

EXPLANATORY MEMORANDUM
TO THE DRAFT ORGANIC ACT
ON ANTI-CORRUPTION (NO. ...)
B.E. ...

PRINCIPLES

Amending the Organic Act on Anti-Corruption B.E. 2561 (2018) as follows:

- (1) Amending the exceptions to the liability of any person who provides a statement, information or clues or expresses an opinion regarding the commission of offences under the duties and powers of the National Anti-Corruption Commission (NACC) in order to protect them from civil, criminal and disciplinary liabilities (amending Section 132);
- (2) Providing procedures, processes and measures to assist the person protected under Section 132 (adding Section 132/1 and Section 132/2);
- (3) Providing criteria for granting provisional release to the person protected under Section 132 (adding Section 132/3);
- (4) Amending the objectives of the National Anti-Corruption Fund to include expenses on the assistance of the person protected under Section 132 (amending Section 162(2)).

RATIONALE

Whereas Section 63 of the Constitution of the Kingdom of Thailand prescribes that the State shall provide efficient measures and mechanisms to rigorously prevent and eliminate corruption and misconduct, including a mechanism to encourage public participation in a campaign to provide knowledge, fighting corruption, or whistle blowing under the protection from the State as provided by law. However, at present, there remains a lack of mechanism to protect and assist the person who provides a statement, information or clues, submits evidence, or expresses an opinion to the NACC, or its officials, as well as to the officials of the competent authorities assigned by the NACC to perform its duties and powers related to offences under the duties and powers of the NACC, resulting in such person being subjected to complaints, accusations, lawsuits, or disciplinary actions. In this regard, it is expedient to provide measures to protect and assist any person participating in the prevention and suppression of corruption. It is, therefore, necessary to enact this Organic Act.

(Unofficial Translation)

[Emblem of the Royal Command]

ORGANIC ACT
ON ANTI-CORRUPTION (NO. 2)
B.E. 2568 (2025)

HIS MAJESTY KING MAHA VAJIRALONGKORN PHRA VAJIRAKLAOCHAOYUHUA;

Given on the 2nd Day of June B.E. 2568 (2025);

Being the 10th Year of the Present Reign.

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

Whereas it is expedient to amend the Organic law on Anti-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 Anti-Corruption (No. 2) B.E. 2568 (2025)"

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

Section 3. The provision of Section 132 of the Organic Act on Anti-Corruption B.E. 2561 (2018) shall be repealed and replaced with the following provision:

"Section 132. Any person who provides a statement, information or clues, submits evidence, or expresses an opinion to the NACC or its officials concerning a commission of an offense within the duties and powers of the NACC, if done in good faith, shall be protected from civil, criminal, or disciplinary liability, specifically for any liability arising from giving such statement, providing such information or clues, submitting such evidence, or expressing such opinion.

In cases where the NACC assigns an agency with duties and powers to proceed with a matter within the NACC's duties and powers under Section 61, Section 62, Section 63, or Section 64, as the case may be, the provisions of the first paragraph shall apply to the giving of statements, provision of information or clues, submission of evidence, or expression of

opinions to the investigators, or the Public Sector Anti-Corruption Commission (PACC), the PACC officials, or the PACC officers under the law on Executive Measures in Anti-Corruption, or to supervisors or persons having power to appoint or remove and persons having power to investigate or commence disciplinary proceedings.”

Section 4. The following provisions shall be inserted as Section 132/1, Section 132/2, and Section 132/3 of the Organic Act on Anti-Corruption B.E. 2561 (2018):

"Section 132/1. In cases where it appears to the NACC or its competent officials, by any means whatsoever, that a person under Section 132 has been subjected to a complaint, accusation, lawsuit, or disciplinary action arising from their actions under Section 132, the competent official shall consider whether such person is protected from liability under Section 132, and expeditiously submit an opinion to the NACC. The NACC shall complete its deliberation within fifteen days from the date of receiving the matter from the competent official. If the NACC reaches a resolution that such person is protected from liability under Section 132, the Office shall proceed to provide assistance without delay.

Section 132/2. In providing assistance under Section 132/1, the Office may act as necessary, including the following types of assistance:

(1) In the case of a civil lawsuit:

(a) Assignment of competent officials to defend the case, provision of lawyer, or giving financial support to hire lawyer;

(b) Provision of financial support for court fees and litigation costs.

(2) In the case of being subjected to a complaint, accusation, prosecution, or criminal lawsuit:

(a) In the case where being under investigation by an investigator or public prosecutor, information and the NACC's resolution that such person is protected from liability under Section 132 shall be submitted to the investigator or public prosecutor for their consideration, whereby such information and resolution submitted by the NACC to the investigator or public prosecutor shall be deemed as part of the investigation filed under the Criminal Procedure Code;

(b) In the case where being sued in a criminal case by a private complainant, assistance may include the assignment of competent officials to defend the case, provision of lawyer, giving of financial support to hire lawyer, or request for the public prosecutor to defend the case on one's behalf;

(c) In the case where being sued in a criminal case and the assisted person is under the jurisdiction of the court, the NACC's resolution that such person is protected from liability under Section 132 shall be submitted to the court, and included in the case file for consideration, both at the preliminary examination stage and at the trial and adjudication stage;

(d) Financial support for court fees and litigation costs;

(e) Assistance in provisional release.

(3) In case of being subjected to disciplinary action: the NACC shall notify its resolution, which concludes that such person is protected from liability under Section 132, to the authority responsible for disciplinary action, and such authority shall immediately cease the disciplinary action in that matter.

When a competent official is assigned to defend the case under (1)(a) or (2)(b), such competent official shall have the power to represent in court similar to a lawyer.

In cases where the public prosecutor deems it appropriate to defend the case under (2)(b), the public prosecutor shall have the power to represent under the law on Public Prosecution Organisation and Public Prosecutors.

The criteria, methods, and conditions for providing assistance, requesting assistance, and revoking assistance under the first paragraph, shall be as prescribed by the NACC regulations. In cases where expenditure is required, it shall be disbursed from the National Anti-Corruption Fund.

Section 132/3. In the case where the NACC pass a resolution to provide assistance under Section 132/1 to grant a provisional release of a person detained during the investigation stage, the Office shall notify such resolution to the investigator, and the investigator shall order the provisional release of that person without bail.

In the case under the first paragraph, if such person is under the custody of a public prosecutor or the court, the public prosecutor or the court may order the provisional release of that person without bail. However, in the case where the public prosecutor or the court deems it appropriate to order provisional release with bail, or with bail and security, the Office shall have the power to provide such bail or security."

Section 5. The provision of (2) of Section 162 of the Organic Act on Anti-Corruption B.E. 2561 (2018) shall be repealed and replaced with the following provision:

(2) To be disbursed in providing the protection and assistance measures and remuneration under Section 131, assistances under Section 132/2, and rewards under Section 137;"

Section 6. The provisions of Section 132/1, Section 132/2, and Section 132/3 of the Organic Act on Anti-Corruption B.E. 2561 (2018), as amended by this Organic Act, shall have retrospective effect for assistance provided to persons who have provided statements or clues to the NACC or its competent officials prior to the effective date of this Organic Act, unless the case has become final or disciplinary sanction has already been imposed.

Section 7. The President of the National Anti-Corruption Commission shall have charge of the execution of this Organic Act.

Countersigned by

Paetongtarn Shinawatra

Prime Minister

Remark :- The rationale for the promulgation of this Organic Act is as follows: Whereas Section 63 of the Constitution of the Kingdom of Thailand provides that the State shall provide efficient measures and mechanisms to rigorously prevent and eliminate corruption and misconduct, including a mechanism to encourage public participation in a campaign to provide knowledge, fighting corruption, or whistle blowing under the protection of the State as provided by law. However, at present, there remains a lack of mechanism to protect and assist the person who provides a statement, information or clues, submits evidence, or expresses an opinion to the NACC, or its officials, as well as to the officials of the competent authorities assigned by the NACC to perform its duties and powers related to offences under the duties and powers of the NACC, resulting in such person being subjected to complaints, accusations, lawsuits, or disciplinary actions. In this regard, it is expedient to provide measures to protect and assist any person participating in the prevention and suppression of corruption. It is, therefore, necessary to enact this Organic Act.