counter Corruption Commission shall have the Office of the National Counter Corruption Commission as a secretariat which shall enjoy autonomy in the personnel administration, budget management and other activities as provided by law. It is, therefore, necessary that this Organic Act be enacted.