

Unofficial Translation  
**ORGANIC ACT ON OMBUDSMEN,**  
**B.E. 2560 (2017)<sup>1</sup>**

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**Maha Vajiralongkorn Bodindradebayavarangkun**

Given on the 24<sup>th</sup> Day of December B.E. 2560;

Being the 2<sup>nd</sup> Year of the Present Reign.

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

Whereas it is expedient to have an Organic Act on Ombudsmen;

This Organic Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 26 in conjunction with section 32, section 33, section 34 and section 37 of the Constitution of the Kingdom of Thailand so permitted by the virtue of law;

Rationale for necessity of the restriction of rights and liberties of a person under this Organic Act are to render the performance of the Ombudsmen more efficient which shall benefit the public; the enactment of this Organic Act is in accordance with the conditions imposed in section 26 of the Constitution;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly serving as the National Assembly, as follows.

**Section 1.** This Organic Act is called the “Organic Act on Ombudsmen, B.E. 2560 (2017)”.

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<sup>1</sup> Published in the Government Gazette, Volume 134, Part 131 Kor, dated 27<sup>th</sup> December B.E. 2560 (2017)

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

**Section 3.** The followings shall be repealed:

- (1) the Organic Act on Ombudsmen B.E. 2552 (2009);
- (2) the Office of the Ombudsman Act B.E. 2552 (2009);
- (3) the Announcement of the National Council for Peace and Order No. 24/2557 dated 23 May B.E. 2557 (2014) Re: the Continuing Validity of Organic Act, only insofar as it deals with the Organic Act on Ombudsmen B.E. 2552 (2009);
- (4) the Order of the Head of the National Council for Peace and Order No. 23/2560 dated 5 April B.E. 2560 (2017) Re: Measures for Resolving Problems in relation to Continuity of Holders of Positions in Independent Organs under the Constitution only insofar as it deals with the Ombudsmen.

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

“Ombudsman” includes the Chief Ombudsman;

“Rule” means Royal Decree, ministerial regulation, notification of ministry, ordinance of a local administration, statue, regulation or any other provisions of general application without addressing any specific case or person;

“State agency” means ministry, sub-ministry, department or Government agency called by any other names and ascribed the status as department, regional administration, local administration, State enterprise, public organisation or any State agency and shall include an agency exercising or entrusted to exercise the administrative power or carry out administrative acts;

“State enterprise” means State enterprise under the law on budgetary procedure;

“State official” means a government official, official or employee performing duties in a state agency and official under the law on local administration and shall include a member of committee or a member of a sub-committee, a person or a group of persons exercising or entrusted to exercise the administrative power or carry out administrative acts;

“Office” means the Office of the Ombudsman;

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“Secretary-General” means the Secretary-General of the Office of the Ombudsman;

“Competent Official” means the Secretary-General, an official and an employee of the Office and a State official appointed by the Ombudsman to perform any duty under this Organic Act.

**Section 5.** In the case where this Organic Act does not provide otherwise, in any matter prescribing for the notification, submission or delivery of a letter or a document to any specific person, if such notification, submission or delivery of a letter or a document is made to such person at the domicile or address as in the registration evidence under the law on civil registration, the notification, submission or delivery shall be deemed lawful under this Organic Act. In the case where this Organic Act provides for announcement or dissemination to the public, announcement or dissemination on information technology system or system or any other means that is conveniently accessible by the public shall be deemed lawful under this Organic Act.

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

**Section 6.** In the course of performance, the Ombudsman shall cooperate and support all Independent Organs. In the case where the Ombudsman is of the opinion that a person has committed an illegal act under the duties and powers of other Independent Organ, the Ombudsman shall notify the relevant Independent Organ in writing in order that the organ shall proceed in accordance with its respective duties and powers without delay.

In the case where the Ombudsman is of the opinion that any undertaking under the duties and powers of the Ombudsman may also be the offence under the duties and powers of other Independent Organ, the Ombudsman shall consult with other relevant

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Independent Organ in order to prescribe a guideline for collaboration in order that the performance of duties of each Independent Organ is efficient and not redundant.

For the purpose of the implementation under paragraph two, the Chief Ombudsman shall have the power to invite the president of other Independent Organ to attend meetings for consultation and guideline prescription. All Independent Organs shall comply with such guideline.

**Section 7.** The Chief Ombudsman shall take charge and control of the execution of this Organic Act.

## CHAPTER 1 OMBUDSMEN

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**Section 8.** There shall be three Ombudsmen appointed by the King upon the advice of the Senate from the following persons:

(1) two persons with knowledge, expertise and experience related to the administration of State affairs in the position not lower than a Director-General or an equivalent head of a government agency; or a head of a State agency at least comparable to a department as prescribed by the Selection Committee, and holding such position for a period of not less than five years;

(2) one person having experiences in the operation of a public undertaking for a period of not less than twenty years.

Nature of experiences and operations of a public undertaking as referred in (2) shall be in line with the announcement issued by the Selection Committee, mainly based on the purpose to bring in qualified persons with experiences in the operation of a public undertaking which will be beneficial to the performance of duties as the Ombudsman.

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**Section 9.** In addition to the qualifications under section 8, an Ombudsman shall also possess the qualifications as follows:

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

**Section 10.** An Ombudsman shall not be under any of the prohibitions as follows:

- (1) being or having been a judge of the Constitutional Court or holding a position in any Independent Organ;
- (2) being addicted to narcotics;
- (3) being bankrupt or having been dishonestly bankrupt;
- (4) being the owner of, or a shareholder in any newspaper or mass media business;
- (5) being a Buddhist monk, Buddhist novice, ascetic or priest;
- (6) being under revocation of the right to vote, whether or not such case is final;
- (7) being of unsound mind or of mental infirmity;
- (8) being under temporary suspension of the rights to stand for election, or being a person whose rights to stand for election has been revoked;
- (9) being sentenced by a judgment to imprisonment and imprisoned by a warrant of the Court;
- (10) having been dismissed from official service, a State agency or a State enterprise on the grounds of dishonest performance of duties, or being deemed as having committed dishonest acts or wrongful conducts in the official service;
- (11) having been ordered by a final judgment or order of the Court that his or her assets shall vest in the State on the grounds of unusual wealth, or having been sentenced by a final judgment to imprisonment on the grounds of committing an offence under the law on prevention and suppression of corruption;
- (12) having been convicted by a final judgment for committing a malfeasance in public office or in judicial office; an offence under the law on wrongdoings of officials in

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a State organisation or agency; an offence against property committed in bad faith under the Criminal Code; an offence under the law on the borrowing of money amounting to public fraud; an offence of being a producer, importer, exporter or seller under the law on narcotics; an offence of being a banker or a proprietor under the law on gambling; an offence under the law on the prevention and suppression of human trafficking; or an offence of money laundering under the law on the prevention and suppression of money laundering;

(13) having been sentenced by a final judgment for committing a dishonest act in a general election;

(14) being currently under the prohibition from holding a political position;

(15) having been removed from office by a judgment of the Constitutional Court that there is any proposal, submission of a motion or commission of any act, which results in direct or indirect involvement by Members of the House of Representatives, Senator or members of a committee in the use of appropriations;

(16) having been removed from office by a judgment of the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions for being involved in circumstances of unusual wealth, or committing an offence of corruption or deliberately performing duties or exercising powers in contrary to the provisions of the Constitution or the law, or seriously contravening or failure to comply with the ethical standards;

(17) having been sentenced by a final judgment to imprisonment, except for the case of an offence committed through negligence or a petty offence;

(18) being or having been a Member of the House of Representatives, a Senator, a political official or a member of a local assembly or local administrator at any time during the period of ten years before application for selection;

(19) being or having been a member or a holder of other position in a political party at any time during the period of ten years before application for selection;

(20) being a government official holding a permanent position or receiving salary;

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(21) being an official or employee of a State agency, State enterprise, or local government organisation or a director or adviser of a State agency or State enterprise;

(22) holding any position in a partnership, a company or an organisation carrying out business with a view to making and sharing profit or income; or being an employee of any person;

(23) engaging in an independent profession;

(24) being involved in circumstances which constitute a serious violation or failure to comply with ethical standards.

**Section 11.** In the case where a person suitable for appointment as an Ombudsman must be selected, it shall be the duty and power of the Selection Committee which consists of:

(1) President of the Supreme Court as the Chairperson;

(2) President of the House of Representatives and Leader of the Opposition in the House of Representatives as members;

(3) President of the Supreme Administrative Court as member;

(4) persons appointed by the Constitutional Court and the Independent Organs, except the Ombudsmen, from persons who have the qualifications under section 8 and section 9, are not any of the prohibitions under section 10, and have never performed any duty in the Constitutional Court or Independent Organs comprising one person from each organ, as members.

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

In the process of the appointment of person under (4), the Constitutional Court and Independent Organs, except the Ombudsmen, shall nominate the person appointed by such organisation as member of the Selection Committee within twenty days as from the date of receiving the notification from the Secretary-General of the Senate. The candidate is selected from persons who are impartial, honest and having the understanding of the mission of the Ombudsman, and the candidate to be selected as

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a Selection Committee member must obtain more than half of the votes of the total number of the judges of the Constitutional Court or commissioners of Independent Organs, as the case may be. In the case where no person obtains more than half of the votes, there shall be a re-vote. In such case, if there are more than two candidates, only two candidates with the highest votes shall be eligible for the re-vote. In the case of a vote tie which results in more than two candidates for two places with the highest votes, the persons with equal votes shall draw lots so that only two candidates in the two places with the highest votes remain. In the latter case, if no candidate receives more than half of the votes of the total number of judges of the Constitutional Court or commissioners of Independent Organs, as the case may be, the selection process shall be re-initiated; however, candidates from the first round shall no longer be eligible for selection.

In the case where there is no person holding a position of member of the Selection Committee under (2) or the number of members under (4) is incomplete by any reason, or the period of selection under paragraph three has expired without nomination, the Selection Committee as is shall be able to perform duties and exercise powers. During such period, it shall be considered that the Selection Committee consists of its remaining members.

The Selection Committee under (4) shall hold office until the day before the date when there is a case to select a new Ombudsman but shall not include the re-selection or additional selection under section 12 paragraph four, section 13 paragraph two and three and section 14. Such Selection Committee member shall vacate office before the expiration of the term upon death, resignation, disqualification, or being under prohibition.

The candidate appointed as a Selection Committee member under (4) shall not concurrently be a Selection Committee member in the Selection Committee for the Constitutional Court or other Independent Organs.

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

**Section 12.** In the selection process, the Selection Committee shall deliberate with a view in order to select a person having high responsibility, courage in performing duties, and ethical behavior that can be a good role model of the society, as well as appropriate

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attitude for the effective performance of duties. In addition to the announcement calling for application, the Selection Committee may select persons who are generally appropriate but with their consent. For this purpose, the Selection Committee may interview or ask for opinion in the matter relevant to the duties and powers of the Ombudsman or conduct other appropriate methods as a part of the consideration process.

In the selection process, the votes shall be open, and each member of the Selection Committee shall record the justification for the selection.

The selected candidate must obtain votes of two-thirds of the total number of the existing of the Selection Committee members.

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

**Section 13.** A person who is selected to hold the position of Ombudsman must obtain the approval of the Senate with the votes of not less than one-half of the total number of the existing members of the Senate.

In the case where the Senate disapproves any selected person, a new person shall be selected and thereafter submitted to the Senate for approval. The person who was disapproved by the Senate shall not be eligible for the re-selection.

Upon the approval by the Senate, in the case where the Chief Ombudsman vacates the office, the approved person shall confer with the current Ombudsmen, if any, to elect one among themselves to be the Chief Ombudsman and inform the President of the Senate of the result. In the case where the person approved by the Senate still does not fill the vacant positions, if the total number of approved person(s) and current Ombudsmen, if any, reaches two, a meeting to elect the Chief Ombudsman can be held. In such case and upon appointment by the King, the Ombudsman shall act in accordance with the duties and powers for the time being. During such period, the Ombudsman shall be deemed as consisting of the existing Ombudsmen, and additional selection to fill the vacant position(s) shall proceed promptly.

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The President of the Senate shall report to the King for appointment of the Chief Ombudsman and the Ombudsmen and countersign the Royal Command.

**Section 14.** A person approved by the Senate to be an Ombudsman who has not yet vacated office under section 10 (20) (21) or (22) or is still engaged in a profession under section 10 (23), shall present evidence of resignation or termination from engaging in such profession to the President of the Senate within the period as provided by the President of the Senate, which must be prior to the latter's report to the King for appointment. Failure to present the evidence within such period shall be deemed that such person has waived his or her rights to the position and a re-selection shall be initiated.

**Section 15.** In the case where there is a question pertaining to the qualifications or prohibitions of an applicant or a person who has been selected, it shall be the duty and power of the Selection Committee to consider the matter, and its decision shall be final.

The motion for deliberation of the Selection Committee under paragraph one shall be in accordance with the rules and procedures prescribed by the Selection Committee.

The decision shall be made by open votes.

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

**Section 16.** The Chairperson of the Selection Committee and members of the Selection Committee shall receive meeting allowance and other remuneration as prescribed by the President of the Senate. However, the meeting allowance shall be prescribed for each meeting at the rate of not less than half of that which is received per month by the President or Commissioner of the Parliamentary Officials Commission under the law on parliamentary officials, as the case may be.

**Section 17.** An Ombudsman shall hold office for a term of seven years as from the date of appointment by the King and shall serve for only one term.

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In the case where an Ombudsman vacates office upon the expiration of term, he or she shall continue to perform duties until there is a replacement.

**Section 18.** In addition to the vacation of office upon the expiration of term, an Ombudsman shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified under section 8 or section 9 or being under any prohibition under section 10.

Upon vacation of the Chief Ombudsman's office, the Chief Ombudsman shall also vacate Ombudsman's office.

Should a question whether any Ombudsman vacates office under (2), or (3) arises, the Selection Committee shall have the duties and powers to make a decision on the matter, and its decision shall be final.

In the case where there is no person holding the position of the Chief Ombudsman, or the Chief Ombudsman is unable to perform duties, the Ombudsman with the highest seniority shall act as the Chief Ombudsman.

During the period in which an Ombudsman vacates office prior to the expiration of term and an Ombudsman has not yet been appointed to fill the vacancy, the remaining Ombudsmen may continue to perform duties. However, if there is only one Ombudsman holding office, he or she shall not be able to exercise powers or perform duties under section 26, except for the case of a necessary emergency which requires urgent actions or otherwise a serious loss may occur.

In the case where an Ombudsman vacates office upon the expiration of term, the selection of new Ombudsman shall take place within one hundred and twenty days before the expiration date. However, if an Ombudsman vacates office upon other grounds except the expiration of term, the selection of a new Ombudsman shall take place within ninety days as from the vacation of office.

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**Section 19.** Upon request with reasonable evidence for an Ombudsman's vacation of office under section 18 (2) or (3), the Secretary-General of the Senate shall submit the matter to the Chairperson of the Selection Committee within five days as from the date of receiving the request, and the Selection Committee shall consider the matter promptly. The decision shall be made by a majority vote. In the case of vote tie, the Chairperson of the Selection Committee shall have an additional vote as a casting vote.

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

**Section 20.** In the case where the Ombudsman must cease performing duties due to being accused and the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions has accepted the case, and there are fewer than two Ombudsmen remaining, the President of the Supreme Court and the President of the Supreme Administrative Court shall jointly appoint a person who possesses the same qualifications and are not under any of the same prohibitions applicable to the Ombudsman to temporarily perform duties as an Ombudsman to complete the seat of three Ombudsmen. The appointed person shall perform duties as an Ombudsman until the Ombudsman who has been provisionally replaced is able to perform duties, or until a new Ombudsman is appointed to fill the vacancy.

**Section 21.** An Ombudsman shall perform duties full-time, and the performance of duties and exercise of powers of the Ombudsman shall be in line with integrity, fairness, courage and without any prejudice in exercising discretion, and in compliance with ethical standards. During the office term, the Ombudsman shall not take academic or training course of any curricular or project, unless it is a curricular or project organised by the Ombudsmen especially for the Ombudsman.

**Section 22.** The Ombudsmen have the duties and powers as follows:

(1) to recommend the relevant State agencies to revise any law, rule or order or any operative procedure that causes grievance or unfairness or imposes an unnecessary or undue burden on the people;

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(2) to conduct fact-finding when it is found that there is a person affected by grievance or unfairness arisen from non-compliance with the law or *ultra vires* acts of a State agency or State officials in order to recommend the relevant State agencies to eliminate or deter such grievance or unfairness;

(3) to submit to the Council of Ministers for acknowledgement that a State agency has not yet correctly and completely complied with Chapter V Duties of the State of the Constitution;

(4) to perform other duties and powers as prescribed by this Organic Act or other laws.

To perform in compliance with duties and powers as prescribed in paragraph one, the Ombudsmen shall aim to provide support and consultation to ensure that State agencies and State officials perform duties with efficiency; to eliminate discrimination; to facilitate benefits to all people equally; to decrease an unnecessary or undue burden on the people; and to eliminate or to deter grievance or unfairness caused by a State agency on the people.

In proceeding under (1) or (2), if it is the case related to the human rights violation, the Ombudsmen shall refer the matter to the National Human Rights Commission for further action. In order to eliminate repetition of the performance of duties, the Ombudsman and the National Human Rights Commission shall jointly consult and establish a principle to guide future framework thereby.

**Section 23.** In the performance of duties under section 22 (1) (2) or (3), an Ombudsman may refer a matter to the Constitutional Court or the Administrative Court upon making a finding as follows:

(1) where any provision of law begs the question of constitutionality, the matter shall be referred together with an opinion to the Constitutional Court; the Constitutional Court shall consider and render a decision without delay in accordance with the Organic Act on Procedures of the Constitutional Court;

(2) where a rule, order or any other act of a State agency or a State official begs the question of constitutionality or legality, the matter shall be referred together with an opinion

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to the Administrative Court; the Administrative Court shall consider and render a decision without delay in accordance with the law on establishment of Administrative Courts and Administrative Court procedures.

**Section 24.** In the performance of duties under this Organic Act, the Ombudsman shall have the following powers:

(1) to specify a correlated operative procedure of the Ombudsman to ensure a swift and non-repetitive approach that shall not deprive the Ombudsman in performing duties of independency;

(2) to issue a regulation to determine a rule and a procedure on whistleblowing, submission of complaints, facts-finding and consideration practices inclusive of a regulation on authorising a Competent Official to conduct a preliminary fact-finding to be reported to the Ombudsman;

(3) to issue a regulation to determine a rule on expenditure, daily allowance and travel expense for a person travelling to provide an opinion or a statement and a performance of duties of Competent Officials;

(4) to issue other regulations or notifications under this Organic Act.

To issue a regulation under (2) and (4), there shall not be in any manner that imposes an unnecessary procedure, causes delay or ineffective performance of the Ombudsman or a Competent Official inclusive of bringing an undue burden on the people; nor any characteristic that aims to accuse a State agency or a State official. In regard to whistleblowing or submission of complaints, it shall be proceeded with the objective to facilitate a swift and smooth complaint submission procedure to the Ombudsman. There shall not be in any manner to force revealing of identification of a whistle-blower or a complainant except that it is a request to eliminate or to deter a grievance or unfairness specifically encountered by an individual for which such revealing shall be useful for further contact to acquire more information or to report the investigation results.

**Section 25.** In the performance of duties under this Organic Act, the Ombudsman, when necessary, shall have the following powers:

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(1) to request a State agency, a State official or a person to give, in writing, a statement of fact or opinion in concerning with its performance or to give a statement of fact orally or to submit any related object, document, proof or evidence for consideration;

(2) to enter into any dwelling or premise for fact-finding or collecting related evidence. In the case where the dwelling or premise is not in the possession of any State agency and the owner or possessor does not give consent, the fact-finding shall be conducted only with a warrant issued by the Court.

In undertaking under paragraph one, the Ombudsman may entrust a Competent Official to carry out the duty on his or her behalf except for the issuance of orders pursuant to (1) where only the Secretary-General or the Deputy Secretary-General shall have the power which shall be in accordance with the regulation as determined by the Ombudsman.

The undertaking under (2) shall be carried out in front of a possessor or a responsible person of the premise or a concerned person thereof. Should any of those persons cannot be identified, such action shall be carried out in front of at least two other persons who have been requested for being witnesses. For this purpose, the possessor or the responsible person of the premise or concerned person shall facilitate the aforementioned performance of duties with required cooperation.

**Section 26.** The Ombudsmen shall convene to reach a joint consultation and agreement for the following matters:

- (1) appointment of Competent Officials to perform duties under this Organic Act;
- (2) joint consultation with other Independent Organs or the National Human Rights Commission in accordance with section 6 and section 22 paragraph three;
- (3) recommendation for an amendment of laws in accordance with section 22 (1);
- (4) submission of reports to the Council of Ministers in accordance with section 22 (3);
- (5) referral of matters to the Constitutional Court or the Administrative Court in accordance with section 23;

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(6) report of non-compliance with opinions or recommendations given by the Ombudsman or submission of matters for consideration by the Council of Ministers in accordance with section 33, section 34 and section 39;

(7) submission of matters to the National Anti-Corruption Commission, the Public Sector Anti-Corruption Commission or the State Audit Commission in accordance with section 36 (3)

(8) issuance of the principle of ethics in accordance with section 43;

(9) prescription of qualifications, experience and expertise of the Secretary-General which shall be beneficial for the operation of the Office in accordance with section 45;

(10) specification of affairs which affect the operation of missions of the Ombudsman in accordance with section 48;

(11) submission of the budget expenditure pursuant to section 49 and granting approval for annual appropriations inclusive of granting approval for spending of budget of the Office in accordance with section 50;

(12) consideration for accepting assets that may affect impartiality of performance of the duties of the Office in accordance with section 51;

(13) issuance of a regulation, a notification or any other matters for which this Organic Act prescribes to be in accordance with a resolution or an approval by the Ombudsmen;

(14) any other matters jointly agreed by the Ombudsmen.

**Section 27.** In the case where it is required to obtain any information or to conduct any study, the Ombudsmen may request the Office to hire a person or an institute with qualified knowledge and expertise to proceed with such matter as deemed necessary. In case of any unavoidable circumstances, a sub-committee may be appointed to act on his or her behalf to proceed with such matter with concern of achieving worthwhile and efficient results. Prior to the aforementioned hiring or appointment, the Ombudsmen must clearly determine objectives, achieving outcomes and duration of the performance of duties.

Hiring principles and procedures and remuneration for a person or an institute; or an appointment of a sub-committee and its vacation of office, remuneration and other

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remuneration and performing procedure of the sub-committee shall be in accordance with the regulations specified by the Ombudsman.

**Section 28.** No person shall disclose information enabling identification of a whistleblower, a complainant inclusive of information from implementation of this Organic Act, except for the performance of duties and powers or in accordance with a law or an order of the Court.

A person who prepares and disseminates a report under section 35 and section 39 in good faith shall not be liable to civil and criminal liability, administrative penalty or disciplinary penalty.

**Section 29.** In the performance of duties under this Organic Act, an Ombudsman and a Competent Official shall be officials under the Criminal Code.

**Section 30.** Salary, emoluments and other remuneration of the Ombudsmen shall be in accordance with the law thereon. The Ombudsman shall receive a meeting allowance per one meeting in an equal amount as received by a committee member pursuant to the Royal Decree on Meeting Allowance for Committee Members.

The Ombudsmen shall receive monthly reception allowance at the lump sum rate as prescribed by the Ministry of Finance, which shall not be less than the emoluments of the Chief Ombudsman or an Ombudsman, as the case may be.

**Section 31.** An Ombudsman who has been holding office for not less than one year is entitled to gratuities, which is a one-off payment upon vacation of office on one of the following grounds:

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

Gratuity shall be calculated by multiplying the salary under section 30 by number of years in office. Fraction of the year shall be counted as one year.

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

## CHAPTER 2

### PERFORMANCE OF DUTIES OF THE OMBUDSMAN

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**Section 32.** Upon appearance to the Ombudsman, whether being informed by a whistle-blower or a complainant or not, there is a person affected by grievance or unfairness arisen from non-compliance with the law or *ultra vires* acts of a State agency or State officials; or in the case where any operative procedure of a State agency imposes an unnecessary or undue burden on the people, it shall be the duties of the Ombudsman to conduct a fact-finding or any of other deliberate approaches to recommend the relevant State agency to eliminate or deter such grievance or unfairness or to revise any law, rule or order or operative procedure in order to enhance effectiveness of performance of duties of State agencies, to eliminate inequality, to facilitate public benefits equally for all people and to decrease unnecessary burden on the people.

Prior to the proposal of recommendation under paragraph one, the Ombudsman shall jointly consult with the relevant State agency by taking into account the efficiency, capability and obstacles affected by the relevant State agency to implement all recommendation.

To conduct a fact-finding under paragraph one, the Ombudsman may entrust any Competent Official to conduct a preliminary fact-finding to report to the Ombudsman pursuant to the regulation issued under section 24 (2).

**Section 33.** Subject to section 32 paragraph two, upon a recommendation of the Ombudsman to revise any law, rule or order or any operative procedure that causes grievance or unfairness or imposes an unnecessary or undue burden on the people,

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the relevant State agency shall complete its commitment within one hundred and twenty days. In case of unamendable necessity within time period, an extension may be granted for not exceeding sixty days provided that the Ombudsman has been informed. After the extension period of time has elapsed, should the relevant State agency fail to complete the amendment without reasonable justification, it shall be deemed that the head of such State agency deliberately does not perform in compliance with the law which causes a serious injury to the public administration system. The Ombudsman shall notify the National Anti-Corruption Commission to conduct an immediate action in accordance with its duties and powers. The report of the Ombudsman shall be regarded as the inquiry file of the National Anti-Corruption Commission.

In the case where the State agency under paragraph one considers that the recommendation provided by the Ombudsman cannot be implemented for any ground, it shall then be the responsibility of such State agency to inform the Ombudsman within the period of time under paragraph one and to jointly consult with the Ombudsman and any relevant State agency for settlement of the problem without delay. Upon conclusion, the State agency shall comply with such conclusion. In the case where a solution has not been found, the Ombudsman shall submit a report to the Council of Ministers for consideration to order as it thinks fit. The relevant State agency shall comply with the resolution of the Council of Ministers. The provisions of paragraph one shall be applied *mutatis mutandis* to the implementation on the settlement or the resolution of the Council of Ministers.

**Section 34.** In the case where the Ombudsman provides a recommendation to a relevant State agency to eliminate or deter grievance or unfairness affecting any person, the head of the State agency shall comply with the recommendation within thirty days, unless the head of the aforementioned State agency is of the opinion that compliance with such recommendation contradicts law, rule or order or any operative procedure which the Ombudsman shall be noticed before the end of the aforementioned thirty day has elapsed. The Ombudsmen shall thereby jointly consult with the relevant State agency for

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a settlement without delay and the provisions of section 33 paragraph two shall be applied *mutatis mutandis*.

**Section 35.** In the case where it is apparent to the Ombudsman that there is a person affected by grievance or unfairness due to the fact that a State agency has not yet correctly and completely complied with Chapter V Duties of the State under the Constitution, the Ombudsman shall thereby submit a report with his or her recommendation to the Council of Ministers for further consideration without delay. The Ombudsman may submit the aforementioned report to the National Assembly and disseminate to the people.

**Section 36.** In the performance of duties and powers as provided by this Organic Act, should the Ombudsman be of the opinion that a grievance or unfairness is a specific case or it is under duties and powers of a State agency to eliminate such grievance or to facilitate justice, the proceedings shall be undertaken as follows:

(1) In the case where the proceeding of the matter has already been provided by the law on complaints or appeals, the Ombudsman shall refer the aforementioned matter to such State agency for further consideration and actions under its duties and powers;

(2) In the case where a complaint concerns a personnel administration or disciplinary action committed by a State official, the Ombudsman shall refer the matter to the authorised person regarding the personnel administration or disciplinary action for further actions. The Ombudsman may conduct a fact-finding on such matter for the benefit of proposing an amendment of a law, a rule or an operative procedure causing such problems by systematic approach;

(3) In the case where there is a non-compliance with the law or *ultra vires acts* of a State agency or State official involves a corruption, the Ombudsman shall refer the matter to the National Anti-Corruption Commission, the Public Sector Anti-Corruption Commission or the State Audit Commission for further consideration, as the case may be.

**Section 37.** Subject to section 6, the Ombudsman is prohibited from accepting matters which have been deemed of the following characteristics:

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(1) the matter which is a policy as prescribed by the Council of Ministers, except that such policy is contrary to the Constitution or results in negligence of the Duties of the State under the Constitution;

(2) the matter which has been filed to the Court or the matter that the Court has final judgment or order thereon except that such matter is beneficial to a study for proposing a revision of a law or a rule related to the justice process;

(3) the matter which is not under the duties and powers of the Ombudsman;

(4) the matter which is under the duties and powers of other Independent Organs or the matter accepted by them for action under their duties and powers, but it shall not be barred from the power to be informed of the result of the consideration given by the aforementioned organs;

(5) the complaint submitted with rights in bad faith and the consideration thereon is not beneficial to the public;

(6) the matter in which the complainant has been received a proper redress or fairness;

(7) the matter in which the Ombudsman has had conclusion, except where a new evidence or fact has been found and the consideration result may be changed on account thereof;

(8) other matters as determined by the Ombudsmen.

In the case, later on, where it is apparent to the Ombudsman that there is a characteristic of the matter under paragraph one, the Ombudsman shall issue an order to cease the consideration.

**Section 38.** The Ombudsman shall notify the result of the performance under section 32 and section 36 or the complaint that has been rejected or ceased under section 37 to the complainant or the relevant State agency for acknowledgement. In the case where the consideration of the matter has been rejected or ceased, a reason shall be provided to the complaint for acknowledgement.

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**Section 39.** Within one hundred and eighty days as of the last day of the fiscal year, the Ombudsman shall submit the annual report to the Council of Ministers and the National Assembly. The Ombudsman shall at least provide a summary of problems and obstacles occurred inclusive of the recommendations on performance of duties and disseminate to the public. The Ombudsman shall announce the annual report to the National Assembly.

The provisions under paragraph one shall not be barred from the powers of the Ombudsman to report to the Council of Ministers or the National Assembly or to particularly disseminate to the public on the ground that such matter is urgent or beneficial for the administration of State affairs.

The preparation of report under paragraph one and paragraph two shall be in a summary without any specification of details which may unnecessarily disclose confidential information of any person or any State agency.

### CHAPTER 3

#### THE OFFICE OF THE OMBUDSMAN

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**Section 40.** There shall be the Office of the Ombudsman holding the status of a juristic person and being under the joint supervision, control and accountability of the Ombudsmen.

The affairs of the Office of the Ombudsman shall not be subject to the law on labour protection; labour relations; social security and compensation, but its officials and employees shall receive remunerative benefits for not less than that provided by the law on labour protection; social security; and compensation.

**Section 41.** The Office shall have the duties and powers as follows:

(1) to be responsible for administration work and undertakings so that the Ombudsman accomplishes the missions and duties as prescribed in the Constitution, this Organic Act and other laws;

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(2) to facilitate, assist, promote and support the operative procedure of the Ombudsman;

(3) to study, compile, analyse information and support research on the performance of the Ombudsman;

(4) to undertake or promote and support or coordinate with both State agency or private sector in order to disseminate knowledge and understanding to the public on the undertakings as per the duties and powers of the Ombudsman;

(5) to perform other acts as prescribed by the laws or as entrusted by the Ombudsman.

**Section 42.** In supervision of the Office, the Ombudsman shall have the powers to issue regulations or notifications in the following matters:

(1) Divisions of departments within the Office and scope of duties of such departments;

(2) Prescription of positions, salary, extra emolument for position and remuneration or other entitlements and benefits of the Secretary-General, officials and employees of the Office;

(3) Selection, assignment, appointment and prescription of ethical standards, efficiency, performance evaluation, discipline and disciplinary penalty, vacation from office, complaint and appeal of penalty for the Secretary-General and officials of the Office including the procedures and conditions in the employment of employees of the Office;

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

(5) Arrangement of welfare or other assistances which include providing provident funds to the Secretary-General, officials and employees of the Office and criteria and conditions for entitled compensation at the completion of term of the Secretary-General;

(6) Prescription of the process of acquisition of the Secretary-General;

(7) Prescription of the uniform and attire of the Ombudsman, the Secretary-General, officials and employees of the Office;

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(8) Other matters that are essential for supervision or governing the carrying out of work of the Office or directing the Secretary-General, officials or employees of the Office or for supporting the performance of functions of the aforementioned persons.

Implementation of (1) shall take into account efficiency, cost-effectiveness and flexibility of the undertaking.

Prescription of (2) shall take into account the cost of living and living sufficiency and different responsibilities of each position and level of officials and employees.

The issuance of regulations related to the personnel administration under paragraph one, the Ombudsman shall take into account the fairness, morale and spirit of personnel. An independent group of persons to supervise, monitor or consider complaints or appeals may be appointed.

**Section 43.** The Ombudsman shall issue the principle of ethics to be applied to officials and employees of the Office. The foregoing principle of ethics shall provide for the penalties for violation of or in compliance with such principle.

**Section 44.** The Office shall have the Secretary-General appointed by the Chief Ombudsman in accordance with resolution of the Ombudsmen as superior of officials and employees of the Office. The Secretary-General shall have the responsibilities towards the operative procedure of the Office and shall be directly accountable to the Ombudsmen. The Ombudsmen may have a joint resolution to prescribe the positions of Deputy Secretary-General to assist in commandment and the operative procedure under the Secretary-General.

In the case where there is a joint meeting of the Ombudsmen, the Secretary-General shall perform as the secretary of the meeting of the Ombudsmen.

**Section 45.** The Secretary-General must be of evident integrity, Thai nationality, not over sixty-five years of age during the office term of the Secretary-General and must possess the qualifications, experience and expertise beneficial to the operative procedure of the Office in accordance with the regulations as prescribed by the Ombudsmen.

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The Secretary-General shall be in office for a term of five years as from the date of appointment and may be re-appointed but shall not serve in the office of the Secretary-General for more than two consecutive terms.

**Section 46.** In addition to vacation from office on the expiration of term, the Secretary-General shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under any of the prohibitions under section 45;
- (4) not being able to perform duties full time;
- (5) being subject to termination by resolution of the Ombudsmen due to misbehaviour or improper conducts or characteristics to serve as the Secretary-General;
- (6) being in accordance with the conditions prescribed in the hiring contract.

**Section 47.** The Secretary-General shall have duties and powers in supervising the general operative procedure of the Office to comply with the laws, regulations, notifications and resolutions of the Ombudsmen and shall also have the duties and powers as follows:

- (1) to assign, appoint, promote, reduce salary or wage or impose disciplinary action on officials or employees of the Office, including ordering officials and employees of the Office to be removed from the position in accordance with the regulations as prescribed by the Ombudsmen;
- (2) to prescribe the regulations related to the operative procedure of the Office so far as it is not in contradiction to the regulations, notifications or resolutions of the Ombudsmen;
- (3) duties and powers as prescribed in this Organic Act or other laws and as prescribed by the Ombudsmen.

The issuance of the regulation under (2) shall not cause any unnecessary procedure leading to delay or inefficiency in the operative procedure.

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**Section 48.** For the affairs of the Office involving external personnel, the Secretary-General shall be the representative of the Office. For this purpose, the Secretary-General may assign any person to perform a particular official function on his or her behalf in accordance with the regulations as prescribed by the Ombudsmen.

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

**Section 49.** The Ombudsman shall propose the budget expenditure for allocation for the Ombudsman and the Office in the annual appropriations bill or supplementary appropriations bill as the case may be. For the submission of such proposal of the budget expenditure, the Ombudsman shall consider result of the audit conducted by the State Audit Office under section 54 paragraph two as well.

In the case where the Ombudsman is of the opinion that the budget allocated is insufficient, the Ombudsman shall propose a request to amend a motion directly to the budget appropriation committee of the House of Representatives.

In proposing the budget expenditure under paragraph one and two, the Ombudsman shall notify the Council of Minister of the existing income and assets.

**Section 50.** When the Annual Appropriations Act or the Supplementary Appropriations Act under section 49 comes into force, the Office shall prepare the annual appropriations for approval from the Ombudsmen and disseminate it to the public.

The spending of budget of the Office shall be prescribed in the annual appropriations under paragraph one unless otherwise approved by the Ombudsmen on a case-by-case basis.

In disbursing of the allocated budget, the Office shall submit the information on the disbursement of budget to the Comptroller General's Department by specifying the amount of money to be disbursed in each quarter, three months per quarter and the Comptroller General's Department shall disburse the money to the Office within

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three days prior to the new quarter. In the case where it is necessary for the Office to spend more money than previously notified, the Comptroller General's Department shall disburse the money as requested by the Office.

**Section 51.** Income and assets for undertakings of the Office consists of:

- (1) subsidies obtained under section 49;
- (2) incomes from fees or assets of the Office;
- (3) assets donated to the Office;
- (4) fruits or any interests of money or assets of the Office;
- (5) other income as prescribed by the law.

Acceptance of the assets as prescribed in (3) shall take into account impartiality in the performance of duties. In the case where the Ombudsman is of an opinion that such acceptance of the assets may affect impartiality in the performance of duties of the Office, he or she may order the Office to reject or to return the assets to the donor.

**Section 52.** Income of the Office shall not be deemed as the income that must be remitted to Treasury pursuant to the law on treasury reserves, the law on budgetary procedure or other laws.

The Office shall prepare a report on acceptance and disbursement of money under paragraph one for submission to the National Assembly and the Council of Ministers at the end of every fiscal year.

Immovable property under the ownership of the Office whether by purchase or donation shall be deemed as the immovable property of the State or Ratchaphatsadu Land, but the Office shall have the power to control, exploit or earn benefits.

**Section 53.** The Office's assets shall not be liable to the execution and no person shall set up prescription against the Office.

**Section 54.** The Office shall prepare the balance sheet, financial statement and revenue account to the auditor within ninety days as from the end of the fiscal year.

The State Audit Office shall be the auditor of the Office and shall inspect, certify the account and financial reports of the Office and evaluate the spending of funds and

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assets of the Office, by illustrating the extent to which is in accordance with the purposes, cost-efficient, producing the desired results, efficient and reasonable and subsequently propose the audit report to the National Assembly and the Council of Ministers without delay.

#### CHAPTER 4 PENALTIES

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**Section 55.** Any person who fails to comply with an order under section 25 (1) without reasonable justification or violates section 28 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand baht or to both.

#### TRANSITORY PROVISIONS

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**Section 56.** The Chief Ombudsman and Ombudsmen who are in office prior to the date this Organic Act comes into force shall continue to be in office until the expiration of term as prescribed by the Organic Act on Ombudsmen B.E. 2552 (2009); or be removed from office under section 18; except in the case under (3). The provisions relating to disqualification under section 8 shall not apply.

**Section 57.** Within twenty days as from the date this Organic Act comes into force, the Constitutional Court and the Independent Organs except the Ombudsman, shall appoint and submit a list of representatives to the Secretariat of the Senate to be included as the Selection Committee under section 11.

Upon exceeding the time limit under paragraph one, in the case where the Constitutional Court or any Independent Organ may not appoint any representative or in the case where there is not any opposition leader in the House of Representatives, the Selection Committee shall continue to perform duties. During this period, it shall be considered that the Selection Committee

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consists of the existing members. However, this does not deprive neither the Constitutional Court nor any Independent Organs of the right to thereafter appoint any representative. Such appointment shall not result in repeal of the activities which have been undertaken by the Selection Committee.

Within thirty days as from the date such duration lapse specified under paragraph one, the Selection Committee shall consider and decide whether the Chief Ombudsman and Ombudsmen who are in office prior to the date this Organic Act comes into force shall apply. He or she shall be deemed the person holding the position under section 8 (1) or (2).

Decision given by the Selection Committee shall be final.

**Section 58.** In the case where selection of the Ombudsman is required to fill the vacant position, the Selection Committee under section 57 shall select a person suitable for appointment as the Ombudsman to fill the number of vacancies within forty-five days as from of the date of such decision under section 57.

In the case where there is no the Chief Ombudsman, upon approval by the Senate, the approved candidate by the Senate shall confer with the current Ombudsmen under section 56 to elect one among themselves to be the Chief Ombudsman and inform the President of the Senate of the result for further proceedings.

**Section 59.** The Secretary-General of the Office of the Ombudsman who is in office prior to the date this Organic Act comes into force and has the qualifications and is not under any of the prohibitions under this Organic Act shall continue to be the Secretary-General of the Office of the Ombudsman. The Chief Ombudsman shall conclude a hiring contract and prescribe the hiring period of time that must not exceed the term that he or she shall vacate office under the Office of the Ombudsman Act B.E. 2552 (2009).

In the case where there is a question pertaining to the qualifications and prohibitions of the Secretary-General of the Office of the Ombudsman under paragraph one arises, it shall be in accordance with the resolution of the Ombudsmen.

**Section 60.** All regulations, notifications, orders or resolutions of the Ombudsmen under the Organic Act on Ombudsmen B.E. 2552 (2009) and the Office of the Ombudsman

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Act B.E. 2552 (2009) in force prior to the date this Organic Act comes into force shall remain effective as long as they do not contradict the Constitution or this Organic Act, until being annulled or amended by the regulations, rules, notifications, orders or resolutions under this Organic Act.

**Section 61.** The Office of the Ombudsman under the Office of the Ombudsman Act B.E. 2552 (2009) shall be the Office of the Ombudsman under this Organic Act.

All rights, duties and obligations which the Office of the Ombudsman possesses under the Office of the Ombudsman Act B.E. 2552 (2009) in relation to any person prior to the date this Organic Act comes into force shall be transferred to Office of the Ombudsman under this Organic Act.

**Section 62.** Officials and employees of the Office of the Ombudsman under the Office of the Ombudsman Act B.E. 2552 (2009) shall be transferred to Office of the Ombudsman under this Organic Act and it shall be deemed that other rights and benefits enjoyed by such officials and employees under the Office of the Ombudsman Act B.E. 2552 (2009) shall continue to be other rights and benefits enjoyed under this Organic Act unless otherwise prescribed in the regulations issued under section 42 (2).

**Section 63.** In regard to an undertaking relating to any other complaints or undertakings in the performance of duties and powers of the Ombudsmen or the Office of the Ombudsman under the Organic Act on Ombudsmen B.E. 2552 (2009) and the Office of the Ombudsman Act B.E. 2552 (2009) taken prior to the date this Organic Act comes into force and if such undertaking is in the performance of the duties and powers of the Ombudsmen under this Organic Act, it shall be deemed as undertakings taken under this Organic Act. Further undertakings shall be as provided in this Organic Act.

Countersigned by  
General Prayut Chan-o-cha  
Prime Minister

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**Remarks:** The reasons for promulgating this Organic Act are as follows: section 130 (5) and section 267 of the Constitution of the Kingdom of Thailand provide that there shall be the enactment of the Organic Act on Ombudsmen prescribing for the acquisition, duties and powers, as well as the performance of the Ombudsmen to acquire related information, opinions, documentary evidences required for taking into consideration and undertakings under the duties and powers of the Ombudsmen with effectiveness and accomplishment. Such undertakings shall be necessary to affect or result in a restriction of certain rights or liberties of a person and to the extent of necessity for performing duties. Therefore, it is expedient to enact this Organic Act.

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