

Unofficial translation

ADMINISTRATIVE PROCEDURE ACT,
B.E. 2539 (1996)

BHUMIBOL ADULYADEJ, REX.
Given on the 27th Day of September B.E.2539;
Being the 51st Year of the Present Reign.

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

Whereas it is expedient to have a law on administrative procedure;

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

Section 1. This Act is called the "Administrative Procedure Act, B.E. 2539".

Section 2. This Act shall come into force after the expiration of one hundred and eighty days from the date of its publication in the Government Gazette.*

Section 3. Administrative procedure under any other laws shall be in accordance with the procedure provided in this Act, unless such laws have specifically prescribed the administrative procedure for any cases with the guarantee of justice or the standard of administrative procedure not lower than that provided in this Act.

* Published in the Government Gazette Vol.113, Part 60a, dated 14th November B.E. 2539 (1996)

The provisions of paragraph one shall not apply to the process and the period of appeal or objection prescribed by law.

Section 4. This Act shall not apply to:

- (1) the National Assembly and the Council of Ministers;
- (2) the agencies exercising specific powers under the Constitution;
- (3) the consideration of the Prime Minister or a Minister on matters which directly concern the policy;
- (4) the judicial proceedings of the Court and the performance of duties of officials in the judicial proceedings, the execution of judgments or orders and the deposit of property;
- (5) the consideration of petitions and the issuance of orders under the law on the Council of State;
- (6) the activities in relation to foreign policy;
- (7) the military activities or the performance of operation duties of officials in cooperation with the members of the Armed Forces for safeguarding national security against both internal and external threat;
- (8) the criminal proceedings;
- (9) the activities of religious organizations.

The application of this Act to any activity or agency other than those provided in paragraph one may be exempted by a Royal Decree issued upon the recommendation of the Committee on Administrative Procedure.

Section 5. In this Act:

“administrative procedure” means the preparation of and the steps taken by an official for the making of an administrative act or by-law and includes any administrative activities under this Act;

“administrative process” means the preparation of and the steps taken by an official for the making of an administrative act;

“administrative act” means:

- (1) the exercise of power under the law by an official to establish juristic relations between persons (i.e., the State agency and the individual) to create, modify, transfer, preserve, extinguish or affect the individual's status of rights or duties, permanently or temporarily, such as giving an order or

permission or approval, deciding an appeal, certifying and registering, but shall not include the issuance of a by-law;

(2) other acts as prescribed in the Ministerial Regulation;

“by-law” means a Royal Decree, Ministerial Regulation, Notification of a Ministry, ordinance of a local government, rule, regulation or any other provisions of general applicability without addressing to a specific case or person;

“quasi-judicial committee” means a committee established under the law providing for an organization and procedure for the adjudication of disputes in respect of rights and duties under the law;

“official” means a person who, or a group of persons or a juristic person which, exercises or is empowered to exercise the administrative power of the State in carrying out any activity under the law, whether or not they are within the system of government agencies State enterprises or other State undertakings;

“participant” means an applicant or a person who challenges an application, a person who is or will be subject to an administrative act, or a person who participates in an administrative process because his or her right may be affected by an administrative act.

Section 6. The Prime Minister shall have charge and control of the execution of this Act and shall have the power to issue Ministerial Regulations and Notifications for the execution of this Act.

Such Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I

Committee on Administrative Procedure

Section 7. There shall be a committee called the “Committee on Administrative Procedure” consisting of the Chairman, Permanent Secretary of the Office of the Prime Minister, Permanent Secretary for Interior, Secretary-General of the Council of Ministers, Secretary-General of the Civil Service

Commission, Secretary-General of the Council of State, and qualified members of not less than five but not more than nine persons.

The Council of Ministers shall appoint the Chairman and qualified members from experts in law, public administration, political science, social science, or the administration of State affairs, but they shall not hold a political office.

The Secretary-General of the Council of State shall appoint officials of the Office of the Council of State as secretary and assistant secretaries.

Section 8. A member appointed by the Council of Ministers shall hold office for a term of three years. An outgoing member may be re-appointed.

In the case where a member vacates his or her office at the end of term, but a new member has not yet been appointed, the member whose term expires shall continue to perform his or her duties until the new member is appointed.

Section 9. In addition to vacating office at the end of term under section 8, a member appointed by the Council of Ministers vacates office upon being removed from office by the resolution of the Council of Ministers or upon any cause under section 76.

Section 10. The Office of the Council of State shall serve as the Secretariat of the Committee on Administrative Procedure, and shall be responsible for administrative works, meetings and carrying out the study and compiling data and conducting any activity in connection with the works of the Committee on Administrative Procedure.

Section 11. The Committee on Administrative Procedure shall have the following powers and duties:

(1) to supervise, and to provide advice in connection with the performance of duties of officials for the execution of this Act;

(2) to provide advice as requested by officials in connection with the execution of this Act in accordance with rules prescribed by the Committee on Administrative Procedure;

(3) to issue a written order requiring officials or any other person to furnish explanation or to give opinion for consideration;

(4) to give recommendation on the issuance of Royal Decrees, Ministerial Regulations or Notifications under this Act;

(5) to prepare a report on the execution of this Act for submitting to the Council of Ministers from time to time as appropriate, but at least once a year, for the purpose of developing and improving administrative procedure so as to be fair and efficient;

(6) to perform other acts as entrusted by the Council of Ministers or the Prime Minister.

CHAPTER II Administrative Act

Part 1 Officials

Section 12. An administrative act shall be made only by the competent official.

Section 13. The following official shall not engage in an administrative process:

- (1) he himself or her herself is a participant;
- (2) he or she is an fiancée(e) or a spouse of a participant;
- (3) he or she is a relative of a participant, whether as ascendant or descendant to any degree whatsoever or as a collateral within the third degree or by affinity within the second degree;
- (4) he or she is or has been the legal representative or the curator or representative or agent of a participant;
- (5) he or she is a creditor or debtor or employer of a participant;
- (6) other conditions as prescribed in the Ministerial Regulation.

Section 14. When the case under section 13 arises or a participant challenges that an official is under any prohibition under section 13, such official shall suspend the administrative process and notify his or her immediate superior in order that the said superior shall make an order on such matter.

The filing and consideration of challenge, and the issuance of order replacing the official challenged shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 15. When the case under section 13 arises or a participant challenges that a member of a committee having the power in an administrative process is under any of such prohibition, the chairman of such committee shall call a meeting to consider the cause of challenge. At such meeting, after the member challenged has explained the facts and answered the questions put to him or her, he or she shall leave the meeting room.

If a member of any committee having the power in an administrative process is challenged, during his or her absence from the meeting room, such committee shall be deemed to consist only of the members who are not challenged.

If the meeting resolves, with not less than two-third majority of the members who are not challenged, to allow the member challenged to continue performing his or her duties, he or she shall do so. Such resolution shall be passed by secret votes and shall be final.

The filing and consideration of challenge shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 16. In the case where there exists any cause other than that provided in section 13 in connection with an official or a member of a committee having the power in an administrative process and which is of so a serious nature as may prejudice the impartiality of the administrative process, such official or member shall not engage in the administrative process in such case.

If the case under paragraph one arises, the steps shall be taken as follows:

(1) if such person realizes that he or she falls within such case, he or she shall suspend the administrative process and notify his or her immediate superior or the chairman of the committee, as the case may be;

(2) if the challenge is made by a participant, but the person challenged is of the opinion that he or she does not fall within such case, such person may continue the administrative process; provided that, he or she shall notify his or her immediate superior or the chairman of the committee, as the case may be;

(3) his or her superior or the committee having the power in an administrative process of which such person is a member, shall issue an order or pass a resolution, as the case may be, without delay to the effect whether or not such official or member is competent to the administrative process in such case.

The provisions of section 14 paragraph two and section 15 paragraphs two, three and four shall apply *mutatis mutandis*.

Section 17. Any act done by the official or the member of the committee having the power in an administrative process prior to the suspension of the administrative process under section 14 and section 16 is not void, unless the official replacing the one challenged or the committee having the power in an administrative process, as the case may be, deems it expedient to proceed otherwise with any part thereof.

Section 18. The provisions of section 13 to section 16 shall not apply in case of urgent necessity where the delay may cause irreparable damage to the public interest or the individual's rights or where no other official can perform the duties in place of the official challenged.

Section 19. If it appears thereafter that any official or any member of a committee having the power in an administrative process is disqualified or is under any prohibition or his or her appointment is unlawful which causes him or her to vacate the office, such vacation from office shall not affect the act already done by him or her in the performance of duties.

Section 20. The immediate superior under section 14 and section 16 shall include any person prescribed by law to have the power to supervise or control in case of an official who has no direct superior, and the Prime Minister in case of a Minister.

Part 2 Participants

Section 21. A natural person, a group of persons or a juristic person may become a participant to the administrative process to the extent that his or her rights are or may be inevitably affected.

Section 22. The following shall be capable of acting in the administrative process:

- (1) a person *sui juris*;
- (2) a person empowered by a specific law to act in such matter although he or she has not yet become *sui juris* or whose capacity is limited under the Civil and Commercial Code;
- (3) a juristic person or a group of persons under section 21 acting through the representative or agent, as the case may be;
- (4) a person empowered by the Notification of the Prime Minister or a person entrusted by him or her, upon the publication in the Government Gazette, to act in any specific matter, although he or she has not yet become *sui juris* or whose capacity is limited under the Civil and Commercial Code.

Section 23. In the administrative process which a participant thereto must appear before the official, he or she has a right to be accompanied by his or her lawyer or adviser.

An act done before the participant by the lawyer or adviser shall be deemed to be the act of the participant, unless he or she immediately raises an objection thereto.

Section 24. A participant may, in written form, authorize any person *sui juris* to perform any specific act in any administrative process on his

or her behalf. For this purpose, the official shall proceed with the administrative process in dealing directly with the participant only where such person is under the duty to perform such act personally, and the official shall also notify the authorized representative of that proceeding.

If it appears that the authorized representative does not know sufficient facts in that case or there is ground to believe that his or her capacity to act is unreliable, the official shall notify the participant concerned without delay.

The authorization shall not be terminated either by the death of the participant or by any change in his or her capacity to act or in his or her legal representative unless the statutory successor of the participant or the participant himself or herself revokes such authorization.

Section 25. In the case where an application is submitted and jointly signed by more than fifty persons or more than fifty persons submit the applications in the same or identical texts, if any person is expressly named in such applications as the representative of such applicants or there is an implication to that effect, it shall be deemed that such person is their representative.

In the case where more than fifty persons submitted applications for an issuance of an administrative act in the same matter without naming any person as their representative pursuant to paragraph one, the official concerned shall appoint a person approved by majority participants to be their representative. In such case, the provisions of section 24 paragraphs two and three shall apply *mutatis mutandis*.

The representative under paragraphs one and two must be a natural person.

A participant may revoke the power of the representative at any time upon notifying the official concerned in written form of such revocation, and he or she shall continue to do any act in the administrative process personally.

The representative may renounce his or her representation at any time upon notifying the official in written form and notifying every participant of the renunciation.

Part 3
Administrative Process

Section 26. Documents submitted to an official shall be in the Thai language. If the documents are made in foreign language, the participant shall provide the official with the certified translation within the period prescribed by the official. In this case, it shall be deemed that such documents are duly submitted to the official on the date the official receives the translation thereof unless the official agrees to accept documents in foreign language and in this case, it shall be deemed that the date of submission thereof is the date the official receives such documents.

The certification of the translation or the acceptance of the documents in foreign language shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 27. The official shall notify the participant of his or her rights and duties in the administrative process as necessary.

If an application or argument is incomplete or contain a statement which is inapprehensible or erroneous, which is clearly caused by the lack of knowledge or carelessness of the participant, the official shall advise the participant to correct it.

Section 28. In an administrative process of any case, an official may examine the facts as appropriate to the case without being restricted to the application or evidence of the participant.

Section 29. The official shall examine all evidence he or she considers necessary to verify the facts. For this purpose, the official shall have the power and duties:

- (1) to collect all the relevant evidence;
- (2) to take the evidence, explanation or opinion of the participant, witness or expert cited by the participant, unless the official is of the opinion that it is unnecessary, superfluous or employed as delaying tactics;

(3) to require the participant, witness or expert to explain facts or opinion;

(4) to require a person to furnish the relevant documents in his or her possession;

(5) to inspect the place.

The participant shall co-operate with the official in verifying the facts of the case and shall be obliged to notify the official of all evidence known to him or her.

The witness or expert called by the official to give statements or opinions is entitled to receive remuneration in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 30. In the case where an administrative act may affect the rights of the participant, the official shall give him or her adequate opportunity to be informed of the facts and to object thereon and produce his or her own evidence.

Unless the official deems it expedient to act otherwise, the provisions of paragraph one shall not apply to the following cases:

(1) when there is urgent necessity where the delay of action may cause grave injury to any individual or affect the public interest;

(2) when the hearing will jeopardize the observance of the period prescribed by the law or by-law for the making of an administrative act;

(3) when such facts are those stated by the participant in his or her application, statement or argument;

(4) when it is obvious that the giving of such opportunity is not possible;

(5) when the measure of enforcement is to be taken;

(6) other cases as prescribed in the Ministerial Regulation.

The official shall not give the opportunity under paragraph one, if this is grossly against the public interest.

Section 31. A participant shall be entitled to inspect the documents which are necessary for making an objection or giving an explanation or safeguarding his or her rights. If an administrative act in such matter has not

yet been made, the participant shall not be entitled to inspect the documents for the preparation of the draft decision.

The inspection of documents, the expenses therefor or the making of duplicated copies shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 32. The official may not allow the inspection of documents or evidence, if they are required to be kept undisclosed.

Section 33. For the purposes of rendering facilities to the public, and saving expenses and improving efficiency in public administration, the Council of Ministers shall prescribe the Rule providing the rules and procedure to be taken by the official to determine a period for an administrative process as appropriate insofar as it is not contrary to or not inconsistent with the law or by-law applicable to such matter.

In the case where any administrative process has to be carried out by more than one official, the officials concerned shall co-ordinate among themselves to determine the period for the implementation of such matter.

Part 4

Form and Effect of an Administrative Act

Section 34. An administrative act may be made in written, verbal or other form of meaning, but it must be sufficiently clearly defined in content or meaning.

Section 35. In the case of verbal administrative act, if the person for whom it is intended requests with justification, within seven days from the date of issuing of such administrative act, the issuing official must confirm such act in written form.

Section 36. A written administrative act shall at least specify the date of its issuing and the name and position of the issuing official and shall bear his or her signature.

Section 37. A written administrative act and the written confirmation thereof must also contain reasons, and such reasons shall at least consist of the following:

- (1) material facts;
- (2) the legal grounds referred to; and
- (3) the grounds and justification for exercising the discretion.

The Prime Minister or the person entrusted by him or her may, by the Notification published in the Government Gazette, prescribe that any administrative act must contain reasons therein or in the documents attached thereto.

The provisions of paragraph one shall not apply to the following cases:

- (1) where an administrative act is issued in granting an application and does not infringe against the rights and duties of another;
- (2) where the reason for issuing of an administrative act so generally known that it is not necessary to specify it;
- (3) where the documents are required to be kept undisclosed under section 32;
- (4) where an administrative act is issued in verbal form or where it is an urgent case; provided that a written reason shall be given in due time upon the request of the person subject thereto.

Section 38. The provisions of section 36 and section 37 paragraph one shall not apply to an administrative act prescribed in the Ministerial Regulation in accordance with the rules, procedure and conditions prescribed therein.

Section 39. In the issuance of an administrative act, the official may impose any condition necessary for the fulfillment of the objective of law, unless the law otherwise restricts the discretion of the official.

The condition under paragraph one shall include the following appropriately imposed according to the circumstances of each case:

- (1) the definite time when the rights or obligations become effective or terminated;

(2) an unpredictable event in the future upon which the rights or obligations become effective or terminated;

(3) a reservation of the right to revoke the administrative act;

(4) a condition requiring the beneficiary to perform or refrain from performing an act or to bear or accept certain obligations or liability, or a statement specifying an imposition, amendment or addition of such condition.

Section 40. An administrative act which may be further appealed or disputed shall specify therein the grounds which the appeal or dispute may be made, the filing of the appeal or the statement of dispute, and the period of such appeal or dispute.

In the case where the provisions of paragraph one have been violated, a new period of such appeal or dispute shall begin to run from the date the participant concerned is notified of the rule under paragraph one. If he or she is not so notified and such period is shorter than one year, it shall be extended to one year as from the date of receiving the administrative act.

Section 41. An administrative act issued in violation of or in failing to comply with the following rules shall not be invalid:

(1) the issuance of an administrative act without the filing of an application in the case where an official may not proceed without such application, if the application is filed thereafter;

(2) an administrative act which requires the giving of reason under section 37 paragraph one, if such reason is given thereafter;

(3) the required hearing of the participant concerned is incomplete, if such hearing is completely conducted thereafter;

(4) an administrative act which requires the approval of other official, if such approval is given thereafter.

After the act referred to in paragraph one (1), (2), (3) or (4) has been done and the official who issued the administrative act intends to confirm the effectiveness thereof, he or she shall record the facts and his or her confirmation in or attach such record to the administrative act and notify the participant of his or her confirmation in written form.

The act referred to in (2), (3) and (4) shall be done before the end of the process for considering the appeal under Part 5 of this Chapter or under

the specific law on such matter, or in the case where there is no such appeal, that act shall be done before the administrative act is submitted for consideration of the competent authority who is authorized to consider the legality thereof.

Section 42. An administrative act shall become effective against the person concerned when he or she is notified thereof.

An administrative act shall remain effective as long as it has not yet been revoked or has not expired by lapse of time or any other reason.

When an administrative act expires, the competent official shall order a person who possesses documents or other materials made as a result of such administrative act, which contains a statement or a mark indicating the existence of such administrative act, to return such documents or bring such materials owned by him or her to the officials in order to make a mark indicating the expiration of the administrative act.

Section 43. A minor error or mistake in an administrative act may be corrected any time by the official.

The persons concerned shall be notified, as the case may be, of the correction of the administrative act under paragraph one. For this purpose, the official may order the person concerned to send the administrative act, documents or other materials made as a result of such administrative act for correction.

Part 5

Appeal against an Administrative Act

Section 44. Subject to section 48, in the case where any administrative act is not issued by a Minister and there is no law specifically providing for an administrative appeal proceeding, the participant may appeal against the administrative act by filing the appeal with the issuing official within fifteen days as from the date he or she is notified thereof.

The appeal shall be made in written form specifying the cause of dispute and the facts or legal grounds referred to.

The appeal shall not stay the enforcement of the administrative act unless an order to stay the enforcement is made under section 56 paragraph one.

Section 45. The official under section 44 paragraph one shall, not more than thirty days as from the date of receiving the appeal, finish consideration of the appeal and notify the appellant without delay. If he or she concurs with the appeal, whether in whole or in part, he or she shall alter the administrative act as he or she thinks fit within the said period .

If the official under section 44 paragraph one does not concur with the appeal, whether in whole or in part, he or she shall forthwith report his or her opinions and reasons to the person authorized to consider the appeal within the period specified in paragraph one. The authorized person shall finish his or her consideration of the appeal within thirty days as from the date of receiving the report. If, by reason of necessity, the consideration cannot be finished within such period, the authorized person shall notify the appellant in writing before the expiration of such period. For this purpose, the period shall be extended for not more than thirty days as from the expiration of such period.

Any official to be authorized to consider an appeal under paragraph two shall be prescribed in the Ministerial Regulation.

The provisions of this section shall not apply to the case otherwise prescribed by a specific law.

Section 46. In considering the appeal, the official may review the administrative act either on the matter of facts or matter of law or on the reasonableness of its issuing and may order the revocation or amendment of the former administrative act in any manner whatsoever, whether or not it increases or reduces the burdens or exercise of discretion in place of others in regard to the reasonableness of the issuing of the administrative act or imposes any conditions whatsoever.

Section 47. The jurisdiction of a committee empowered to consider an appeal under a specific law shall be in accordance with such law provided that the proceedings shall be in accordance with the provisions of this Chapter 2 insofar as it is not contrary to or inconsistent with the said law.

Section 48. The participant shall have the right to appeal against the administrative act of any committee, whether or not established by law, to the

Petition Council under the law on the Council of State both on matter of facts and matter of law within ninety days as from the date he or she is notified of such act. If such committee is a quasi-judicial committee, the right to appeal and the period of appeal shall be in accordance with the provision of the law on the Council of State.

Part 6

Revocation of an Administrative Act

Section 49. An official or his or her superior may revoke an administrative act under the rules specified in section 51, section 52 and section 53 irrespective of whether the period of appeal or dispute under this Act or any other laws has lapsed.

The revocation of an administrative act giving rise to a right or an advantage (beneficial administrative act) shall be made within ninety days as from the date the official or his or her superior knows the ground for revocation of such administrative act, except in the case where the administrative act was issued with the assertion of a falsehood or the concealment of a fact which should be revealed or by threat or bribery.

Section 50. An unlawful administrative act may be revoked, whether in whole or in part, either retroactively or prospectively or with effect for the future as prescribed. In case of a beneficial administrative act, the revocation shall be in accordance with the provisions of section 51 and section 52.

Section 51. In revoking an unlawful beneficial administrative act giving rise to the payment of money or the transfer of property or an advantage which is severable, the *bona fide* reliance of the beneficiary on the continued existence of the administrative act and the public interest shall be taken into account.

The *bona fide* reliance under paragraph one cannot be claimed unless the beneficiary has taken the benefit given by the administrative act or

proceeded with the property which can no longer be cancelled or can be cancelled only by suffering an unreasonable disadvantage.

The beneficiary cannot claim *bona fide* reliance when:

(1) he or she obtained the administrative act with the assertion of a falsehood or the concealment of the fact which should be revealed or threat or by bribery;

(2) he or she obtained the administrative act by giving information which was substantially incorrect or incomplete;

(3) he or she was aware of the illegality of the administrative act or was unaware thereof due to gross negligence at the time of receiving such administrative act.

In the case where the administrative act is revoked with the retroactive effect, the provisions of undue enrichment in the Civil and Commercial Code shall apply *mutatis mutandis* to the return of money, property or other advantages the beneficiary has received. However, he or she shall be deemed in bad faith as from the moment he or she knows of the illegality of the administrative act, or should have known thereof if he or she had not been grossly negligent. And in the case of paragraph three, such person shall be liable to return the full amount of such money, property or other advantages.

Section 52. An administrative act which is unlawful and is not subject to section 51 may be revoked, whether in whole or in part, but the person affected thereby is entitled to compensation for *bona fide* reliance on the continued existence of the administrative act, and the provisions of section 51 paragraphs one, two and three shall apply *mutatis mutandis*; provided that, the claim for compensation must be submitted within one hundred and eighty days as from the date he or she is notified of such revocation.

The compensation under this section shall not exceed the advantages such person would receive if such administrative act was not revoked.

Section 53. A lawful administrative act which does not give rise to an advantage to a person for whom it is intended (a lawful non-beneficial administrative act) may be revoked, whether in whole or in part, with immediate effect or effect for the future as prescribed, except when an administrative act of

like content would have to be issued or when the revocation is not possible for other reasons; provided that, the interest of the third party shall be taken into account.

A lawful beneficial administrative act may be revoked, whether in whole or in part, with immediate effect or effect for the future as prescribed, only when:

(1) the revocation is permitted by law or the right of revocation is reserved in the administrative act itself;

(2) the administrative act is combined with a condition to be observed by the beneficiary but the beneficiary has not observed within the specified period;

(3) the official would be entitled, as a result of a subsequent change of facts and in circumstances, not to issue the administrative act and if failure to revoke it would jeopardize the public interest;

(4) the authority would be entitled, on the ground of a change in the law, not to issue the administrative act insofar as the beneficiary has not availed himself of the advantages or has not received any contributions on the grounds of the administrative act and when failure to revoke it would jeopardize the public interest;

(5) it is necessary to prevent or eliminate serious harm to the public interest or the individual.

In the case where there is a revocation of an administrative act under paragraph two (3), (4) and (5), the beneficiary is entitled to compensation arising from his or her *bona fide* reliance on the continued existence of the administrative act, and the provisions of section 52 shall apply *mutatis mutandis*.

A lawful administrative act giving rise to the payment of money or the transfer of property or an advantage which is severable may be revoked, whether in whole or in part, either retroactively or prospectively or with effect for the future as prescribed, only when:

(1) there is no implementation or a delaying implementation of the administrative act;

(2) the beneficiary fails to observe or delays to comply with the conditions of the administrative act.

Provided that the provisions of section 51 shall apply *mutatis mutandis*.

Part 7
Application for Review

Section 54. The official may revoke or amend an administrative act upon an application of a participant even after it has become non-appealable under the provisions of Part 5 when:

(1) new evidence, which would materially alter the conclusive facts on which the administrative act is based, has been found;

(2) the actual interested participant did not join the administrative process, or had joined it, but was unjustly precluded from participating therein;

(3) the official has no authority to issue an administrative act on such matter;

(4) the facts or the law on which an administrative act is based have thereafter been materially changed to the benefit of the participant.

The filing of the application under paragraph one (1), (2) or (3) shall be made only when the participant was unaware of such cause during the previous consideration without his or her fault.

The application for a review must be filed within ninety days as from the date the applicant is aware of the cause for a review.

Part 8
Enforcement of an Administrative Act

Section 55. The enforcement of an administrative act shall not apply to an official, unless otherwise provided by the provisions of the law.

Section 56. An official who makes an administrative act shall have the power to consider the taking of the measure of enforcement of his or her act under the provisions of this Part, unless such official or the person having the power to consider the appeal or the legality of such administrative act has issued an order staying the enforcement.

The official referred to in paragraph one may entrust his subordinate or other official to enforce the administrative act in accordance with the rules and procedure prescribed in the Ministerial Regulation.

The official referred to in paragraph one or paragraph two shall take the administrative measure as necessary for the enforcement of the administrative act so as to affect the person subject thereto as little as possible.

Section 57. When an administrative act prescribes for any person to pay a sum of money, if such person does not comply therewith on the due date, the official shall issue a written notice requiring the payment within a specified period of not less than seven days. If the person concerned does not comply with such notice, the official may exercise the measure of enforcement by means of seizing or attaching his or her property and selling by auction in order to secure the full payment.

The provisions of the Civil Procedure Code shall apply *mutatis mutandis* to the procedure for the seizure, attachment and sale by auction of property. The Ministerial Regulation shall specify an authorized official who have the power to order the seizure, the attachment or the sale by auction of the property.

Section 58. When an administrative act prescribes for the performance or non-performance of an act, if the person subject thereto violates or fails to comply with such administrative act, the official may take the measure of enforcement as follows:

(1) the official may take the measure personally or entrusts the other person with the power to act on his or her behalf, and the person subject to the administrative act shall be liable to the payment of the expenses incurred as well as an additional sum of twenty-five per cent per annum of the expenses thereof to the official; or

(2) the official may order the payment of an administrative fine in a reasonable amount not exceeding twenty thousand Baht per day.

The levels of the official who shall have the power to impose what amount of the administrative fine and in what case it must be paid shall be prescribed in the Ministerial Regulation.

In case of urgent necessity to enforce an administrative act to prevent the commission of an act in conflict with the law imposing criminal punishment, or to prevent harm to the public interest, the official may take the measure of enforcement without issuing the administrative act ordering the performance or non-performance of an act; provided that, the taking of such measure must be done with justifiable reasons and within the scope of the official's powers and duties.

Section 59. Before taking the measure of enforcement under section 58, the official shall issue a written notice requiring the person concerned to observe the administrative act ordering the performance or non-performance of an act within the period reasonably prescribed. Such notice may be issued at the time of the issuance of the administrative act.

The notice shall specify:

- (1) the definite measure of enforcement to be taken, but shall not specify more than one measure therein;
- (2) the expenses for the taking of the measure by the official or the person entrusted by him, or the amount of the administrative fine, as the case may be.

The determination of the expenses as specified in the notice shall not preclude the official from claiming for additional expenses, if the actual expenses are higher than those specified in the notice.

Section 60. The official shall take the measure of enforcement as specified in the written notice under section 59. The change of such measure is possible only when it appears that the specified measure can not achieve the purpose.

If the person subject to an administrative act resists and obstructs the enforcement thereof, the official may use reasonable force in the enforcement. In case of necessity, the official may request for assistance from police officials.

Section 61. In the case where the administrative fine is not paid, the official shall proceed further in accordance with section 57.

Section 62. The person against whom the measure of enforcement of administrative act has been taken may appeal against such enforcement act.

The appeal against the enforcement of administrative act shall be in accordance with the same rules and procedure as those prescribed for an appeal against the administrative act.

Section 63. If the provisions of any law have already prescribed for the measure of enforcement specifically, but the official is of the opinion that such measure is not so effective as the measure under this Chapter, he or she may take the measure under this Chapter in its place.

CHAPTER III

Period of Time and Prescription

Section 64. When a period of time is determined in days, weeks, months or years, the first day thereof is not included in the calculation, unless the business begins to run on that day or otherwise prescribed by the official.

In the case where an official has a duty to do any act within a prescribed period, the last day of such period shall be included in the calculation although such day is not a working day for the official.

In the case where any person has to do any act within a specified period as required by law or by order of an official, if the last day of such period is not the working day of the official or is customarily not the working day of the person subject to the order, it shall be deemed that the last day of such period ends on the following working day unless otherwise prescribed by law or by order of such official.

Section 65. The period prescribed in an order of the official may be extended. If such period has already expired and its expiration will cause unfair consequences, the official may extend it with retroactive effect.

Section 66. In the case where a person is unable to perform an act within the period prescribed by law due to the necessary circumstances

arising without his or her fault, the official may, upon an application of the person, extend such period and resume the proceeding; provided that, the application thereof is made within fifteen days from the end of such circumstances.

Section 67. When an appeal is filed under the provisions of Chapter II, Part 5 of this Act, or an application for a decision is filed with a quasi-judicial committee, or a petition is filed with the Petition Council under the law on the Council of State, the prescription thereof shall remain interrupted until the case is finally decided or otherwise disposed of. If the case comes to an end due to the withdrawal or abandonment of such application or petition, it shall be deemed that the prescription has never been interrupted.

CHAPTER IV Notification

Section 68. The provisions of this Chapter shall not apply to the notification which cannot be made in verbal or written form or is made by other means as prescribed by law.

In case an administrative act is expressed in other form as prescribed in the Ministerial Regulation, it shall take effect upon notifying.

Section 69. The notification of an administrative act, the hearing or other activities which the official has a duty to notify the person concerned may be made in verbal form, unless such person requests for a notification in written form.

A notification in written form shall be directly sent to such person. If it is sent to his or her domicile, it shall be deemed that such person has been notified from the time when it reaches his or her domicile.

In any proceeding which an address of the person concerned has been given to the official, the notification sent to such address shall be deemed to have already been sent to his domicile.

Section 70. In the case where a notification in written form is delivered by hand, if the recipient refuses to accept it or the recipient is not found at the time of delivery, but it is delivered to any person *sui juris* who is present or works in that place, or in case such person refuses to accept, if it is laid down or posted up at a conspicuous place in the presence of an official as prescribed in the Ministerial Regulation who attends such place as witness, it shall be deemed that the recipient has already been notified.

Section 71. If the notification is sent by A/R register post, it shall be deemed that the recipient is notified after the expiration of seven days from the date of sending in the case of domestic post, or fifteen days in the case of international post, respectively, unless the recipient can prove that he or she has never received it or has received it before or after such date.

Section 72. In the case where the number of the recipients is more than fifty persons, the official may inform them at the first stage of the proceeding that the notification in written form shall be posted up at the office of the official and at the Offices of *Amphoe* where the recipients are domiciled. In such case, it shall be deemed that they are notified after expiration of fifteen days from the posting date.

Section 73. In the case where the recipient is unknown, or he or she is known but his or her domicile is unknown, or the recipients and their domiciles are known but there are more than one hundred recipients, the notification in written form may be made by publishing in the newspaper widely circulated in that locality. In such case, it shall be deemed that the recipients are notified after the expiration of fifteen days from the date of notifying by such means.

Section 74. In case of urgent necessity, an administrative act may be notified by facsimile, provided that there must be evidence of transmission from the transmitting agency and the original administrative act must be subsequently sent to the recipient by any other means as prescribed in this Chapter as soon as possible. In such case it shall be deemed that the recipient

has been notified of the written administrative act on the day and at the time recorded in the evidence of transmission unless the recipient can prove that he or she has never received it or has received it before or after such date.

CHAPTER V
Committee having the Power to Proceed
with an Administrative Process

Section 75. The appointment of a qualified member of a committee shall be made by specifying the name of the qualified member.

Section 76. In addition to vacating office at the end of term, a member of a committee vacates office upon:

- (1) death;
- (2) resignation;
- (3) being a bankrupt;
- (4) being an incompetent or quasi-incompetent person;
- (5) being imprisoned by a final judgment to a term of imprisonment except for a petty offence or an offence committed through negligence;
- (6) other causes under the law on such matter.

Section 77. In the case where a member vacates office before the end of term, the person empowered to appoint a member may appoint other person to replace him or her and the appointee shall hold office for the remaining term of office of the member he or she replaces.

In the case where an additional member is appointed during the term of the members already appointed, the appointee shall hold his or her office for the remaining term of office of the members already appointed.

Section 78. Subject to the provisions of section 76, a member of the quasi-judicial committee shall not be removed from office before the end of his or her term, except in the case of gross deficiency in the performance of duty or serious misconduct.

Section 79. Subject to the provisions of section 15 paragraph two, at every meeting of the committee, the presence of not less than one half of the total number of its members shall be required to constitute a quorum, except otherwise required by the law, by-law or order establishing such committee.

At a meeting other than that of a quasi-judicial committee, in the case where the consideration of any matter is suspended due to absence of the members required to constitute a quorum, if a subsequent meeting for consideration of such matter is summoned within fourteen days from the date of the meeting that was adjourned, the presence of not less than one-third of the total number of members shall be deemed to constitute a quorum; provided that the purpose to such effect under these provisions shall also be specified in the notice of summoning.

Section 80. The meeting shall be in accordance with the rules prescribed by the committee.

The summoning of a meeting shall be made by a written notice and all members of the committee shall be notified in advance of not less than three days before the meeting date, unless the members have been informed of such date at the last meeting, and in such case, only the members who did not attend the last meeting shall be notified by the notice of the summoning.

The provisions of paragraph two shall not apply to the case of urgent necessity which the chairman of the committee may summon the meeting by other means.

Section 81. The chairman shall preside over the meeting, and in keeping the order of the meeting, the chairman shall have the power to give any order as necessary.

In the case where the chairman is not present at the meeting or is unable to perform his or her duties, the vice-chairman shall act in his or her place. If there is no vice-chairman or he or she is unable to perform his or her duties, the members present shall elect one among themselves to act in his or her place.

The provisions of paragraph two shall apply *mutatis mutandis* to the case where the chairman has the duty to do any act other than presiding over the meeting.

Section 82. The resolution of the meeting shall be by majority of votes.

Each member shall have one vote. In case of an equality of votes, the person presiding over the meeting shall have an additional vote as casting vote.

In any matter which has no opposition, the chairman shall ask the meeting whether there is any opinion to the contrary. If there is no such opinion, it shall be deemed that the meeting passes a resolution approving the matter.

Section 83. The proceeding of a meeting must be recorded in a minute in written form.

If there is a dissenting opinion, such opinion together with the reasons thereof shall be recorded in the minute. If the minority of members presents a dissenting opinion in written form, such opinion shall also be recorded in the minute.

Section 84. A decision of a quasi-judicial committee shall be signed by the members participating in the consideration of such matter.

If any member has a dissenting opinion, he or she shall have the right to include his or her dissenting opinion in the decision.

Transitory Provisions

Section 85. The Rule of the Office of the Prime Minister on the Public Services of the Government Agencies B.E. 2532 (1989) shall be deemed the Rule of the Council of Ministers prescribed under section 33 of this Act.

Section 86. All the applications for issuing of administrative acts submitted before the date this Act comes into force shall be considered in accordance with the rules prescribed by the law or by-law on such matter.

Section 87. The provisions of section 48 shall be repealed upon the establishment of the Administrative Court.

Countersigned by:

Banharn Silapa-archa

Prime Minister