

Translation

**Organic Act on State Audit**

**B.E. 2561 (2018)**

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HM King Maha Vajiralongkorn Bodindradebayavarangkun

Given on the 18<sup>th</sup> Day of February B.E. 2561;

Being the 3<sup>rd</sup> Year of the Present Reign.

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

Whereas it is expedient to have the organic law on State Audit;

Whereas this Organic Act has some provisions concerning the restriction of rights and duties of persons in which Section 26 together with Section 33 and Section 37 of the Constitution of the Kingdom of Thailand B.E. 2017 allow to do so by the virtue of legal provisions;

Whereas the purposes and necessities on the restriction of rights and duties under this organic act aim to promote the efficiency of service of the State Audit Council and the Auditor General in order to serve public interest, and the said organic act is conformed with Section 26 of the Constitution of the Kingdom of Thailand;

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

**Section 1.** This Act shall be called the “Organic Act on State Audit, B.E.2561 (2018)”.

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

**Section 3.** There shall be repealed:

(1) the Organic Act on State Audit, B.E. 2542 (1999); The Announcement of the National Council for Peace and Order, No.24/2557 (2014), entitled “Enabling the Validity of Organic Act in the Framework that related to the State Audit Matters only”, dated on

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23 May 2557 (2014);

(2) the Announcement of the National Council for Peace and Order, No.71/2557 (2014), entitled “Recruitment of State Audit Commission and of Auditor General”, dated on 27 June 2557 (2014);

(3) the Order of the National Council for Peace and Order, No.29/2558 (2015), entitled “Selection of New Commissioners in replace of the Vacant Position of the State Audit Commission and Selection of the Members of Independent Organs Especially in the Framework of State Audit Commission”, dated on 16 September 2558 (2015);

(4) the Order of the National Council for Peace and Order, No.23/2560 (2017), entitled “Solving Problems on the Continuity of Membership of Independent Organs under Constitution Especially in the Framework of State Audit Commission and Auditor General”, dated on 5 April 2560 (2017);

(5) the Order of the National Council for Peace and Order, No.25/2560 (2017), entitled “Additional Revisions of the Order of the National Council for Peace and Order Especially in the Framework of State Audit Commission”, dated on 17 May 2560 (2017).

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

“The Commission” means State Audit Commission; “President” means President of the State Audit Commission;

“Commissioners” means members of the State Audit Commission and also President of the State Audit Commission;

“Auditor General” means the Auditor General of the State Audit Office of the Kingdom of Thailand;

“Office” means the State Audit Office of the Kingdom of Thailand;

“Audited Agencies” means:

(1) Ministry, State Agency, Department, or other Bureaucratic Agencies of which have the same legal status as Ministry, State Agency or Department;

(2) Bureaucratic Offices of Provincial Area;

(3) Bureaucratic Offices of Local Area;

(4) State Enterprises according to Law on Government Expenditure and other relevant laws;

(5) Revolving funds;

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(6) Other State offices;

(7) Agencies not established by State but receiving financial contribution from State or any activities of which receiving money or asset from entity being audited as mentioned above in (1) (2) (3) (4) or (6) especially in the scope of such financial contribution or the said activities;

(8) Other agencies or activities of which law requires the office to be the auditor, or law provides the right to request the office to be the auditor;

“Local Government Organisation” means Provincial Organisations, Municipality, District Administration Organisation, Bangkok Metropolis, Pattaya City and other local administrations established by law;

“Revolving Fund” means fund, accumulated revolving fund, capital, revolving money or working capital established for the specific activities of which no law nor regulation requires to send the said fund back to the Ministry of Finance;

“Auditee” means Head Officer or Head of Government Agencies acting on behalf of audited agencies;

“State Audit” means financial audit of audited agencies, financial report audit and other types of audit as imposed by this organic act; all of which are related to government revenue auditing, revenue, expenditure, utilisation, retention and management of money, asset, rights and benefits of audited agencies or other relevant control or management of the said audited agencies in order to know whether the revenue or expenditure and financial management of such entity are compliant with relevant laws, regulations, rules, cabinet resolutions and good governance practices of state or not; and/or the government expenditures are fulfilled according to the expenditure objectives, the principles of economy, efficiency and effectiveness or not;

“Audit” means State Auditing;

“Fund” means Fund for State Auditing Development;

“Officer” means Government Officers of State Audit Office of the Kingdom of Thailand.

**Section 5.** In case where the provisions in this organic act does not prescribe in other manner, any notice, notification, declared intention by letter or by other means to the specific recipient will be valid under this organic act only if it was sent properly to the recipient address by registered mail. It might be valid as well if this organic act disposes

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that the said notification to the public can be done by public announcement or by other means of promulgation. In this case, it should be deemed as valid as well if such announcement or promulgation was sent to the public by means of technology information, digital system or other convenient methods for people.

In case where this organic act disposes that the Commission or the Auditor General shall have the power to impose any measure or order in some particular cases, the Commission or the Auditor General must regulate or announce their orders to the recipient and/or to the public in the royal gazette; and if such regulation or announcement requires any process to be performed, the Commission must impose clearly a suitable timeframe for implementation.

**Section 6.** The Commission and the Auditor General must cooperate with and provide assistance to every independent organs if the Auditor General esteems that there are violation of law by any person under the jurisdiction of other independent organs. In this case, the Commission, by advice of the Auditor General, must inform by letter to the relevant independent organ in order to enforce the law and regulation promptly.

In case that the Commission, by advice of the Auditor General, esteems that any matter undertaken under their mandate may overlap with the jurisdiction of other independent organ; the Commission must consult such organ to coordinate their effective functions and avoid the overlapping management.

**Section 7.** Subject to paragraph 3, in case where there is evidence to reasonably believe that government expenditures involve circumstances of corruption, or intentional performance of duties or exercise of powers which is contrary to the Constitution or laws; or may cause the election to not proceed in good faith or just manner, and it is the case where the Auditor General does not have the power to carry out any act, the Auditor General shall notify the National Anti-Corruption Commission, the Election Commission or other relevant agencies, as the case may be, for information and to further proceed with its duties and powers.

In the proceedings of the National Anti-Corruption Commission, the Election Commission or other relevant agencies notified under paragraph 1, it shall be deemed that the documents and evidences that have been examined or produced by the Auditor General are an integral part of the inquiry file of the National Anti-Corruption Commission, the Election Commission or other agencies, as the case may be.

In case where the Auditor General esteems that there is evidence to reasonably

believe that government officer of the National Anti-Corruption Commission having committed any act that may be deemed to be corruption, intentional performance of duties or exercise of powers which is contrary to the Constitution or laws; the Auditor General shall inform the National Anti-Corruption Commission and shall have the power as an investigator officer to take preliminary investigation in accordance with the rules and procedures as indicated by the National Anti-Corruption Commission or to verify the inquiry files of such officer; such preliminary investigation must have no impact to the routine work of the officer of National Anti-Corruption Commission. Once the preliminary investigation's result was released, it must be notified to the National Anti-Corruption Commission in order to take further proceed accordingly. In case that the Anti-Corruption Commission esteems that the action taken by the Auditor General will have negative impact against the function of its officer, it may notify its impediment decision to the Auditor General and send this preliminary investigation report to the National Anti-Corruption Commission for further proceed.

**Section 8.** For the sake of suspension or suppression of potential damage of monetary matter or public finance, the Auditor General must submit report concerning the violation of Public Financial Law, of which may create a serious damage to the public finance of State, to the Commission for consideration.

If the Commission agrees with the said report under paragraph 1, the Commission must convene a meeting for consultation between the Election Commission and the National Anti-Corruption Commission. If the participant at the meeting agrees with the outcomes of the report by two-third majority; the President, President of the Election Commission and the President of the National Anti-Corruption Commission must sign and submit their report to the House of Representatives, the Senate and the Ministerial Council without delay and must inform the public as well.

All members of the State Audit Commission, Election Commission and National Anti-Corruption Commission must participate the said meeting under paragraph 2. Those who missed the meeting, taken no-vote or abstained, must be deemed as a grave breach violator of the Code of Ethics, but they may resign before the date of the meeting or before voting, as the case may be.

During the Meeting under paragraph 1, The Auditor General shall have the right to participate in the Meeting and may express his or her opinion but shall have no right to vote.

The agenda and other procedural matters of the co-meeting will be organised

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by the decision of the participants.

**Section 9.** The President of the State Audit Commission shall be responsible for having charge and control of this Act.

## CHAPTER ONE

### GENERAL PROVISIONS

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**Section 10.** State Audit must be performed in good faith, due care, transparency, neutral, courage, no impartiality and conform to the good governance principle.

Audit execution must be taken into consideration of the good performance of State officials, Directive Principles of State Policies, National Strategy including value for economy, public order, public trustworthiness, good and useful performance, efficiency and effectiveness of the public expenditures and the prevention of possible damages of public finance.

**Section 11.** In every audit execution, the auditor must perform their duties under relevant auditing standards and must give a chance for the Audited Agencies to bring any evidence to support and explain their arguments and/or justification.

## CHAPTER TWO

### STATE AUDIT COMMISSION

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**Section 12.** The State Audit Commission consists of seven Commissioners appointed by the King upon the advice of the Senate from the persons selected by the Selection Committee.

The selected persons must be an imminent honest person, well educated person, having knowledge and expertise in state auditing, law, accounting, internal auditing, public finance and other related matters of which may be useful for state audit at least not lesser than 10 years of experiences.

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**Section 13.** Beside of the qualifications as provided in Section 12, the Commissioners shall also possess the qualifications as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than forty-five years and not reaching seventy years of ages;
- (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 14.** The Commissioners shall not be under any of the prohibitions as follows;

- (1) being or having been a judge of the Constitutional Court or a person holding a position in any Independent Organ;
- (2) being addicted to narcotics;
- (3) being bankrupted or having been dishonestly bankrupt;
- (4) being an 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 right to stand for election, or being a person whose right to stand for election has been revoked;
- (9) being sentenced by a judge to imprisonment and imprison by a warrant of the Court;
- (10) having been dismissed from official service, a State agency or a State enterprise on the ground of dishonest performance of duties or being deem as being 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

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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 a State organisation or agency; an offence against property committed in bad faith under the Penal Code; an offence under the law on the borrowing of money amounting to public fraud; an offence of being a producer, importer 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 of 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 an election;

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

(15) having been removed from office by a judgment of the Supreme Court for committing: any proposal, submission of a motion or commission of any violation act, which results in direct or indirect involvement by Members of the House of Representatives, Senators or members of a standing committee in the use of the appropriations;

(16) having been removed from office by a judgment of the Supreme Court or for the Supreme Court's Criminal Division for Persons Holding Political Position for committing: a serious violation or failure to comply with ethical standard, an act involving in circumstances of unusual wealth, an act of corruption, or deliberately performs duties or exercises powers in contrary to the provisions of the Constitution or the law;

(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 election or application for selection;

(19) being or having been a member or holding 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 member position or receiving salary;

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

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(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 15.** In case where a person suitable for appointment as a member of the Commission under Section 12, it shall be the duty and power of the Selection Committee which consists of:

(1) president of the Supreme Court as Chairperson;

(2) president of the House of Representatives and leader of the opposition in the House of Representatives as committee members;

(3) president of the Administrative Court as committee member;

(4) persons appointed by the Constitutional Court and independent organs, but not appointed by the State Audit Commission, from persons who have the qualifications under section 12 and 13, are not under any of the prohibitions under section 202, and have never performed any duty in the Constitutional Court or Independent Organs comprising one person from each organ as members.

The Secretariat of the Senate shall perform duty as the administrative unit of the Selection Committee.

In the appointment of persons under ( 4 ) , the Constitutional Court and independent organs not being State Audit Commission shall nominate persons to whom the said organs have nominated as members of the Selection Committee within twenty days from the receiving date of notification by the Secretariat of the Senate. The selected persons must be impartial, evident integrity and having correct understanding on the missions of the State Audit Commission. The selected persons must be selected by simple majority of vote cast of the remaining judges of the Constitutional Court or of the Independent Organs, if the case may be. In case where there is no person having such majority, the second vote shall be applied, and in this particular case, if there are two or more candidates, the voting will be counted only amongst two leading candidates who gain more votes than other candidates, if any. In case where more than two candidates have equal votes; consequently,

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there are more than two leading candidates who gained the same support by equal votes, in this scenario, the selection process will be based on the draw lots amongst the said candidates in order to figure out who will be the two leading candidates. In this last chance of voting process, if there are still no candidate who gains simple majority of vote cast from the remaining judges of the Constitutional Court or of the Independent Organs, if any. The new voting process must be reorganised by the Selection Committee. Therefore, the former candidates must be excluded from the selection procedures.

The Secretariat of the Senate shall announce explicitly the name of the Selection Committee under (4) to the public.

In case where there are no selected persons under (2) or persons under (4) have not been selected into full scale of the total quantity of the Selection Committee's members for any reason, or having problem of time lapse for selection under paragraph three and no nomination of the selected persons occurred; it must be deemed that the actual remaining Selection Committee will perform its duty and exercise its power for the time being. During that period, it must be deemed that the Selection Committee will consist of the remaining Selection Committee at that moment.

The Selection Committee under (4) will hold term of office until the date before the new selection process will be commenced but not included in the case of re-selection or of additional selection under section 16 paragraph four, section 17 paragraph two and three and section 18. The said elected persons must be vacated office before the end of their term when they died, resigned, disqualified or having prohibited qualification.

Those who were nominated as the Selection Committee under (4) shall have no right, at the same time, to holding a position in the Selection Committee for the Constitutional Court or for the other Independent Organs.

The President and Members of the Selection Committee shall be an official under the Penal Code.

**Section 16.** In the selection process, the Selection Committee shall deliberate with a view to selecting a person having high responsibility, courage in performing duties, and ethical behaviour that can be a good role model of the society. In addition to the process of announcement for application for the position, the Selection Committee may select persons who are generally suitable, provided that consent from such person must be obtained. In this regard and for these purposes, by taking consideration on the diversity of expertise in different fields of the candidates, the selection process of the Selection Committee shall be made by interview, exposure of knowledge vision or by other appropriate methods

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as it may be deemed necessary for consideration.

In the selection process, voting shall be passed by open voting and each commissioner must take note of its own reason together.

The person who will be selected must have two-third majority of vote cast of the remaining Selection Committee.

In case where there is no person having voting support under paragraph 3 or only few qualified persons can be selected, vote for re-selection for those who have no voting support of such two-third majority must be endorsed. At this latest voting, if there are no qualified persons can be selected to fill up into full number of positions under the requirement, the re-selection process shall be organised in order to fill up the remaining vacant positions.

The Secretariat of the Senate shall announce the list of the candidates within three days from the closing application's date. The said announcement must provide requirements relating to the details of qualification and curriculum vitae of the Applicant as determined by the Selection Committee.

**Section 17.** A person who is selected must obtain the approval of the Senate with the vote not less than one half of the total number of the existing members of the Senate.

In case where the Senate disapproved any selected person, vote for re-selection must be organised in replacing of that person and submitting the new selected person to the Senate for further approval. In this case, those who are not disapproved by the Senate at this time cannot be re-selected.

In case where there are approved persons from the Senate and in case of the vacation of office of the President, the approved persons must have a meeting with the remaining Commissioners, if any, in order to select their President among themselves and inform the President of the Senate thereafter. In case where the number of approved persons by the Senate is not met, but when combining with the remaining Commissioners, if any, there are five Commissioners in total. The said Commissioners can convene a meeting and voting for their President, and once the King nominated them already, they can take action provisionally in accordance with their duties and powers. During this period, it must be deemed that the Commission consists of the remaining number of Commissioners and must be re-selected in order to fill up the whole vacancy without delay.

The President of the Senate shall report to the King for appointment

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of the President and the Commissioners and countersign the Royal Command.

**Section 18.** A person approved by the Senate to be commissioner who has not yet vacated office under section 14 (20), (21), (22) or is still engaged in a profession under section 14 (23), shall present evidence of resignation or termination from engaging such profession to the President of the Senate within the period as provided by the President of the Senate, which shall be the period before the President of the Senate reports to the King for appointment. In case of failure to present evidence within such period, it shall be deemed that such person has waived his or her rights and the selection process shall be renewed.

**Section 19.** In case where there are some problems relating to the qualification or any of the prohibition applicable to the candidate or the selected person, it shall be the duties and powers of the Selection Committee to undertake the selection. The decision of the Selection Committee is final.

Submission for the consideration of the Selection Committee under paragraph one shall be in accordance with rules and procedures as determined by the Selection Committee.

The decision shall be made by open voting.

Paragraph one, two and three shall be applied *mutatis mutandis* in case of any problem relating to the qualification or any of the prohibition applicable to the Selection Committee is deemed to be exist, but the accused selection committee cannot join the meeting during that session and has no right to vote.

**Section 20.** The President of the Selection Committee and its committees shall have the right to receive meeting allowance and other compensations as determined by the President of the Senate, but in case of the allowance, the Commissioners shall receive such allowance in each time that they join the meeting at the half rate receiving in each month of the President or of the Members of the National Assembly Committee under the Parliamentary Officers Act, if the case may be.

**Section 21.** The Commissioners shall hold office for a term of seven years as from the date of appointment by the King and shall hold office for only one term.

In case where the term of the commissioner has been expired, the vacated commissioner shall perform its duties until a newly appointed commissioner takes office.

**Section 22.** In addition to the vacation of office upon the expiration of term, the commissioner vacates upon:

- (1) death;
- (2) resignation;
- (3) being disqualified under section 12 or section 13 or being under any of the prohibition under section 14;
- (4) being removal from office due to other causes under the Constitution.

The vacated President must be vacated as well from the position of commissioner.

In case where there are problems whether any commissioner vacates office or not under (2) or (3), it must be deemed that it is the duty and power of the Selection Committee to decide. The decision of the Selection Committee shall be final.

In case where there is no President in office or the President cannot perform its duties, the Commissioners must select one of them to be the President.

In the period during which a commissioner vacated office before the expiration of the term, and a commissioner has not yet been appointed to fill the vacancy, the remaining Commissioners may continue to perform duties, but in case where the remaining Commissioners are fewer than four persons, they can perform their duties only in the case of extreme necessity.

In case where there will be the commissioner who vacates from office due to its term was expired, the re-selection process must be done within one hundred and twenty days before the date of expiry term of the Commissioners. In addition to the vacation of upon the expiration of term, a commissioner vacated by other causes, and not upon the expiration of term, the re- selection process must be done within ninety days from the date of the vacancy.

**Section 23.** When the petitioner requests with the sufficient evidence that any commissioner has vacated office under section 22 (2) or (3), the Secretariat of the Senate shall refer a matter to the President of the Selection Committee within five days as from the date of the petition and the President of the Selection Committee must decide the case without delay. Such decision shall be done by simple majority and open vote. In case where there is equal votes, the President of the Selection Committee shall have an additional vote as casting vote.

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The evidence under paragraph one shall be determined by the President of the Selection Committee.

**Section 24.** In case where a commissioner must cease performing duties due to the petition and the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Position has accepted the case, and in case where there are Commissioners lesser than one-half of the total numbers of the existing Commissioners; the President of the Supreme Court and the President of the Administrative Court shall fill up the vacancy of seven Commissioners by jointly appointing persons who possessed the same qualification and are not under the same prohibition applicable to the Commissioners in order to perform provisionally the Commissioners' duties. The appointed person shall perform duties as a commissioner until the commissioner who has been provisionally replaced is able to perform duties, or until a new commissioner is appointed to fill the vacancy.

**Section 25.** Subject to section 22 paragraph five, at the meeting of the Commission, the presence of not less than one-half of the Commissioners is required to constitute a quorum. In case of absence, the commissioner who cannot join the meeting shall record his or her reason in the minutes of meeting.

In casting a vote, a resolution shall be made by a majority of votes. The President and the Commissioners must vote together and each commissioner shall have one vote. In case of an equality of votes, the President shall have an additional votes as a casting vote.

Absence or leave out from the meeting under paragraph two without reasonable excuse of any commissioner must be deemed as intentional performance of duties or exercise of powers which is contrary to the ethical standards.

The President shall be the Chairman of the meeting. If the President is absent, the Commissioners who join the meeting shall elect the Chairman of the meeting in his or her place in accordance with the rules and procedures prescribed by the Commission.

In the meeting of the Commission, the Auditor General must join the meeting, deliberate all facts and express his or her opinion unless it is the meeting under section 50 (4).

The President, the Commissioners and the Auditor General shall receive the meeting allowance in each time of the meeting at the same rate of the committee in accordance with the Royal Decree Establishing Meeting Allowance of Committee.

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**Section 26.** The Commissioners shall perform duties with honest, just, courageous, and without any partiality in exercising its discretion and shall act in accordance with the ethical standards. While in office, the Commissioners shall not enroll to educate or training in any curriculum or program except the curriculum or the program setting by the Commission exclusively for the Commissioners.

**Section 27.** The Commission has duties and powers as follows:

- (1) to set State audit policies;
- (2) to prescribe standard rules relating to State audit;
- (3) to oversee the State audit compliance with (1) and (2) and the law on fiscal and financial discipline of the State;
- (4) to render advice, suggestion or recommendation on the spending of State funds to be in accordance with the law on fiscal and financial discipline of the State, including suggestion to the State agencies to correct faults in the spending of State funds;
- (5) to order an administrative penalties in the case of a violation of the law on fiscal and financial discipline of the State.
- (6) to exercise other duties and powers under this Organic Act or other laws.

In the case of prescribing standards under (2), the Commission shall take consideration to opinion of the audited agencies and of other administrations as well.

**Section 28.** In setting of the State audit policies under section 27 (1), the Commission shall set annual State audit policies and long-term State audit policies consisting at least the essential elements as follows:

- (1) directions and objectives of State audit;
- (2) effectiveness of State audit;
- (3) development of State audit for better efficiency and celerity.

State audit policies made by the Commission shall be notified to the House of Representatives, the Senate and the Council of Ministers and disclosed to the public.

**Section 29.** State audit standards as determined by the Commission under section 27 (2) must be conformed with the principles and rules of international audit standards generally accepted as a whole and can be applicable until the Commission pass resolution for modification as the case may be appropriate accordingly. However, such modification, if it concerns to any audit entity, must be notified and provide enough length of time to concerned

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audited agencies for their consideration.

State audit standards under paragraph one must be disclosed to the audited agencies and to the public.

In case where any audited agency esteemed that State audit standards under paragraph one create problems or obstructions to its implementation or still contradict with laws, regulations, rules, cabinet resolutions or bureaucratic patterns, it must inform the Commission to take consideration for improving and modifying the said standards or suggest for the amendment of laws, regulations, rules, cabinet resolution or bureaucratic patterns as the Commission may deem necessary.

**Section 30.** State audit standards under section 27 (2) shall consist at least the elements as follows:

- (1) audit methods in each aspect;
- (2) rigidity in professional State audit ethics;
- (3) timeframe of auditing;
- (4) audit executing methods;
- (5) advice or recommendation relating to problems solving of audited agencies;
- (6) communication with audited agencies for their explanation;
- (7) reporting, notifying and disclosing audit results.

**Section 31.** Referring to State audit policies and State audit standards under section 27 (1) and (2), if the Auditor General esteems that the State audit policies and the State audit standards are discriminatory measures against audited agencies or beyond his or her duties and powers in term of State audit responsibility or they appear in jeopardy against his or her independence, he or she has the rights to request the Commission in order to review the said State audit policies and State audit standards.

Resolution of the Commission under paragraph one is final unless the Auditor General esteems that State audit policies and State audit standards appear in jeopardy against his or her independence, he or she may submit the case to the Constitutional Court to decide.

**Section 32.** Notwithstanding the duties and powers under section 27, the Commission may dispose rules, announcements or regulations as follows in order to:

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- (1) oversee the State audit compliance under section 27 (3);
- (2) organise performance assessment of State Audit Office of the Kingdom of Thailand based on independent assessor;
- (3) collect charges for services of State Audit Office of the Kingdom of Thailand;
- (4) implement other necessary measures as it may deem necessary for the efficient works of State Audit Office of the Kingdom of Thailand.

It is permissible that rules promulgated under (1) may impose the Auditor General to release brief State audit report in each trimester.

**Section 33.** In addition to the State auditing under section 27 (3), In case where the Commission found that audit examination is not conform with State audit policies or State audit standards as promulgated by the Commission or not conform with law on fiscal and financial discipline of the State, the Commission may give order to the Auditor General to improve, modify or implement accordingly.

Before giving such an order under paragraph one, the Commission must, in this regard, take account of explanation and report of the Auditor General.

**Section 34.** In case where the Auditor General esteems that there are some problems relating to the implementation of State audit policies or State audit standards and may need advice from the Commission, he or she may consult the Commission in order to have advice or recommendation to solve the said problems.

**Section 35.** In case where any audited agency esteems that the Auditor General or the authorised person violates State audit policies or State audit standards, it may submit its complaint to the Commission and ask the Commission to decide the case.

Rules, procedures and requirements under paragraph one shall be determined by the Commission.

**Section 36.** In case where it is necessary to have information or any specific case study, the Commission may hire someone or some institutions who are expert on that matter to provide services accordingly. In this regard, the Commission shall consider the economy and the effectiveness of that task. Before conclude hire contract or before appoint any person, the Commission must determine clearly the objectives, the effectiveness and the duration of the performance of such duties.

Rules and procedures of hiring and remuneration of the said person or the said institution or appointment of sub-committee, the vacation of office, the remuneration, other benefits and practices of sub-committee shall be conform with the rules determined by the Commission.

**Section 37.** In performing of State auditing under this organic act, the Commission has powers to request explanation letter from audited agencies or request documentary evidences or other relevant evidences to the Commission as well as to summon the auditee in order to scrutinise the facts as a ground for consideration of the Commission.

**Section 38.** Salary, emoluments and other benefits of the Commission shall be determined by relevant laws.

The Commissioners shall have lump- sum appropriation in each month in accordance with the rate as determined by the Ministry of Finance but not lesser than emolument of the President or of the Commissioners, as the case may be.

**Section 39.** The Commissioners who hold position not lesser than one year shall have gratuity in one time only when they are vacant office under the following conditions:

- (1) term of Commissioners was terminated;
- (2) death;
- (3) resignation;
- (4) being seventy years old.

In term of calculation of gratuity, it shall be calculated on the basis that salary under section 38 multiplied by the number of performing years. The numerator of performing year shall be counted as one year.

Right to gratuity is personal right and cannot be transferred unless in case of death, the couple or other relatives who had informed this fact shall have heritages, and if the death occurred due to the performance of duties, the gratuity under paragraph two shall be granted at a double rate accordingly.

### CHAPTER THREE

#### AUDITOR GENERAL

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**Section 40.** There shall have one Auditor General appointed by the King according to the advice of the Senate upon the nomination of the Commission.

The Auditor General shall have the same qualification and have no other prohibited qualifications.

**Section 41.** In case where the appointment of the Auditor General needs to be implemented, the Commission shall carry out the selection of persons who are suitable for appointment as Auditor General.

**Section 42.** In the selection process of the Auditor General, the Commission shall announce publicly the announcement for the application for the position of the Auditor General in advance at least not lesser than 30 days. In this regard, the Commission must announce all names of the candidates to the public and take consideration on public opinion relating to the candidates' qualifications.

Rules, procedures, requirements of application and timeframe of all selection process shall be determined by the Commission.

**Section 43.** The Commission shall select a person who have knowledge, expertise and experiences relating to State auditing, laws, accounting, internal auditing, public finance, public fiscal and other experiences for the benefit of State auditing including high responsibility, courage in performing duties, behavior that can be a good role model of the society and a good attitude in performing duties for success.

**Section 44.** In the selection process, voting shall be organised by open voting and each commissioner must hereby take note of its own reason together.

A person who will be nominated for the appointment as the Auditor General shall have two-third majority of vote cast of the total remaining number of the Commission. In case that no one can have two-third majority of vote cast, the selection process shall be as follows:

(1) in case of only one person is candidate, the selection process shall be renewed;

(2) in case that there are two candidates, selection voting shall be renewed. If no one have two-third majority of vote cast yet, the selection process shall be renewed;

(3) In case that there are more than two candidates, the first and second rank of the candidates shall subject to be voted again. If no one have two-third majority of vote cast, the selection process shall be renewed.

If there are more than two candidates who have highest rank having equal vote, the President shall pick a draw for two candidates, and selection voting shall be renewed.

**Section 45.** When the Commission has selected already a person to be appointed as the Auditor General, the Commission shall nominate that person with his or her consent to the President of Senate.

The provision of Section 18 shall be applied *mutatis mutandis* to the selected person as well.

**Section 46.** The person who was nominated for appointment to be the Auditor General shall be approved at least not lesser than one half majority of the total remaining senators by the Senate.

In case where the Senate did not approve the nominated person, the selection process should be renewed and new nominated person shall be resubmitted to the Senate for approval. Person who are disqualified to be the Auditor General at this stage shall not be enrolled into the renew selection process.

The President of the Senate shall respectfully report to the King and countersign the Royal Command.

**Section 47.** The Auditor General shall have term of services for six years and shall not hold office more than one term.

**Section 48.** The Auditor General shall be independent in performing duties,

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be accountable to the Commission, and be the highest superior official of the secretariat of the State Audit Commission.

In performing duties under paragraph one, the Auditor General shall hear advice, recommendations or objections of the Commission of which its independence shall not be jeopardised.

**Section 49.** The Auditor General shall perform duties on a full-time basis and shall perform duties and powers in an honest, just, brave manner, and without any partiality in exercising discretion and conduct himself in accordance with ethical standard rules during his period of holding the position. The Auditor General shall not be allowed to enroll any training courses or programs unless the said courses or the said programs are particularly designed only for the Commissioners or the Auditor General.

**Section 50.** In addition to vacating office on the expiration, the Auditor General shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified pursuant to Section 13 or being under the prohibitions pursuant to Section 14;
- (4) the Commission decides to vacate his position with three-fourth of the total existing Commission's votes because he has intentionally violated policy or standard rules relating to State Audit imposed by the Commission when the Commission ordered to recover his act and there is no recovery within an appropriate timeframe which may cause serious damage to the public service.
- (5) being vacated upon other causes under the Constitution
- (6) being disable to work on a full-time basis

**Section 51.** In case where the Auditor General shall cease his performance due to being accused and the Supreme Court or the Criminal Division for Persons Holding Political Position of the Supreme Court accepts the charge. The Deputy Auditor General who is the most senior shall act as the Acting Auditor General until the Auditor General becomes in charge or there is an appointment of a replaced Auditor General.

The determination of seniority under paragraph one shall be upon the rule as prescribed by the Auditor General with the approval of the Commission.

**Section 52.** The Auditor General shall earn salary, position allowance, commuted remuneration, and other pecuniary advantages as a commissioner.

**Section 53.** The Auditor General shall have the duties and powers as follows:

- (1) to execute State audit in accordance with the State audit policies and the standard rules relating to State audit as determined by the Commission, and in accordance with the law on fiscal and financial discipline of the State;
- (2) to assess the effectiveness and efficiency of the expenditure of government agencies;
- (3) to entrust officials to proceed under (1) and (2);
- (4) to supervise and be responsible for the performance of duties of officials under (3).

In addition to the audit of audited agencies in accordance with the definition of “audited agencies” under Section 4(7), the audit shall be applied only to subsidy or works sponsored by money or invested property from audited agencies in accordance with the definition of “audited agencies” under Section 4 (1), (2), (3), (4), or (6) in order to know whether the expenditure is pursuant to their purpose.

**Section 54.** In addition to the duties and powers under Section 53, the Auditor General shall have the additional duties and powers as follows:

(1) to impose the annual audit plan for the State Audit Office of the Kingdom of Thailand's compliance and to inform such a plan to the Commission;

(2) to examine the annual State financial report and express an opinion of whether public expenditure is compliant to laws or accurate or not;

(3) to examine the annual reserved fund and express an opinion of whether the report is compliant to laws or accurate or not;

(4) to inform the audit outcomes and follow up the action taken by the relevant government agencies in order to know whether such action is compliant with the audit outcomes or not;

(5) to provide the rule of office's performance of duties that shall not be contrary to or inconsistent with the regulations, declarations, or the resolutions of the Commission;

(6) to appoint consultants or experts in academic or relevant fields in order to assist the office's performance as determined by the Commission's regulation;

(7) to employ and impose employment fees for consultants or experts as determined by the Commission's regulation;

(8) to assign officials to proceed under (2), (3), (4), and (7) paragraph three and to be responsible for the performance of duties of these officials;

(9) to proceed any other duties as imposed by law or assigned by the Commission.

The annual audit plan under (1) shall be consistent with policy and standard rules relating to State Audit imposed by the Commission.

**Section 55.** In the performance of duties and powers under Section 53 and 54, the Auditor General or officials assigned by the Auditor General shall be prohibited to proceed the audit by requesting audited agencies any expense as conflict of interests.



**Section 56.** The disclosure or distribution of audit information during audit process to the public is prohibited until there will be the final audit outcomes unless the disclosure or distribution is necessarily for preventing any damage to the State. In this regard, the Auditor General may disclose or distribute such audit information which may be useful to the public in accordance with the regulations of the Commission. However, in any cases, the said disclosure or distribution shall not be regarded as the decision on the action taken as guilty.

**Section 57.** In case where audited agencies ask a question about the compliance with this Organic Act, the law on fiscal and financial discipline of the State, or any subject matter under the audit power of the Auditor General; the Auditor General or assigned officials shall rapidly reply such a question, in written form, not less than thirty days from the requested date.

In case where the audited agencies has complied with paragraph one or where the relevant responsible agencies for the enforcement of laws, rules, regulations, cabinet resolutions, or good governance practices in public sector, has already informed such matter, it shall not be regarded as an illegal act or wrongful act, but the Auditor General shall not be deprived to revise the answer thereof or argue with other agencies which are responsible for the said enforcement of the said laws, rules, regulations, cabinet resolutions, or good governance practices in public sector. In case where the solution of problems is provided differently, it shall not be jeopardised against any former accomplished action.

## CHAPTER FOUR

### STATE AUDIT OFFICE OF THE KINGDOM OF THAILAND

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**Section 58.** The State Audit Office of the Kingdom of Thailand shall be established as an independent agency under the Constitution and as a juristic person which shall be under the command of the Auditor General.

The State Audit Office of the Kingdom of Thailand shall be Secretariat Office of the Commission.

**Section 59.** The State Audit Office of the Kingdom of Thailand shall have the duties and powers as follows:

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(1) to be responsible for secretarial works and facilitating the Commission to implement its missions under the Constitution, this Organic Act, and other laws;

(2) to facilitate, help, promote, and support the performance of functions of the Commission, Commissioners, and Auditor General;

(3) to educate audited agencies to realise their compliant duties relating to laws, regulations, rules, cabinet resolution, and good governance practices in public sector;

(4) to provide the training program and develop knowledge and comprehension of its own officials or other staffs in order to support and promote the audit procedures;

(5) to cooperate with foreign or international agencies relating to State audit;

(6) to provide the annual report and mid-term report on the outcome of performance functions to the Commission for providing an advice, recommendation, or objection and consider for approval before presenting the said report to the House of Representatives, the Senate, and the Cabinet;

(7) to follow up the implementation of audited agencies pursuant to the Office's recommendation;

(8) to collect the Auditor General's and officials' orders towards the audited agencies in terms of audit outcomes in order to propose the Commission to set up the standard rules for officials' performance of their duties including publishing the said rules to audited agencies and people;

(9) to publish the audit outcomes to the people in accordance with the regulation as determined by the Commission;

(10) to perform any other duties as imposed by law, or assigned by the Commission, or the Auditor General.

**Section 60.** In addition to the supervision of the State Audit Office of the Kingdom of Thailand, the Commission shall have power to provide the regulation or announcement relating to the subject matters as follows:

(1) the division of internal structure of the Office and scope of powers and duties of its organs;

(2) the determination of position, classification of position, and level of position and comparison of position with a salary rate, position allowance, and other pecuniary advantages of officials;

(3) the determination of qualification, recruitment, assignment, appointment, resignation, discipline, complaint, and other necessary issues on human resources

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management;

(4) the determination of procedures and conditions to hire the Office's staffs including their salary rate, position allowance, and other pecuniary advantages;

(5) the determination of conditions and procedures to hire consultants or experts for helping the Office's function including their salary rate or other compensations of the consultants or experts;

(6) the management of financial resources, assets, budgets and Office's inventory;

(7) the welfare support or other social support for the Office's officials and other staffs;

(8) the determination of the uniform and costume of the Commission, the Auditor General, officials and other staffs.

The implementation under (1) and (2) shall take account into the efficiency and flexibility as well.

The determination under (2) and (4) shall regard living costs, living sufficiency, and different responsibilities of each sectoral and level official.

For the promulgation of regulations under paragraph one, the Commission shall take into account the equity of treatment, incentives and morale of its officials.

The President of the State Audit Commission shall be a person who sign the regulations or announcements as approved by the Commission and published in the Government Gazette.

The implementation under this Section shall not result in amount to a permission for the Commission to assign, appoint, remove, promote officials and increase their salary, except in the case of the Deputy Auditor General or equivalent position, the Commission may do so only if the Commission has adopted are solution of approval.

In case where the Deputy Auditor General or equivalent position shall be appointed, it shall respectfully inform the King for the appointment.

**Section 61.** The Office's official refers to a person who is assigned and appointed to be a governmental official under this Organic Act.

The Office's official shall be an official under the law on governmental pension fund.

In case where any human resources management in administration is not stipulated in the provisions of this Organic Act, regulation, or announcement passed under

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this Act, the law on civil service shall be applied *mutatis mutandis* to the human resources management in public administration.

The payment of salary and position allowance to the Office's officials shall be performed under the relevant law.

**Section 62.** Subject to Section 61 paragraph six and for the advantages of compliance with Section 61, the Commission shall play its role as the Civil Service Commission according to the law on civil service and shall have powers to appoint Sub-Committee as the Office's Sub-Committee for the civil service of which the composition and duties shall be determined by the Commission.

The Sub-Committee as appointed shall play its role as the Ministry's Sub-Committee under the law on civil service.

In addition to the performance of duties of the Commission as a central organ for human resources management and the performance of duties of the appointed Sub-Commission, they shall be entitled to receive the payment of meeting allowance as in the case of the meeting allowance's payment for the Civil Service Commission or the Sub-Commission.

**Section 63.** The Commission shall provide ethical rules of conduct for the Office's officials and other staffs. These rules shall impose sanctions against any violation or omission.

**Section 64.** The transfer of any governmental official under other laws to be the Office's official shall be acceptable if such an official is willing. A person who has power relating to the appointment shall agree with the chief of such an official and submit such matter to the Commission for approval. The appointment of what positioning level and salary rate shall be pursuant to the rules and condition as laid down by the Commission; however, the salary rate shall not exceed over the salary rate of other Office's official who has the same qualification, capability, and proficiency.

For the benefit of calculating governmental service period, it shall be deemed that the governmental service period or other type of service period of any official under paragraph one shall be counted as the governmental service period under this Organic Act.

The transfer of a political official and governmental official who remains under probation period of the governmental service in order to be appointed as the Office's official shall be prohibited.

**Section 65.** In addition to the Office's performance of duties in relation to a third party, the Auditor General shall act as the representative of the Office. In consequence, the Auditor General may assign an official to act on behalf of him under the regulation as determined by the Commission.

**Section 66.** In addition to the performance of duties under this Organic Act, the Auditor General, the Office's officials and other staffs shall present the Office's identification card to relevant persons.

The Office's identification card under paragraph one shall be created in

accordance with a designed pattern as determined by the Auditor General and shall be published in the Government Gazette.

**Section 67.** In addition to the performance of duties under this Organic Act, the President, the Commissioners, the Auditor General, and any official who is assigned pursuant to Section 53, 54, and 93 of this Organic Act shall be an official under the Criminal Code.

**Section 68.** The Auditor General with the Commission's approval shall submit the expenditure budget in order to be allocated as the subsidies of the Commission and of the Office of which shall be stipulated in the provisions of Draft Annual Expenditures Act or the Draft Additional Expenditures Act, as the case may be.

In case where the Auditor General esteems that the expenditure budget which was allocated is inadequate, the Auditor General with the Commission's approval shall directly submit a motion to amend the Annual Expenditures Act to the Expenditure Budget Committee under the House of Representatives.

In addition to the submission of such expenditure budget, the Auditor General shall take the audit outcomes of the audit team into consideration pursuant to Section 74.

In addition to the submission of the expenditure budget pursuant to paragraph one and two, the Auditor General shall inform the existing incomes and remaining assets to the Cabinet.

**Section 69.** In case where the Annual Expenditure Act or the Additional Expenditure Act pursuant to Section 68 have been entered into force, the State Audit Office of the Kingdom of Thailand shall prepare the annual expenditure budget of the said Office in order to request the approval from the Commission and publish it to the people at large.

The Office's expenditure shall be in accordance with the annual expenditure budget under paragraph one unless it shall be approved by the Commission on case-by-case basis.

To withdraw the allocated expenditure budget, the Office shall submit the request for expenditure to the Comptroller General's Department by identifying how much the Office shall spend for each instalment based on three months per each, and the Comptroller General's Department shall order to pay the relevant allocated budget to the Office within three days before the next instalment. In case where the Office is necessary to spend money more than its own declared instalment, the Comptroller General's

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Department shall pay such money as requested to the Office.

**Section 70.** The Office's incomes and assets consist of:

- (1) subsidies received under Section 68;
- (2) assets donated to the Office;
- (3) fruits or financial benefits or assets of the Office;
- (4) other incomes as provided by the law.

Receiving the assets as mentioned in (2) shall rely upon the neutral role of the Office's performance of duties. In case where the Commission deems that receiving the assets may adversely affect the neutrality of the Office's performance of duties, the Commission shall order not to receive the said assets or return them to the donator.

The expenditure of Office's income shall be pursuant to the regulation as determined by the Commission.

**Section 71.** The Office's incomes shall not be the income which must be submitted to the Ministry of Finance under the law on treasury reserve, law on budget procedures, or other laws.

The Office shall provide the report on income and expenditure under paragraph one and submit it to the House of Representatives, the Senate, and the Cabinet at the end of every fiscal year.

Immovable Property that the Office owns its title, whether by sale or donation, shall be deemed as the immovable property of State or so-called "Ratchaphatsadu Land", but the Office shall have the power to control, use or exploit it.

**Section 72.** The Office's income shall not be under compulsory execution and no one can invoke prescription for this reason.

**Section 73.** There shall be the establishment of the Supervisory Board which shall have the powers to scrutinise Office of the Auditor Team and shall assist the Audit Team to be independent in order to perform auditing job duties. The Supervisory Board shall consist of:

- (1) the President of the Senate as the Chairman;
- (2) the President of every Independent Organs as members except the President of the State Audit Commission;

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The Director General of Comptroller General's Department shall be member and secretary of the Board.

**Section 74.** The Comptroller General's Department with the Supervisory Board's approval shall appoint a team of auditors from officials of the Comptroller General's Department. The team shall consist of enough numbers of committee to scrutinise the performance of duties of the Office. Such a team of auditors shall have same duties and powers as the Auditor General's duties and powers in order to scrutinizing the State revenue of the Office pursuant to the standard rules on State audit under Section 27(2) and shall provide the audit report by submitting it to the Supervisory Board, the Commission, the House of Representatives, the Senate, and the Cabinet for their acknowledgement and for their further step of action. The said report shall be published to inform the people at large.

For the auditing under paragraph one, such a team of investigators shall have duties and powers as in the case of the Auditor General under Section 93.



**Section 75.** The State Audit Office of the Kingdom of Thailand shall provide the annual financial report on which at least consists of its financial status and financial performance budgets and submitting it to the team of auditors within 90 days from the end of fiscal year.

**Section 76.** The State Audit Office of the Kingdom of Thailand shall set up the internal audit procedure in order to scrutinise the Office's performance of duties and funds pursuant to the rules and procedures as determined by the Commission.

**Section 77.** The State Audit Office of the Kingdom of Thailand shall prepare and submit the annual report on the performance of duties to the House of Representatives, the Senate, and the Cabinet within 210 days from the end of fiscal year. In this regard, the President or the Commissioner who is assigned by the Commission and the Auditor General shall present the said report to the House of Representatives, the Senate, and the Cabinet.

The annual report under paragraph one shall demonstrate the Office's major performance of duties in every aspect, particularly an outcome and efficiency of audited agencies' expenditure unless the Commission esteems that it is necessary to keep such report in secret or it is prohibited to be disclosed by law.

In the case of the protection of governmental benefits, the Office shall occasionally publish a report apart from the report under paragraph one.

## CHAPTER FIVE

### FUND FOR STATE AUDIT DEVELOPMENT

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**Section 78.** There shall be the Fund for State Audit Development of the Office. The objectives of the Fund shall aim to support and develop the State audit in order to perform the State audit effectively.

**Section 79.** The Fund consists of money and assets as follows:

- (1) money transferred under Section 112;
- (2) income from fees relating to the Office's performance of duties;
- (3) income under Section 70(1) which remains from the Office's performance

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of duties in each year;

- (4) money or other assets donated into the Fund;
- (5) fruits or benefits deriving from money or assets of the Fund.

Money and assets of the Fund under paragraph one shall not be submitted to the Ministry of Finance as State revenue.

**Section 80.** The Fund shall be utilised, based on the following objectives, as follow:

- (1) to be expense in case where the annual expenditure budget is inadequate or cannot be withdrawn from annual government budget;
- (2) to be expense for the development of State audit's efficiency;
- (3) to add as extra remuneration and welfare of the Office's officials and other staffs;
- (4) to be expense for hiring consultants, experts, and staffs in order to facilitate the Office's performance of duties;
- (5) to be other expense which shall be beneficial to the Office's performance of duties as determined by the Fund Committee.

The payment of fund under paragraph one shall be pursuant to the regulation as determined by the Fund Committee.

**Section 81.** Fund shall be deposited at the Ministry of Finance or a State-owned bank or utilised for investment as determined by the Fund Committee. However, in terms of investment, the Fund Committee shall be prohibited to use the Fund to invest except only in the case of purchasing government bond or state enterprise's bond of which warranted by the Ministry of Finance.

**Section 82.** There shall be the establishment of the Fund Committee in which consists of the President of the State Audit Commission as Chairman, a commissioner assigned by the Commission, the Auditor General, the Deputy Auditor General assigned by the Auditor General, and the representative of Financial Department as committee members.

The Director of Fiscal and Financial Office under the State Audit Office of the Kingdom of Thailand shall be the Secretary, and the Auditor General may appoint any Office's official to be a Secretariat Assistant.

**Section 83.** The Fund Commission shall have duties and powers as follows:

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(1) to manage, arrange, approve the withdrawal of fund and control the payment of fund in accordance with the objectives;

(2) to set up and maintain an appropriate accounting system for providing the annual financial report which at least consists of its financial status and financial performance budgets pursuant to the generally accepted accounting principle;

(3) to perform any other duties pursuant to this Organic Act or laws of which be deemed as the duties and powers of the Fund Committee.

The Fund Committee shall submit its financial report under (2) to the internal team of auditors within 90 days from the end of fiscal year.

**Section 84.** The team of auditors under Section 74 shall be deemed as the Fund's auditor who is responsible for auditing of financial report of the Fund and shall provide an opinion on such a report which shall be published in order to inform the people at large.

**CHAPTER SIX**  
**DUTIES AND POWERS OF THE AUDITOR GENERAL RELATING TO AUDIT**

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**Section 85.** In case where the audit outcomes reveal faults because the audited agencies' official did not comply with the law, regulation, rule, the cabinet resolution, or good governance practices in public sector, the Auditor General shall inform, in written form, the faults together with the recommendations to the auditee in order to improve or control and not to repeat the said faults. However, the Auditor General must hear the explanation, reasons or necessity of the audited agencies. Once the auditee has already implemented any measure, such action shall be informed to the Auditor General.

Referring to action taken under paragraph one, if there is any damage to the State or audited agencies which is not relevant to the law on fiscal and financial discipline of the State, the Auditor General shall inform the auditee to pay compensation to the State or audited agencies or take disciplinary action, as the case may be. When doing so, the auditee shall inform the Auditor General.

In case where the audit outcomes together with explanation of the audited agencies demonstrate that the law, regulation, rule, the cabinet resolution, or good governance practices in public sector are inappropriate with the existing circumstance or where the compliance shall adversely affect the State or people, the Auditor General shall recommend the relevant agencies to improve the said law, regulation, rule, the cabinet resolution, or good governance practices in public sector. In this regard, when the improvement has been done, the faults of the audited agencies' violation shall be disregarded, except for the case of corruption.

**Section 86.** In case where the audit outcomes reveal that audited agencies acquire incomes or profits against the law or contract, the Auditor General shall inform the fault together with recommendation to such audited agencies in order to request them to comply with the law or contract. Moreover, the audited agencies shall inform explanation or improvement outcomes pursuant to the recommendation within a timeframe as determined by the Auditor General.

In case where the Auditor General disagrees with the audited agencies' explanation or deems that the audited agencies' improvement is not pursuant to the recommendation or there is no improvement without any reasonable cause, the Auditor

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General shall inform the Minister who supervises the audited agencies or Minister who is assigned by the law to oversee or control such audited agencies' functions or the Minister who is in charge in order to take action according to their respective duties and powers.

In case where there is an evidence that the audited agencies are mistaken to collect tax, fee, or others incomes, the Auditor General shall have power, based on the appropriate evidence, to request the audited agencies to disclose overall information deriving from the tax payer, fee payer or other incomes information deriving from other sources. In this regard, it must be deemed that the disclosure of the said information by the audited agencies to the Auditor General shall be regarded as lawful.

In addition to the Auditor General's power for the request of information disclosure from the audited agencies under paragraph three, if it is the case of tax assessment, the Auditor General may assign the Deputy Auditor General to act on behalf of himself, but shall not be allowed to assign other officials.

The auditing of tax assessment under paragraph three shall not be misuse of power of assessment on behalf of audited agencies or to make assessment decision on behalf of the assessor.

**Section 87.** In case where the audit outcomes reveal that audited agencies, having duties and powers to exercise, manage, maintain and monitor national assets, did omit or did not perform their duties as provided by the law, the Auditor General shall inform, in written form, such audited agencies together with recommendations in order to request the audited agencies to act properly and explain their implementation measures or notify a result of implementation measures within a duration as determined by the Auditor General.

In case where the audited agencies neglect to do so without any reasonable cause, the Auditor General shall inform the Minister who supervises the audited agencies, or Minister who is assigned by the law to oversee or control audited agencies, or the Minister who is in charge to take action pursuant to their relevant duties and powers; or in case where the law imposes any measure to be implemented, the Auditor General shall act such measure accordingly.

**Section 88.** In case where the audit outcomes reveals that there is a convincing evidence to believe that any actions, whether directly or indirectly, cause an involvement in an action relating to the use of expenditure of budget by the House of Representatives, the Senate, or Commission; or found that the Cabinet is an author of an act or did approve such action or did know the fact relating to such action but did not inhibit it; or found that the audited agencies' officials had prepared the project or approved the budget arrangement by knowing such action; the Auditor General shall inform the National Anti- Corruption Commission in order to take action according to their respective duties and powers.

In addition to the performance of duties by the National Anti- Corruption Commission under paragraph one, it shall be deemed that any report, document, and evidence submitted by the Auditor General to the National Anti- Corruption Commission shall be regarded as one of the investigation report of the National Anti- Corruption Commission.

**Section 89.** In order to examine outcome and efficiency, it shall be done at the last stage of examination, except the Auditor General esteems that there is an action which obviously blocks the outcome and efficiency of examination. In this regard, the Auditor General may inform this fact to the audited agencies before or during the audit process. In such a case, the Auditor General shall recommend the proper corrective measures to the audited agencies. In case where the audited agencies esteems that such recommendation may not or should not be complied by reasonable cause, the Auditor General, the audited agencies, and other relevant agencies shall jointly discuss for finding a solution as soon as possible in order to prevent the damage. When there is a solution of such problem, the audited agencies shall take action in accordance with that solution.

**Section 90.** In order to examine outcome and efficiency of audited agencies' expenditure, the Auditor General shall provide an audit report and express his or her opinions on this matter in order to know whether the audited agencies' expenditure was performed economically, effectively, and efficiently in accordance with the objectives

as determined by the audited agencies or not, and shall provide recommendations to such audited agencies for improving of effectiveness and efficiency of their expenditure.

The audit under paragraph one shall take account on the tradition, culture, society, local popularity and the best interest of people in different aspects including reasons and necessity of the audited agencies for such expenditure.

**Section 91.** The Auditor General shall examine a financial reports submitted by the governmental agencies under the law on fiscal and financial discipline of the State within 180 days from the end of fiscal year or from the date upon determination with the Ministry of Finance and shall inform an audit outcome to the audited agencies in accordance with the standard rules on State audit as determined by the Commission under Section 27(2).

**Section 92.** The audit of secret funds' payment or other similar payments shall be pursuant to the principles and rules as determined by the Commission. However, the said principles and rules shall not be in contrary to the objectives of secret funds' payment.

**Section 93.** In addition to the audit examination, the Auditor General and assigned officials shall have power to scrutinise money and other assets, account, registration instrument, document, or evidence of payment and other evidences under the audited agencies' responsibility and shall have the following powers:

(1) to order the auditees or the officials of the audited agencies to explain the fact in written form or to give a statement and/or submit the account, registration instrument, document, or other evidences that the audited agencies has made or has possessed for the benefits of audit examination;

(2) to freeze the account, registration instrument, document, or other evidences under the audited agencies' responsibility as it deemed necessary for audit examination;

(3) to call for any person to give a statement or submit the account, registration instrument, document or other evidences relating to the audited agencies as it deemed necessary for the benefits of audit examination;

(4) to enter into any place, from sunrise to sunset or during an operating hour, for investigating, searching, freezing, or sequestering the account, registration instrument, document, or other evidences or freezing money or asset which is related to or ought reasonably to be related to the audited agencies as it deemed necessary.

In addition to the assignment of officials under paragraph one, it has to be clear whether they shall have full or partial powers by considering their positioning level.

**Section 94.** In case where accounts and documentary evidences relating to the audit examination are in foreign language and officials cannot understand, the audited agencies shall be requested to translate them into Thai language within an appropriate duration.

## CHAPTER SEVEN

### FISCAL AND FINANCIAL DISCIPLINE

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**Section 95.** In relation to the compliance auditing of the law on state fiscal and financial disciplines, if the faults from audit results are not regarded as dishonest act and do not resulting in any damage for the State or audited agencies, the Auditor General shall inform the auditee to supervise faults and avoid repetition from the same faults as it may deem appropriate.

In case where the faults from audit results are regarded as dishonest act, the Auditor General shall submit the case to the National Anti-Corruption Commission and, in doing so, Section 88 paragraph two shall be applied *mutatis mutandis*.

In case where the faults from audit result cause any damage to the State or audited agencies or were intently done in violation of the law on state fiscal and financial discipline, the Auditor General shall inform the auditee to compensate the State or audited agencies or proceed a disciplinary punishment, as the case may be. When the auditee relieved

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the faults, he/she shall inform the Auditor General.

In case where the auditee did not take action under paragraph three within a reasonable period of time, the Auditor General shall inform him/her to take action within the duration as determined by the Auditor General.

**Section 96.** An auditee who did not comply with Section 85 paragraph two within the duration as determined by the Auditor General or Section 95 paragraph four without any reasonable cause, the Auditor General shall, as it may deem appropriate, submit the case to the Commission in order to impose an administrative penalties to the said auditee.

In respect of the administrative penalties under paragraph one, the Auditor General shall summarise the facts and circumstances as a cause of penalty together with recommendations regarding type of penalty that should be applied.

**Section 97.** Any government official, who is responsible for complying with the law on state fiscal and financial discipline, intensely violated the law, and Section 95 paragraph three or Section 96 cannot be applied to this case, the Auditor General shall submit the case to the Commission in order to impose an administrative penalties to the said official by applying the provision of Section 96 paragraph two *mutatis mutandis*.

**Section 98.** The administrative penalties consist of:

- (1) probation;
- (2) public condemnation;
- (3) administrative fine.

In terms of administrative fine, the fine rate shall not be exceeded over twelve-month of salary of the punished person.

In determining the administrative penalties under paragraph one, the Commission shall take a circumstance and the gravity of the faults and damage arising from his/her conduct into the consideration.

**Section 99.** In order to consider for determination of administrative penalty, the Commission shall mainly hold on the case report submitted by the Auditor General, but shall openly permit the defendant to give the explanation and present evidence into the consideration.

The notification of indictment and presentation of defendant's explanation

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shall be pursuant to the rules and procedures as determined by the Commission.

**Section 100.** In case where any auditee or any official of audited agencies violated any rules under this Chapter due to compliance with his/her supervising officials' order and has an evident to proof that such an auditee or official had already objected or opposed to the said order; they shall be waived from administrative penalties under this Chapter.

**Section 101.** Legal proceedings against any fault in state fiscal and financial discipline shall be extinguished as follows:

- (1) death of defendant;
- (2) proceeding towards any faults is not concluded within five years from the date that the fault was committed.

**Section 102.** The determination of penalty on state fiscal and financial discipline shall not preclude power of a punished person's supervising officials, who supervises audited agencies' performance to consider additional disciplinary sanction for such a punished person by the same cause but such additional disciplinary sanction shall not be deducted or reduced salary of the punished person.

**Section 103.** Any person who subject to administrative penalty may appeal to the Supreme Administrative Court within 90 days from the date of acquiring the punishment order.

## CHAPTER EIGHT

### PENALTIES

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**Section 104.** Any person who discloses a statement, fact, or information deriving from the official's performance of duties pursuant to this Organic Act shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding ten thousand baht or both.

Paragraph one shall not be enforced in case where there is disclosure of a final summary of audit outcomes without identifying relevant persons' name or disclosure

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in accordance with Section 56; or disclosure to the court, public prosecutor, or agencies which shall comply with the audit outcomes or the Commission resolution under this Organic Act; or any action taken in accordance with the performance of governmental duties.

**Section 105.** Any person who fails to comply with an order of Commission under Section 37 or violates the order or obstruct the Auditor General or official's performance under Section 93 shall be liable to imprisonment for a term of not exceeding six months or a fine of not exceeding ten thousand baht or both.

**Section 106.** Any person who possesses money or maintains assets, account, registration instrument, document, or other evidences of which the Auditor General or official under Section 93 has frozen, sequestered, or called for sending; however, had caused damage, destroyed, concealed, taken, lost, or degraded, shall be liable to imprisonment for a term of not exceeding five years or to a fine of not exceeding one hundred thousand baht or both.

**Section 107.** Any State official who neglects or intently fails to comply with the standard rules on State Audit shall be regarded as a disciplinary violator. In this regard, the Auditor General shall apply a disciplinary sanction against the said person pursuant to relevant laws, regulations, rules, or the cabinet resolutions.

## TRANSITORY PROVISIONS

**Section 108.** The President of the State Audit and the State Audit Commissioners who hold on their position before the date of entry into force of this Organic Act shall be the President of the State Audit Commission and the State Audit Commissioners under this Organic Act by counting a fixed-term position under this Organic Act since the date of royal appointment.

**Section 109.** The Auditor General who holds on his position before the date of entry into force of this Organic Act shall be the Auditor General under this Organic Act by counting a fixed-term position under this Organic Act since the date of royal appointment.

In case where there is a vacancy of the Auditor General position before the date of entry into force of this Organic Act, the Deputy Auditor General who are performing duties before the date of entry into force of this Organic Act shall be in charge as the Acting Auditor General in accordance with the order of the Head of National Council for Peace and Order: Order No. 43/2560 on An Appointment of Deputy-Auditor General on 22 September B.E. 2560 and its amendments; and therefore, shall keep performing duties until the appointment of Auditor General under this Organic Act has been done.

In case where there is a selection, recruitment or nomination of the Auditor General on the date of entry into force of this Organic Act, it must be deemed that such action is lawful under this Organic Act and shall proceed under this Organic Act.

It must be deemed that any person who used to be in a position of Auditor General and vacated the office before the date of entry into force of this Organic Act shall be a person who used to be the Auditor General under Section 14(1) together with Section 40 paragraph two of this Organic Act.

**Section 110.** The State Audit Office of the Kingdom of Thailand under Organic Act on State Audit B.E. 2542 shall be the State Audit Office of the Kingdom of Thailand under this Organic Act.

Rights, duties, and obligations of the State Audit Office of the Kingdom

of Thailand under Organic Act on State Audit B.E. 2542 of which are bound with any person before the date of entry into force of this Organic Act shall transfer to the State Audit Office of the Kingdom of Thailand under this Organic Act.

**Section 111.** Budgets, assets, State officials and other staffs of the State Audit Office of the Kingdom of Thailand under Organic Act on State Audit B.E. 2542 shall be transferred to the State Audit Office of the Kingdom of Thailand under this Organic Act. Rights and benefits that those persons have acquired shall continue to be effective under this Organic Act unless otherwise provided by regulation under this Organic Act.

**Section 112.** Any audit fees or other operational fees which is not submitted to the Ministry of Finance under Organic Act on State Audit B.E. 2542 shall be transferred to the Fund for State Audit Development.

**Section 113.** Any rules, regulations, announcements, resolutions and order of the State Audit Commission or the Auditor General or the State Audit Office of the Kingdom of Thailand which were passed under Organic Act on State Audit B.E. 2542 enforceable before the date of entry into force of this Organic Act shall continue to be effective as rules, regulations, announcement, resolutions and orders of the State Audit Commission or the Auditor General or the State Audit Office of the Kingdom of Thailand under this Organic Act to the extent that they are not contrary to or inconsistent with the Constitution or this Organic Act.

**Section 114.** Any performance of duties and powers deriving from the State Audit Commission or the Auditor General or the State Audit Office of the Kingdom of Thailand under Organic Act on State Audit B.E. 2542 enforceable before the date of entry into force of this Organic Act shall be regarded as performances of duties and powers under this Organic Act if the said performance is vested in the duties and powers of the State Audit Commission, the Auditor General or the State Audit Office of the Kingdom of Thailand. Any further actions shall be performed under this Organic Act.

**Section 115.** Any performances of duties and powers in relation to disciplines on budget and fiscal matters which occurred under Organic Act on State Audit B.E. 2542, and are enforceable before the date of entry into force of this Organic Act, shall be regarded as lawful under this Organic Act. For any further actions, the Auditor General or the State Audit Commission, as the case may be, shall perform their duties and powers in accordance with

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Chapter VII relating to fiscal and financial discipline; and it shall be deemed that such matter is a matter related to the fiscal and financial discipline under this Organic Act.

Countersigned by

Prayuth Chan-o-cha

Prime Minister