

**Act on
Judicial Service of the Courts of Justice
B.E. 2543**

BHUMIBOL ADULYADEJ, REX

Given on the 4th Day of May B.E. 2543;

Being the 55th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to amend the law on judicial service;

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

Section 1. This Act shall be called the “Act on Judicial Service of the Courts of Justice B.E. 2543”.

Section 2. This Act shall come into force from the date following the date of its publication in the Royal Gazette.¹

Section 3. The following shall be repealed:

1. the Act on Judicial Service of the Courts of Justice, B.E. 2521;
2. the Act on Judicial Service (No. 2), B.E. 2521;
3. the Act on Judicial Service (No. 3), B.E. 2523;
4. the Act on Judicial Service (No. 4), B.E. 2527;
5. the Act on Judicial Service (No. 5), B.E. 2528;
6. the Act on Judicial Service (No. 6), B.E. 2531;
7. the Act on Judicial Service (No. 7), B.E. 2536;
8. the Act on Judicial Service (No. 8), B.E. 2538.

¹ Published in the Royal Gazette, volume 117, section 44 Kor, page 13 dated 18th May, B.E. 2543

Section 4. In this Act,

“Judiciary Officer of the Court of Justice” means an official working for the judicial service whose salary is paid from the budget under salary section of the Courts of Justice or the Office of the Judiciary.

“Secretary-General of the Office of the Judiciary” means Secretary-General of the Office of the Judiciary under the law on judicial administration of the Courts of Justice.

“The Judicial Administration Commission” means the Judicial Administration Commission under the law on judicial administration of the Courts of Justice.

“JC” means the Judicial Commission.

Section 5. The President of the Supreme Court shall be in charge of this Act.

The President of the Supreme Court with the approval of the Judicial Administration Commission shall have the power to issue regulations for the implementation under this Act.

Such regulations shall be enforceable after its publication in the Royal Gazette.

Chapter 1 General Provisions

Section 6. The judiciary officers of the Courts of Justice are:

(1) judges are officials who have power and duty to try and adjudicate cases including judge-trainees and judicial officers appointed to other positions under Section 11 paragraph two;

(2) *Datoh Yutithum*² are appointed officials who have power and duty to give ruling on Islamic law;

² The word “*Datoh Yutithum*” was translated as “*Kadi*” in the English Name Lists of Organizations and Offices of Judges and Officials of the Courts of Justice, published by the Office of the Judiciary. According to the Act on the Application of Islamic Law in the Territorial Jurisdiction of Pattani, Naratiwat, Yala and Satun Provinces, B.E. 2489, the Islamic Law on Family and Succession except the provisions on prescription in respect of succession shall apply instead of the Civil and Commercial Code in giving a judgment in civil cases concerning family and succession of Muslims. In such case, career judges and a *Kadi* who is an expert in Islam will sit on the bench together to adjudicate the case to comply with the principle of Islam. – *Clarification added by the editor.*

(3) judicial service officers are officials who have power and duty in court administration and are instated and appointed as *officials* under the law on judicial administration of the Courts of Justice.

Section 7. Rates of salaries and professional allowance of judges and *Datoh Yutithum* shall be in accordance with the *Scales annexed to this Act*.

Section 8. Subject to Section 14, Section 24, Section 31 and Section 52, the transfer of *a* non-political officer or *a* civil service officer under the probationary period or *the* transfer of an officer of the local governmental organization to become a judge or a *Datoh Yutithum* is permissible upon his or her consent and by the agreement between the Office of the Judiciary and the original agency.

For the benefit of counting the official duration, a number of official service or working time of the transferee in paragraph one while being a civil service officer or an officer of the local governmental organization will be deemed as the official duration of a judge or *a Datoh Yutithum* under this Act, whether or not the transfer takes place before or after this Act comes into force.

Section 9. Gratuity and pensions of the judge or the *Datoh Yutithum* shall be provided in accordance with the law on the subject matter.

Any judiciary officer of the Courts of Justice who is dead or disabled due to the official performance and has to leave the service because of the disability under Section 35, JC or the Commission for Judicial Service under the law on judicial administration of the Courts of Justice may promote or increase salary for such person as a special case for the benefit of gratuity and pension calculation.

Section 10. The Secretary-General of the Office of the Judiciary shall request *a* royal decoration for a judiciary officer of the Courts of Justice and a lay judge in accordance with the law and regulation on the subject matter.

Chapter 2

Judges

Part 1

Instatement, Appointment and Promotion

Section 11. The followings are offices of judges : the President of the Supreme Court, Vice-Presidents of the Supreme Court, Presiding Justices of the Supreme Court, Justices of the Supreme Court, the President of the Court of Appeal, presidents of regional courts of appeal, the Vice-President of the Court of Appeal, vice-presidents of regional courts of appeal, Presiding Justices of the Court of Appeal, presiding justices of regional courts of appeal, Justices of the Court of Appeal, justices of regional courts of appeal, chief judges of courts of first instance, chief judges of regions, deputy chief judges of courts of first instance, chief judges, presiding judges of courts of first instance, judges of courts of first instance, junior judges and judge-trainees.

JC may designate other judicial offices than those under paragraph one in an announcement. Such offices shall be compared with the offices under paragraph one in the announcement as well.

The announcement of JC in paragraph two, after its publication in the Royal Gazette, shall be enforceable.

Section 12. In addition to the judicial offices under Section 11, there shall be an office of senior judge to try and adjudicate cases in courts of first instance.

Instatement, appointment, vacating from office, salary and professional allowance scales and entitlement to salaries and professional allowance of senior judges shall be in accordance with the law on the subject matter.

Section 13. A judge shall receive salary according to the appointed office as follows:

(1) in the Supreme Court,

(a) the President of the Supreme Court shall receive Level 5 salary;

(b) Vice-Presidents of the Supreme Court, Presiding Justices of the Supreme Court and Justices of the Supreme Court shall receive Level 4 salary;

(2) in courts of appeal,

(a) the President of the Court of Appeal and presidents of regional courts of appeal shall receive Level 4 salary;

(b) the Vice-President of the Court of Appeal, vice-presidents of regional courts of appeal, Presiding Justices of the Court of Appeal, presiding justices of regional courts of appeal, Justices of the Court of Appeal and justices of regional courts of appeal shall receive Level 3-4 salary;

(3) in courts of first instance,

(a) chief judges of courts of first instance, chief judges of regions, deputy chief judges of courts of first instance, chief judges and presiding judges of courts of first instance shall receive Level 3 salary;

(b) judges of courts of first instance shall receive Level 2 – 3 salary starting from the lowest scale of Level 2 salary;

(c) junior judges shall receive Level 1 salary starting from the lowest scale of Level 1 salary;

(4) judge-trainees shall receive salary of judge-trainee office starting from the lowest scale salary of the judge-trainee office.

A judge shall receive professional allowance for the appointed office starting from the appointed date.

Any judge holding the other judicial office under Section 11, paragraph two, as comparable to any judicial office, shall receive salary and professional allowance accordingly.

Section 14. The instatement and appointment of a judge as a judge-trainee shall be ordered by the President of the Supreme Court through an examination, a test of knowledge or a special selection as provided in Part 2 of this Chapter.

Section 15. A judge-trainee may be appointed as a junior judge after having been trained by the Office of the Judiciary for a certain period determined by the President of the Supreme Court with an approval of JC. The training period shall not be less than one year. The training result shall meet standards of the Judicial Administration Commission which indicates that he or she is honest, competent, responsible and well-behaved so that he or she is suitable to become a judge. Evaluation of the training shall be carried out according to the rules and procedures stipulated by the Judicial Administration Commission.

During the training under paragraph one, any judge–trainee is no longer suitable to be a judge, or any judge–trainee has been a judge–trainee for more period than prescribed in paragraph one up to one year and training result does not meet the standards of the Judicial Administration Commission the President of the Supreme Court, by the approval of JC shall have power to discharge him or her from the judicial service or transfer him or her to be a judicial service officer.

Section 16. After JC approves the appointment of a junior judge, he or she shall, prior to taking the office, make a solemn declaration before the King.

When it appears that any junior judge is no longer suitable to remain in the office, and the suggestion of the Judicial Administration Commission is approved by JC, the President of the Supreme Court, shall have power to discharge that person from the judicial service or have him or her transferred to be a judicial service officer.

Rules and procedures for evaluation of suitability under paragraph two shall be stipulated by the Judicial Administration Commission.

Section 17. The appointment of a person as a judge whose position is not a judge–trainee, transference and promotion of a judge as well as suspension and increase of salary and professional allowance shall be approved by JC.

A judge in a court of first instance shall be nominated and appointed from a junior judge being in office for not less than three years.

The appointment of a senior judge under Section 12 to other positions shall be prohibited.

The approval of JC under paragraph one shall take into consideration that person’s knowledge, competence, accountability and judicial service record, as well as the opinion of the Sub–Judicial Commission on the said matters under Section 47, paragraph two.

Section 18. The transfer and appointment of a judge under Section 17 is permissible only with his or her consent unless it is an annual transfer, appointment, promotion to a higher position or he or she is subject to a disciplinary action or becomes a defendant in a criminal case, according to the regulations of JC as published in the Royal Gazette.

Section 19. Upon the approval of JC, the appointment, transfer and promotion of a judge under Section 17, shall be submitted to the King for the Royal Command of Appointment.

Section 20. A judge holding any of the following offices shall have salary and professional allowance as stated in the List of Salaries and Professional Allowance of Judges attached hereto within the following duration:

(1) the Vice-President of the Court of Appeal, vice-presidents of regional courts of appeal, Presiding Justices of the Court of Appeal, presiding justices of regional courts of appeal, Justices of the Court of Appeal and justices of regional courts of appeal, after being in Level 3 for seven years, shall have salary and professional allowance elevated to Level 4;

(2) judges of courts of first instance, after being in Level 2 for five years, shall have salary and professional allowance elevated to the lowest scale of Level 3, and after being at the lowest scale of Level 3 for three years, shall be eligible to be promoted to the highest scale of Level 3 salary and professional allowance.

Judges holding the offices otherwise named equivalent to any offices in (1) or (2), shall have salary and professional allowance elevated to such offices.

Salaries of judges under Section 13 (3) (b) and (c) and (4) shall be increased one step each year, unless any judges have already received salaries at the highest scale of the offices where there shall be no further review to raise annual salary.

Section 21. In case of necessity and for the benefit of the judicial service, the President of the Supreme Court shall have power to order any judge to work temporarily in the office not lower than the present office for not more than six months. If such period exceeds six months, the President of the Supreme Court shall seek prior approval from JC.

The order under paragraph one shall be subject to the consent of such judge.

A senior judge under Section 12 shall not be ordered to work temporarily in other offices under paragraph one.

Section 22. For the benefit of the judicial service, any judge appointed to a new office shall work in his or her former office until taking up the new office but shall not exceed one month from the date the Royal Command of Appointment is received. However, in case of necessity, he or she may work in former office for a period designated by JC.

Section 23. The President of the Supreme Court may order the transfer of a judge to be a civil service officer, a judicial service officer or any other officer when having his or her consent and the approval of JC.

Section 24. When a judge, leaving from office without fault or disgrace in the judicial service, or transferred to be a civil service officer or other officer, submits his or her petition to return or to be transferred back to the judicial office with a salary not higher than the one he or she received when leaving the judicial office, and he or she is duly qualified and does not possess any prohibition as prescribed in Section 26, the President of the Supreme Court, with the approval of JC, may order the reinstatement and report to the King for the Royal Command of Appointment.

The provision in paragraph one shall be also applicable to a judge leaving the judicial office and being transferred to be a judicial service officer and submitting the petition to be transferred back to be a judge. However a judge who was transferred to be the Secretary-General of the Office of the Judiciary, may request to be transferred back as a judge holding the office having the same seniority as before and receiving the same salary and professional allowance as judges of the equal seniority as he or she while being a judge.

Section 25. Any judge, entering the military service according to the law on military service, who leaves the military without any disgrace and intends to return to the judicial service as a judge with the same salary as he or she received while leaving to serve in the military, may submit his or her petition within one hundred and eighty days after leaving from the military service. In such case, the President of the Supreme Court may order an appointment upon the approval of JC and report to the King for the Royal Command of Appointment.

Part 2

Examination, Knowledge Test and Special Selection

Section 26. Any applicant for an examination, a knowledge test or a special selection to be a judge-trainee must possess the following qualifications and without any prohibitions:

- (1) being of Thai nationality by birth;

(2) applicant for examination or knowledge test must not be less than twenty five years of age and applicant for special selection must not be less than thirty five years of age;

(3) having faith in constitutional democracy;

(4) being an ordinary member of the Thai Bar Association;

(5) not being a person with inappropriate or immoral behavior;

(6) not being insolvent;

(7) not being suspended from official service or ordered to be provisional discharged from judicial service under this Act or other laws;

(8) not being expelled, dismissed or discharged from the official service, a State enterprise or other State agency;

(9) not being sentenced by a final judgment to imprisonment, except for an offence committed through negligence or a petty offence;

(10) not being incompetent, quasi-incompetent, suffering unsound mind or of mental infirmity or having inappropriate physical or psychological conditions to become a judge or suffering from diseases as stipulated in the regulations of JC; and

(11) having passed both physical and psychological examinations by the Medical Committee consisting of no fewer than three members as designated by JC, and JC has reviewed medical report and deems that the applicant is sound to apply.

Rules and procedures to verify qualifications of an applicant for examination, knowledge test applicants or special selection shall be in accordance with regulations stated by JC as published in the Royal Gazette.

JC shall have power to fix application fees for the examination, knowledge test and special selection.

Section 27. An applicant for an examination under Section 26 must have the qualifications and have practiced the legal professions as follow:

(1) being a Bachelor of Law or receiving a law degree or a law certificate from overseas which JC has recognized as not lower than Bachelor's Degree;

(2) passing the final examination under the curriculum of the Institute of Legal Education, the Thai Bar Association; and

(3) practicing legal professions as a court registrar, a deputy court registrar, an official receiver, a legal execution officer or a parole officer of the Courts of Justice, a prosecutor, a judge advocate's general officer, a lawyer or practicing other profession relating to the law as designated by JC for not less than two years. JC shall have power to issue a regulation determining conditions relating to such professions.

Rules and procedures for the examination shall be in accordance with regulations prescribed by JC as published in the Royal Gazette.

Section 28. An applicant to sit in for a knowledge test under Section 26 must have the qualifications and have practiced the legal professions as follows:

(1) passing the final examination according to the curriculum of the Institute of Legal Education, the Thai Bar Association; and

(2) possessing one of the following academic qualifications:

(a) receiving a law degree or a law certificate from a foreign country in a single course which is not less than three years and JC has recognized such degree or certificate as not lower than Bachelor's Degree, or receiving a Doctorate Degree in law from a university in Thailand recognized by JC;

(b) receiving a law degree or a law certificate from a foreign country in a single course which is not less than two years or several courses of which the aggregated time is not less than two years and JC has recognized such degrees or certificates as equivalent to not less than Bachelor's Degree, and practicing the professions prescribed in Section 27 (3) for not less than one year;

(c) receiving a Master of Laws Degree from a university in Thailand acknowledged by JC and practicing the professions prescribed in Section 27 (3) for not less than one year;

(d) being a Bachelor of Laws with honors and being a lecturer at Faculty of Law in a state university for not less than five years;

(e) being a Bachelor of Laws and having been a judicial service officer practicing a legal profession in a position specified by JC for not less than six years and being certified by the Secretary-General of the Office of the Judiciary as honest, knowledgeable, competent and trustworthy to perform judicial duty;

(f) receiving a Master's Degree or Doctorate Degree in a field prescribed by JC and being a bachelor of law and practicing the professions prescribed in Section 27 (3), or any profession specified by JC, for not less than three years; or

(g) receiving a Bachelor's Degree or a degree recognized by JC as equivalent to not lower than a Bachelor's Degree in a field prescribed by JC and practicing the professions specified by JC for not less than ten years so having knowledge and expertise, and being a Bachelor of Laws.

JC shall have power to issue a regulation prescribing conditions in regard to the professions under (2) (e), (f) and (g).

Rules and procedures for the knowledge test shall be in accordance with regulations prescribed by JC as published in the Royal Gazette.

Section 29. An applicant for a special selection under Section 26 shall have the following qualifications:

- (1) having one of the following qualifications:
 - (a) is or was a professor or an associate professor in a state university;
 - (b) is or was a lecturer at Faculty of Law in state university for not less than five years;
 - (c) is or was an ordinary civil service officer or other officials in a position not lower than the division director or equivalent;
 - (d) is or was an attorney for not less than ten years;
- (2) passing the final examination according to the curriculum of the Institute of Legal Education, the Thai Bar Association;
- (3) having outstanding knowledge, competency and experiences in a legal field as designated by JC; and
- (4) being honest and having personality, behavior and attitude suitable for the performance of judicial duty.

Rules and procedures for the special selection shall be in accordance with regulations prescribed by JC as published in the Royal Gazette.

Section 30. When it is appropriate to organize an examination, a knowledge test or a special selection, the Secretary of JC shall propose to JC for a resolution to organize such examination, knowledge test or special selection.

JC shall have power to issue a regulation designating a course and procedures for an examination, a knowledge test and a special selection. It also has power to determine a ratio for instatement among those who pass the examination, the knowledge test and the special selection.

When the result of the examination, the knowledge test or the special selection is announced, JC may resolve to cancel the pending list of those who passed the examination, the knowledge test or the special selection.

The regulation under paragraph two shall be effective after published in the Royal Gazette.

Section 31. An examinee with higher scores shall be instated as a judge and appointed as a judge-trainee before one with lower scores respectively on the list of those who passed the examination. Where the scores are equal, the ranking between those with equal scores shall be decided by draw.

Any examinee lacking qualifications or possessing any prohibitions according to Section 26, or lacking academic qualifications or not practicing the professions prescribed in Section 27, or being a person JC deems as one with inappropriate reputation or behavior or other cause to be a judge, shall have no rights to be instated a judge under that examination result.

The provisions under paragraph one and two shall be applied to the instatement and appointment of those passing a knowledge test and the provision in paragraph two shall be applied to the instatement and appointment of those passing a special selection, *mutatis mutandis*.

Part 3

Vacating of the Office

Section 32. A judge shall vacate of the office upon:

- (1) death;
- (2) being permitted to resign or the resignation shall have an effect under to Section 33, paragraph two and paragraph four;
- (3) vacating the judicial service according to the Gratuity and Pension of Officials;
- (4) being transferred to other official service;
- (5) vacating the office for military service according to the law on military service;
- (6) being discharged from the judicial service under Section 15, Section 34 or Section 35;
- (7) being expelled, dismissed or discharged;
- (8) being removed from the office by the resolution of the Senate.

The vacating of office of a judge who is not a judge–trainee under (1) shall be informed to the King. Should the vacating of office is under (2), (3), (4), (5), (6), (7) or (8), the matter shall be submitted to the King for Royal Command to vacate the person from the office. Such Royal Command shall be effective from the date of vacating the judicial service, transferring or discharging from the office, as the case may be.

Section 33. Any judge intending to resign from the judicial service shall submit a resignation letter. Once the President of the Supreme Court grants the permission order to resign, that judge shall vacate the office from the permission date. In this regard, the President of the Supreme Court shall have power to suspend the permission to resign for no more than ninety days from the request date to resign if he or she deems that it is for the benefit of the judicial service. However, the suspension of permission to resign including any reason thereof shall be notified to the resigning person. As the suspended period is due, the resignation shall come into effect from the date following the due date of the suspension.

If the President of the Supreme Court neither grants nor suspends the permission to resign under paragraph one within thirty days from the requesting date to resign, the resignation shall be effective after such thirty day period is over.

If the President of the Supreme Court intends to resign, he or she shall notify JC in writing and he or she shall vacate the office upon the permission of JC.

In case where any judge, intends to resign from the judicial service in order to hold a political position or become a judge of the Constitutional Court, a judge of the Administrative Court, an Election Commissioner, a member of the State Audit Commission, an Ombudsman, a member of the National Counter Corruption Commission or a member of the National Human Rights Commission or to be elected as a member of the House of Representatives, the Senate, Local Councils or local administrators, may submit a resignation letter to the President of the Supreme Court or JC, as the case may be. The resignation shall be effective from the requesting date.

Section 34. The President of the Supreme Court, with the approval of JC, may order a judge, lacking qualifications or possessing prohibitions or lacking academic qualifications or not practicing the professions specified in the application to be in the judicial service as a judge according to the law on judicial service applicable from the applying date or prior to the instatement, to be vacated from the judicial service. This, however, shall not affect any action that such person has performed in accordance with his or her power and duty and his or her receipt of salaries or any other benefits from the authorities prior to the order to vacate his or her office. If he or she is instated in the judicial service with good faith, the order shall be deemed an order to remove from the judicial service in order to receive gratuity and pension according to the law on Gratuity and Pension of Official.

Section 35. When the President of the Supreme Court deems appropriate to vacate any judge from the office to receive gratuity and pension as compensation for reason of disability or long official service under the law on Gratuity and Pension of Official, he or she may do so upon an approval of JC.

Aside from the provision under Section 34, to vacate any judge from the office to receive gratuity and pension as compensation, is permissible only in the following cases:

(1) where the judge is alleged of seriously breaching discipline and an investigation as provided in Part 2 of Chapter 5 has been conducted but there is no prevalent fact that he or she is guilty and thus must be subject to expulsion, dismissal or discharge. Yet, it is deemed that the person is disgraceful and, if allowed to remain in judicial service, it may adversely effect the judicial service;

(2) where the judge fails to properly perform the duty or is incompetent to perform the judicial service or behave improperly in order to continue being a judge;

(3) where the judge is so sick, but not deemed disabled, that he or she can not perform the duty constantly; or

(4) where it appears that the judge is deprived of Thai nationality, lacks qualifications or possesses prohibitions under Section 26 (10) or becomes a judge of the Constitutional Court, a judge of the Administrative Court, an Election Commissioner, a member of the National Audit Commission, an Ombudsman, a member of the National Counter Corruption Commission or a member of the National Human Rights Commission.

Chapter 3

The Judicial Commission

Section 36. There shall be the Judicial Commission, shortly called “JC,” which consists of:

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

(2) twelve qualified Judicial Commissioners whom judges, except judge-trainees, have been elected from judges at each level of the courts of justice as follows:

(a) the Supreme Court: four judges holding office in the Supreme Court at a level not lower than justice of the Supreme Court;

(b) courts of appeal: four judges holding office in the Court of Appeal and regional courts of appeal at a level not lower than justice of the Court of Appeal or regional courts of appeal;

(c) courts of first instance: four judges from the first one hundred most senior judges in courts of first instance, who are not judges holding office as senior judges;

(3) two qualified Judicial Commissioners whom the Senate has elected from those who are not or have never been judiciary officers of the Courts of Justice and who possess qualifications without any prohibitions under Section 39.

A judge whose office is otherwise named under Section 11, paragraph two, or whom has been assigned to work at other courts under Section 21 shall be entitled to be elected as a Judicial Commissioner in a level of court where he or she receives salary at the time of election.

A Judicial Administration Commissioner shall not simultaneously be a Judicial Commissioner.

The Secretary-General of the Office of the Judiciary shall be the secretary. JC shall appoint not more than two judicial service officers as assistant secretaries.

Section 37. The President of the Supreme Court shall order the Secretary of JC to complete an election process of qualified Judicial Commissioners under Section 36 (2) within the following periods:

(1) within sixty days prior to the date of the expiration of the term;

(2) within sixty days as from the date the Office of the Judicial Commissioner becomes vacant prior to the expiration of term. If the remainder of the term is less than ninety days, the by-election to fill the vacancy may not be ordered; or

(3) within sixty days as from the date the President of the Supreme Court receives the Royal Command of Appointment or vacating the office, causing the vacancy of a Judicial Commissioner under Section 41 (4). If the remainder of the term is less than ninety days, the by-election to fill the vacancy may not be ordered.

An election of the qualified Judicial Commissioner under Section 36 (2) shall be done by secret voting. In this regard, the Secretary of JC shall prepare a list of persons eligible for the election under (a), (b) and (c) categories for announcement at the Supreme Court, the Court of Appeal, the regional courts of appeal and courts of first instance. The date, time and place of the election shall also be notified.

There shall be the election committee which consists of the Secretary-General of the Office of the Judiciary, two justices of the Supreme Court, two justices of the Appellate Courts and two judges of courts of first instance elected by the President of the Supreme Court. The committee shall have the duty to manage the election of qualified Judicial Commissioners under paragraph two, count ballots and announce the election results. In this regard, the committee may appoint a sub-committee for assistance.

Those being elected as qualified Judicial Commissioners under Section 36 (2) shall assume duty after the President of the Supreme Court announces the list of those elected as qualified Judicial Commissioners.

The Secretary of JC shall proceed to have the list of those elected as qualified Judicial Commissioners under Section 36 (2) published in the Royal Gazette.

Section 38. When there shall be the election of the qualified Judicial Commissioners under Section 36 (3), the President of the Supreme Court shall notify the President of the Senate within the following periods:

- (1) within forty-five days prior to the date of the expiration of term; or
- (2) within fifteen days as from the date the office of the Judicial Commissioner becomes vacant prior to the expiration of term.

In case of the election of qualified Judicial Commissioners under Section 36 (3), the Senate shall appoint a committee to nominate the appropriate persons with qualifications and without any prohibitions under Section 39 twice the number required to be elected for the consideration of the Senate.

Those elected as qualified Judicial Commissioners under Section 36 (3) shall assume duty when the President of the Supreme Court announces the list of those elected as qualified Judicial Commissioners.

The Secretary of JC shall proceed to have the list of those elected as qualified Judicial Commissioners under Section 36 (3) published in the Royal Gazette.

Section 39. The qualified Judicial Commissioners under Section 36 (3) shall have the following qualifications and without prohibitions:

- (1) having qualifications and without prohibitions under Section 26 (1), (5), (6), (7), (8) or (9);
- (2) not being the person under section 59 (5) or (6);
- (3) being at least forty years of age;
- (4) having Bachelor's Degree or equivalent;

(5) not being a judge of the Constitutional Court, a judge of the Administrative Court, an Election Commissioner, a member of the National Audit Commission, an Ombudsman, a member of the National Counter Corruption Commission, a member of the National Human Rights Commission or a member of the Judicial Commission of the Administrative Court or other courts;

(6) not being a lawyer, police officer or prosecutor;

(7) not being incompetent, quasi-incompetent or a person with unsound mind or mental infirmity;

(8) not being director, advisor, employee, worker or holding any position in the State Enterprise;

(9) not working as or practicing any profession that may affect the performance of the qualified Judicial Commissioner.

Section 40. A Judicial Commissioner shall hold office for two years. A Commissioner who vacates the office on the expiration term may be re-elected but shall not hold office of the Judicial Commissioner under this Act for more than two consecutive terms.

Section 41. In addition to the vacation of office on expiration term under Section 40, a qualified Judicial Commissioner may vacate the office upon:

(1) death;

(2) submitting a resignation letter to the President of the Supreme Court;

(3) breaching of the discipline as from the date of the punishment order is made in the case of the qualified Judicial Commissioner under Section 36 (2);

(4) being appointed as the President of the Supreme Court or senior judge, or vacating from the office of a judge or from the office of a judge in the level of court at the time of election, in case of the qualified Judicial Commissioner under Section 36 (2);

(5) lacking qualifications or having prohibitions under Section 39, in the case of the qualified Judicial Commissioner under Section 36 (3);

(6) being removed from office under Section 42;

(7) being absent from the meeting for three consecutive times without reasonable cause and without permission from the Meeting of JC.

In case of doubt with regard to the vacation of the office of the Judicial Commissioner, JC shall clarify the matter.

Section 42. Any qualified Judicial Commissioner may be removed by a petition of judges of not less than one-fifth of the total number of the existing judges, except those holding the offices of judge-trainees, if the circumstance of his or her behavior indicates that he or she discharges his or her duties as a Judicial Commissioner improperly, dishonestly carries out his or her duties, exercises his or her authority in contrary to the provisions of laws, regulations, morality or ethics, or commits any act that give rise to disciplinary malfeasance, is accused or suspected of breaching discipline.

A resolution to remove anyone from the office under paragraph one shall be passed by not less than half of the total number of the existing judges, except those holding the offices of judge-trainees, at that time. The voting shall be cast in secret.

Anyone who has been removed from the office shall be considered vacating the office from the date the resolution of removal was passed.

A resolution of judges under this Section shall be final. There shall be no further request to remove that person on the same ground.

Section 43. When there is a petition submitted under Section 42, the Secretary-General of the Office of the Judiciary shall organize the voting within thirty days, and during the said period of time such qualified Judicial Commissioner shall not perform his or her duty as the Judicial Commissioner.

The submission of the petition and the passing of the resolution under Section 42 shall comply with the regulation prescribed by JC and published in the Royal Gazette.

Section 44. In the case where a qualified Judicial Commissioner is elected to fill the vacancy before the expiration of the term, the elected person shall be in the office for the remaining term of the person he or she replaces only.

If the duration of holding of the office of a qualified Judicial Commissioner, who vacates the office before the expiration of the term or who replaces the other, is less than one year, it shall not be counted as a term of the office under Section 40.

Section 45. Not less than half of the total member of JC shall form the quorum of the meeting of the Judicial Commission.

If the chairperson of JC is not present at the meeting or may not attend the meeting, the meeting shall elect one Judicial Commissioner as chairperson of the meeting.

In the case where the office of the President of the Supreme Court becomes vacant or if he or she may not perform his or her duty, the person who shall act on his or her behalf as prescribed under the law on the organization of the Courts of Justice shall perform a duty as the Judicial Commissioner during that period. However, he or she may not act as the chairperson of JC unless otherwise selected in the meeting of JC under paragraph two.

During the meeting of JC, any commissioner having interest in the matter under consideration shall be prohibited to attend the meeting and to vote for a resolution in the matter. However, if the person has already attended the meeting and the ineligibility to attend the meeting and to pass a resolution is temporary, the person shall be counted as the quorum of the meeting.

The decision of the meeting shall be based on majority votes. One commissioner shall have one vote and abstention is prohibited. In the case of tie, the chairperson of the meeting shall have a casting vote.

A resolution of JC under paragraph five is prohibited to be adopted by a secret vote unless otherwise provided.

Minutes of the meeting of JC shall be disseminated to judges. Except, in the case where it may cause certain adverse effect to the judicial service or affect any rights of person, there may be a resolution of not less than three-fourths of the total number of the existing Judicial Commissioners not to disseminate it. However, a copy of the minute of the meeting of JC shall be provided to the interested judge upon his or her request.

The meeting, the passing of resolution and the dissemination of the minutes of meeting of JC shall be in accordance with the regulations on the meeting of JC as long as it is not contrary to or incompatible with this Act.

Section 46. In the case where the office of the Judicial Commissioner becomes vacant and it is necessary to perform the duty urgently, the remaining Judicial Commissioners may do so but there shall be enough Judicial Commissioners to form a quorum for a meeting.

Section 47. JC shall have power to appoint a sub-committee to carry out any act within its authority and report back to JC.

JC shall appoint a sub-committee of each level of courts which shall have power and duty to consider and submit opinions in regard to the transfer and appointment, promotion and punishment of judges in that level of court to JC for consideration.

In the case where there shall be a proposal in regard to the transfer and appointment, promotion and punishment of a judge, the Secretary of JC shall propose the matter to the Sub-Committee under paragraph two for consideration within a period stipulated by JC before compiling and submitting opinions to the meeting of JC for consideration.

Composition, rules, appointment and procedure of the Sub-Committee under paragraph one and two shall be in accordance with the regulations prescribed by JC as published in the Royal Gazette.

Section 48. Subject to Section 50, in the case where JC has a duty as provided under this Act, the Secretary of JC shall propose the matter to JC but this shall not deprive any Judicial Commissioner of the rights to initiate such matter.

Section 49. In the case where the Judicial Administration Commission, the Secretary of JC or the Secretary-General of the Office of the Judiciary is required to perform in accordance with the resolution of JC, this shall be done within thirty days from the date the resolution of JC is notified.

Section 50. In the case where JC does not approve the appointment, transference and appointment, and promotion as proposed by the Secretary of JC under Section 47, JC is prohibited to propose other persons. In this regard, the Secretary of JC shall proceed under Section 47 all over again and then propose to JC for reconsideration within fifteen days from the date JC has passed such resolution. It is prohibited to nominate the same person in a new nomination.

During the reconsideration of JC, if JC still does not give approval, a Judicial Commissioner may nominate a person to JC for appointment but a resolution for such approval shall have votes of not less than half of the total number of the existing Judicial Commissioners.

Section 51. JC, with a resolution of not less than half of the total number of the existing Judicial Commissioners, shall have power to designate regulations or rules for any criteria and procedures under the authority and duty of JC according under this Act or other laws.

Regulations and rules under paragraph one, after published in the Royal Gazette, shall come into force.

Chapter 4

Datoh Yutithum

Section 52. An applicant for a selection to be instated and appointed as *Datoh Yutithum* must be a Muslim, and possesses the qualifications without any prohibitions as follows:

- (1) having qualifications without any prohibitions under Section 26 (1) (5) (6) (7) (8) (9) and (10);
- (2) being not less than thirty years of age;
- (3) having knowledge in the Islamic religion to be able to make a decision on Islamic law related to family and succession; and
- (4) being knowledgeable in Thai language by passing the examination of not lower than a lower secondary education or as the Ministry of Education has compared as not lower than lower secondary education.

Criteria and rules for selection to instate and appoint a person as *Datoh Yutithum* shall be prescribed by the Regulations of JC.

The Secretary of JC shall submit a list of nomination for the appointment as *Datoh Yutithum* to the Sub-Committee under Section 47, paragraph two. The Sub-Committee shall present its opinion for the consideration of JC. After JC gives the approval, it shall be submitted to the King for the Royal Command of Appointment.

Datoh Yutithum appointed by the King under paragraph three shall receive salary according to criteria prescribed by JC. *Datoh Yutithum*'s salary shall be adjusted one level higher each year, unless the *Datoh Yutithum* has already received the highest level. In this case, there will be no annual salary review.

Section 53. The matter on vacating from the office of *Datoh Yutithum* shall be submitted by the Secretary of JC to JC for approval. After JC gives its approval, the President of the Supreme Court shall issue an order according to the rules and procedures prescribed in the regulation of JC.

The appointment of *Datoh Yutithum* as a judicial service officer or the transference of *Datoh Yutithum* as a civil servant or other official may be ordered by the President of the Supreme Court upon his or her consent and with the approval of JC.

Section 54. The provisions in Chapter 5: Discipline, Maintaining the Discipline, Penalties and Grievances shall be applied to *Datoh Yutithum*.

In case *Datoh Yutithum* is accused of breaching serious discipline subject to a penalty of expulsion, dismissal or removal, the President of the Supreme Court shall have power to appoint a committee to investigate or suspend him or her from the judicial service, as the case may be.

Chapter 5

Discipline, Maintaining Discipline, Punishments and Grievances

Part 1

Discipline

Section 55. A judge shall strictly maintain discipline prescribed under this Chapter.

In a trial and adjudication of cases, a judge shall behave in good manners. One, who breaches this discipline, shall be subject to penalty provided in Part 3 of this Chapter.

Section 56. A judge shall not act as a principal or collaborator or supporter in a campaign or solicitation of an election of the members of the House of Representatives, the Senate, Local Councils, local administrators or any other political representatives.

Section 57. A judge shall perform his or her duty prudently to avoid damaging the judicial service, as well as with honesty and integrity.

A judge shall not falsely report his or her superior judge. Concealing of statements, which should have been told shall also be deemed as a false reporting.

Section 58. A judge shall devote his or her time for the judicial service and shall not neglect the judicial duty.

Section 59. A judge shall not:

(1) be a director, or hold any office, in state enterprises or other state-owned organization of similar nature;

(2) be a director, manager, legal advisor, or hold any other position with similar nature in a partnership and company;

(3) hold any office in a state agency conflicting with the performance of the judicial duty as prescribed in the regulations of JC;

(4) work or have any profession or act in any way which will affect the performance of the duty or is detrimental to dignity of the judicial office as prescribed in the regulations of JC;

(5) be a member of the House of Representatives, the Senate, political official, a member of Local Councils or Local Administrators;

(6) be a director, a member, or hold other offices of the political party.

Section 60. A judge shall maintain his or her reputation so not to be notoriously known as one committing malfeasance.

It is prohibited to behave in a grossly indecent manner, be in serious indebtedness, be too intoxicated to control oneself, regularly gamble, commit criminal offenses or engage in any other activity of which the behavior or action may be detrimental to dignity of the judicial office.

Section 61. A judge shall be polite and assist each other in the judicial service.

It is prohibited to commit contempt against any other person.

Section 62. A judge shall comply with regulations and traditions of the judicial service as well as ethics as prescribed by JC.

Section 63. A judge shall not engage in any activity which will cause disharmony among officials.

Section 64. A judge shall be diligent and helpful in performing the judicial duty.

Section 65. A judge shall keep the official secrets.

Section 66. A judge shall not interfere in a trial and adjudication of other judges or commit any action which will deprive such trial and adjudication of independence or fairness.

Section 67. Any judge, being responsible to ensure proper function of the Courts of Justice as prescribed in the law for the organization of the Courts of Justice, learning that a judge in the Court of Justice which he or she is in charge of has breached of discipline but failing to report such action to JC as prescribed in Part 2 and Part 3 of this Chapter or failing to exercise his or her duty to impose his or her disciplinary measure or dishonestly imposing the penalty, shall also be deemed breaching of discipline.

Part 2 Maintaining Discipline

Section 68. When a judge in any court is alleged, or where there is a suspicion, of his or her breaching discipline, the judge responsible for judicial service of such court shall arrange a preliminary investigation of facts without delay in accordance with the rules and procedures prescribed in the regulations of JC.

A preliminary investigation of facts shall be carried out by having relevant parties clarify the matter in writing, by preparing a record of the matter and opinions thereon by establishing a fact-finding committee.

Section 69. If it is found in a preliminary investigation that there is a ground of a judge has breached of serious discipline subject to an expulsion, dismissal or discharge, the President of the Supreme Court shall appoint a committee which consists of at least three members who are judges having no conflict of interest with or connection in the matter to perform the investigation.

In case a judge is prosecuted for criminal offense, JC may use a final judgment of the court as part of its consideration without appointing the investigation committee.

Section 70. In an investigation under Section 69, the investigation committee shall notify the alleged of a charge, give a concise of evidence supporting such a charge probably without revealing names of witnesses, and allow the alleged to explain and present his or her evidence to counter the allegation.

Investigation rules and procedures shall be in accordance with the regulations prescribed by JC as published in the Royal Gazette.

The investigation committee shall complete the investigation within thirty days from the appointment date if there is a necessary cause which prevents the investigation from completing within such period, the period may be extended for not more than twice but each extension must not exceed fifteen days. The President of the Supreme Court shall be notified every time together with a reason of the extension. Should the investigation fail to complete after the extensions, the investigation committee may extend the period again, which however shall not exceed one hundred and eighty days after being approved by the President of the Supreme Court according to the regulations determined by JC.

The investigation committee, after completing the investigation, shall report its opinion to the President of the Supreme Court and submit it to the Secretary of JC in order to be forwarded to the Sub-Committee of the Judicial Commission at each court level according to Section 47 paragraph two, for consideration and opinions within the period prescribed by JC.

When JC reviews the report made by the investigation committee and the Sub-Judicial Commission at each court level and resolves that the judge is indeed in breach of serious discipline and should be expelled, dismissed or discharged from the judicial service or as otherwise, the President of the Supreme Court shall order accordingly.

Section 71. A member of the investigation committee shall be a competent officer according to the Penal Code and have the same power as an investigation officer according to the Criminal Procedure Code to the extent of power and duties of the investigation committee as well as the following power:

(1) to have the ministry, department, government agency, state enterprise or other state organization, partnership and company clarify facts, submit relevant documents and evidences, and assign representatives or persons within their departments to give statements regarding the investigated matter;

(2) to call the alleged or any person for clarification or giving statements or submitting documents and evidences regarding the investigated matter.

Section 72. When any judge is indeed in breach of serious discipline and such breach is a clearly guilty prescribed by JC as published in the Royal Gazette; or any judge alleged of breach of serious discipline and having confessed in writing to the President of the Supreme Court or the investigation committee, the President of the Supreme Court may consider and order a penalty without investigation. However, he or she shall allow such person a chance to clarify himself or herself and the Sub-Judicial Commission at each court level according to Section 47 paragraph two, is subject to review, submit opinion and seek prior approval of JC.

Section 73. A judge transferred from a position of judicial service officer, civil service officer, or other government official or local administrator who has had a case of breaching of discipline prior to the transfer date, JC shall conduct a disciplinary proceeding under this Chapter *mutatis mutandis*. However, if the matter is being interrogated or investigated by his or her original superior before the transfer date, such interrogation or investigation shall continue until it is completed and submitted to JC to proceed according to this Chapter *mutatis mutandis*. In case a disciplinary order is required, offenses and penalties according to the law on judicial administration or the law on civil service or the law on the service of such government official, as the case may be, shall be applied *mutatis mutandis*.

Section 74. When any judge is alleged of breaching of serious discipline so as to be subject to an investigation committee or is prosecuted with a criminal offense, unless the offense is committed by negligence or is a petty offense, if JC considers that allowing such person to continue performing judicial service during the investigation or the proceeding may disgrace the judicial service, the President of the Supreme Court may suspend the person from the judicial service.

Such suspension shall last throughout the investigation period or at all times during which the prosecution is not yet final. When the investigation or prosecution becomes final, if it appears that a suspended person is not guilty and disgraced, the person shall resume the judicial service.

Salary of a suspended person shall be in accordance with the laws on the subject matter.

Section 75. Where any judge being alleged of breaching of serious discipline and the accusation is made in writing to or by a person authorized for a disciplinary action against him or her; or being alleged of committing a criminal offense, unless it is an offense committed by negligence or a petty offense, even though the person has vacated the judicial office, the person authorized for a disciplinary action may investigate, impose a penalty or otherwise alter the order in accordance with this Chapter as if the person was not removed from the judicial office, unless the person is vacating the office upon death.

If it is found in the investigation under paragraph one that the judge is guilty of non-serious judicial discipline, JC may consider refraining from imposing the punishment.

Part 3

Punishments

Section 76. There are five modes of disciplinary punishment:

- (1) expulsion;
- (2) dismissal;
- (3) discharge;
- (4) suspension from promotion or salary increase;
- (5) reprimand.

An order to punish a judge by expulsion, dismissal or discharge is allowed only when an investigation provided in Part 2 of this Chapter has been duly conducted.

Section 77. The President of the Supreme Court shall order an expulsion when any judge breaches of serious discipline as follows:

- (1) committing corruption of the judicial service;
- (2) committing a criminal offense and being subject to a final judgment of imprisonment unless it is an offense committed by negligence, or a petty offense;
- (3) failing to comply with rules, regulations and customary practice of judicial service and ethics where such failure seriously damages the judicial service;
- (4) being negligent in performing the judicial service and therefore seriously damaging the judicial service; or
- (5) committing a serious misconduct.

Section 78. The President of the Supreme Court shall dismiss a judge from the judicial service only when he or she has breached of serious discipline but is not yet subject to being expelled; or if he or she is subject to being expelled but there is a reasonable cause to reduce the penalty; or if the person is ordered to be bankrupt according to the law on bankruptcy.

Section 79. The President of the Supreme Court shall discharge a judge from the judicial service only when he or she has breached of serious discipline but is not yet subject to dismissal, or he or she is subject to a dismissal but there is a reasonable cause to reduce the penalty.

Any judge discharged according to this Section shall be entitled to a gratuity and pension as if he or she resigns from the judicial service.

Section 80. In case a judge breaches non-serious discipline which is not subject to be expelled, dismissed, or discharged the President of the Supreme Court may suspend his or her promotion or salary increase for no more than three years, or if there is a reasonable cause for leniency, he or she may order a reprimand only and require the person to give a covenant, provided, however that the Sub-Judicial Commission at each court level according to Section 47, paragraph two, shall review, as well as submit the opinion and have a prior approval for such punishment from JC.

Section 81. In a penalty order, it must state what wrong the offender has committed, on what offense and under what section.

Section 82. If it appears that the disciplinary order has been mistakenly made, the President of the Supreme Court shall be empowered to amend it in a favorable manner to the person who is subject to such penalty, provided that JC has given a prior approval for the amendment.

An amendment of order under paragraph one is permissible within two years from the date of the penalty ordered.

Section 83. The person who is subject to disciplinary punishment under this Chapter is entitled to request JC to review the disciplinary order, if there is a clear evidence later that the punished is not guilty by submitting a motion to the Sub-Judicial Commission at each court level according to Section 47, paragraph two, within two years from the date he or she acknowledges the order.

The Sub-Judicial Commission at each court level, shall consider a motion submitted under paragraph one within sixty days from the submission date. If it is considered that there is no reason for JC to review the punishment order, the action shall be terminated and the punished shall be notified to appeal to JC according to the criteria prescribed thereby. If it deems that the motion is reasonable to JC so as to consider and review the order, the file together with relevant opinions shall be submitted for the consideration of JC whose decision shall become final.

If JC resolves to amend the original resolution and allows the punished to resume the judicial service in any judicial office, the Secretary to JC shall proceed in accordance with the resolution of JC.

Salary of the person resuming the judicial service shall be in accordance with the laws governing the subject matter. If there is not any such law, the person shall be presumed as being suspended from the judicial service.

Part 4 Grievances

Section 84. If any judge is ordered to be discharged from the judicial service under Section 15, Section 16, Section 34 or Section 35, or suffers from other resolutions of JC, he or she is entitled to file a grievance.

The grievance under paragraph one shall be made to JC within two years from the date he or she is notified of order or acknowledges the resolution of JC. The decision of JC shall become final.

If JC has a resolution allowing the person filing grievance to resume the judicial service in any judicial office, or if the person filing grievance is appointed to any judicial office, the Secretary of JC shall proceed in accordance with the resolution of JC.

Salary of a person resuming the judicial service shall be in accordance with the laws governing the subject matter. If there is not any such law, the person shall be presumed as being suspended from the judicial service.

Provisional Clauses

Section 85. All laws, regulations, rules, announcements, orders or resolutions of the Cabinet referring to the Chief Justice of the Court of Appeal, the chief justices of regional courts of appeal, the Deputy Chief Justice of the Court of Appeal, deputy chief justices of regional courts of appeal, judge and administrative officer shall mean to refer to the President of the Court of Appeal, president of regional courts of appeal, the Vice-President of the Court of Appeal, vice-presidents of regional courts of appeal, the judge and the judicial official hereunder, as the case may be.

Section 86. The Judicial Commission under the law on judicial service which performs duties on the date this Act comes into force shall continuously perform duties of the Judicial Commission according hereto until the qualified judicial commissioners hereunder are duly elected, which however shall not exceed sixty days from the date this Act comes into force.

In case a position of judicial commissioner under paragraph one becomes vacant and the remaining judicial commissioners are not enough to form a quorum, the remaining judicial commissioners shall continuously act only in matters considered necessary to avoid damage to the judicial service.

Section 87. The Secretary of JC shall complete an election of the qualified judicial commissioner according to Section 36 (2) and (3) within sixty days from the date this Act comes into force.

Section 88. Anyone being a judge according to the law on judicial service on the date this Act comes into force shall remain the judge hereunder.

The judge under paragraph one shall remain in office and perform his or her duty at the same court or department until otherwise appointed to the other office, with an exception of:

(1) the Chief Justice of the Court of Appeal, the chief justices of regional courts of appeal, the Deputy Chief Justice of the Court of Appeal and deputy chief justices of regional courts of appeal shall be the President of the Court of Appeal, president of regional courts of appeal, the Vice President of the Court of Appeal or vice-presidents of regional courts of appeal, as the case may be;

(2) Judge of the Provincial Courts and other offices called otherwise according to the Ministerial Regulations issued by virtue of the law on judicial service applicable on the date this Act comes into force, which is equivalent to a judge of the Provincial Court, shall be a judge of court of first instance.

Section 89. Initially, an adjustment of salary and professional allowance of the judge at any office and salary level in order to be entitled to the salary and professional allowance under the List of Salaries and Professional Allowance of the judge at a particular salary grade and level shall be carried out in accordance with what JC has prescribed. Once the salary and allowance level is adjusted, the judge shall receive salary and professional allowance according to the List of Salaries and Professional Allowance of the Judge attached hereto from the date this Act comes into force.

Section 90. Any judge holding an office prior to the date this Act comes into force and receiving higher salary than he or she may receive under this Act shall continue receiving salary at the level he or she is receiving until getting promoted.

The provision in paragraph one shall also apply to the judge receiving higher professional allowance than what he or she is entitled to hereunder *mutatis mutandis*.

Section 91. The adjustment of salary and professional allowance for the judge who is a senior judge to the List as prescribed in the List of Salaries and Professional Allowance of the Judges attached hereto shall be as prescribed by JC. However, he or she shall not receive lower salary and professional allowance than what he or she receives at present. Once the adjustment is duly made, the senior judge shall receive salary and professional allowance according to the List of Salaries and Professional Allowance of the Judge attached hereto from the date this Act comes into force.

Section 92. If any judge who once held an office which, according to this Act, being offered higher salary than the one he or she gets from the office at the time this Act comes into force, wishes instead to return to his or her previously higher position, JC shall proceed to fulfill his or her will, unless it is necessary for the interest of the operation of judicial service. In such case, JC may ask the person to temporarily remain in the same office he or she is holding at the time this Act comes into force, but this shall not exceed two years from the date this Act comes into force. In such case, when considering a promotion, JC shall also take into consideration the seniority of such judge existing before this Act comes into force.

Section 93. Anyone who was once a judge or *Datoh Yutithum* according to the law on judicial service applicable before this Act comes into force shall be considered as once being the judge or *Datoh Yutithum* hereunder. The counting of service time spent in such office as the period holding the judicial status hereunder shall be as prescribed by JC.

Section 94. Anyone being *Datoh Yutithum* according to the law on judicial service on the date this Act comes into force will be considered being the *Datoh Yutithum* hereunder where he shall be entitled to salary and professional allowance according to the List of Salaries and the List of Professional Allowance of the *Datoh Yutithum* hereunder.

An adjustment of the salary of the *Datoh Yutithum* under paragraph one to receive a salary under the List of Salary of the *Datoh Yutithum* attached hereto shall be as prescribed by JC. Once salary has been duly adjusted, the *Datoh Yutithum* shall receive a salary and professional allowance based on the List of Salaries and the List of Professional Allowance of the *Datoh Yutithum* attached hereto from the date this Act comes into force.

Section 95. Any administrative official transferred from a judge according to the law on judicial service applicable before this Act comes into force shall receive salary and professional allowance he or she was receiving in the previous position. Yet, his or her salary and professional allowance shall be adjusted to be compatible with the List of Salaries and Professional Allowance of the Judge according to the List attached hereto as prescribed by JC. This however shall not exceed one hundred and eighty days from the date this Act comes into force.

An administrative official under paragraph one who wishes to be transferred back as a judge hereunder shall notify the Secretary-General of the Office of the Judiciary in writing within sixty days from the date this Act comes into force. The Secretary-General of the Office of the Judiciary shall complete the transfer within one hundred and eighty days from the date this Act comes into force.

When the sixty day period from the date this Act comes into force lapses, the administrative official under paragraph one who does not wish to be transferred back as a judge hereunder shall receive salary and professional allowance of the Judicial Service Officer according to the law on judicial administration regulations where it will be adjusted to be compatible with the list of salaries of the Judicial Service Officer. If there is no such salary scale, it will be adjusted to remain compatible with the next higher salary level. Should the salary he or she receives has already been higher than the maximum salary at his or her position grade, then, his or her salary shall be adjusted to remain in line with the maximum salary of that grade.

Section 96. For any judge or *Datoh Yutithum* who is subject to disciplinary actions or possible discharged from the judicial service before this Act comes into force and his or her superior has carried out an investigation in accordance with the law applied at the time before this Act comes into force, it shall be considered that the investigation is valid. If the investigation is not yet completed, the investigation according to a particular law shall continue until completion. However, any consideration and action of punishment or discharge from the judicial service shall be carried out in accordance with this Act.

Section 97. Any action, which could be undertaken according to the law on judicial service applicable prior to the date this Act comes into force and where there is no such provision being made hereunder, shall be undertaken according to what it is prescribed by JC. For such case, JC may resolve to undertake such action according to the law on judicial service applicable on the date this Act comes into force to the extent that it is not conflicting herewith.

Section 98. A judge, holding the office of judge–trainee status on the date this Act comes into force, and receiving a training from the Ministry of Justice and the Office of the Judiciary for a combined period of not less than one year, shall be appointed as a judge of court of first instance without being subject to Section 17, paragraph two.

Section 98/1.³ Within a period the Act on Judicial Service (No. 2) B.E. 2546 comes into force, and if it is necessary for the judicial service, JC may have a resolution not to apply the period of holding the office of junior judge status according to Section 17, paragraph two to an appointment of judge of court of first instance. However, the judge of court of first instance must be nominated from the judge who has been a junior judge for not less than one year and has been passed the evaluation under the rules and procedures prescribed by JC.

Section 99. Applicants who have applied to sit in an examination or a knowledge test in order to be instated to a judge and be appointed as a judge–trainee before this Act comes in force shall be considered those having a qualification under the law on judicial service applicable on the date this Act comes into force. They shall have a right to sit in the examination or the knowledge test in order to be instated and appointed as a judge–trainee hereunder.

Applicants who pass the examination or the knowledge test under the laws on judicial service before this Act comes into force and the examination roster has not been terminated under Section 30, paragraph three, shall still be entitled to be instated as a judge and appointed as a judge–trainee unless the person is a political official, a member of Local Councils, local administrators, director of a political party, a political party member or if he or she holds other positions in a political party. This person shall be entitled to be instated as a judge and appointed as a judge–trainee only when he or she has quit the position.

³ Section 98/1 has been added by the Act on Judicial Service of the Courts of Justice (No. 2), B.E. 2546.

Section 100. For the benefit of consideration to reinstate the official who served in the judicial service and resigned before this Act comes into force, the salary that the person received before he or she quit the judicial service shall be adjusted to be compatible with salary rate or level of the judge applicable on the date the person returns to the judicial service.

In case the person who returns to the judicial service is the one who resigned before the salary was adjusted under the Act on Judicial Service (No. 3) B.E. 2523, the Act on Judicial Service (No. 6) B.E. 2531 or the Salary and Professional Allowance Act, B.E. 2538, the salary that the person received before he or she quit the judicial service shall be adjusted under such Act prior to being adjusted again as in paragraph one.

In case the salary of the person who returns to the judicial service under paragraph one or two cannot be adjusted to remain compatible with the salary list of the Judge applicable on the date he or she returns to the judicial service, JC shall consider to which rate or level the person shall be reinstated.

Section 101. Royal Decrees, Ministerial Regulations, Rules, Ordinances, Regulations, Notifications, Resolutions and Orders enacted or issued by virtue of the law on judicial service applicable before this Act comes into force shall remain applicable as long as it is not conflicting with this Act until the Rules, Ordinances, Regulations, Notifications, Resolutions or Orders issued by virtue of this Act shall apply instead.

Countersigned by
Chuan Leekpai
Prime Minister