

THE ACT ON THE CRITERIA FOR APPOINTMENT AND HOLDING OF OFFICE OF
SENIOR JUDGES
B.E. 2542

BHUMIBOL ADULYADEJ, REX.
Given on the 14th Day of August B.E. 2542
Being the 54th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to have the law governing the criteria for appointment and holding of office of senior judges.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the Parliament, as follows:

Section 1 This Act shall be called the “Act on the Criteria for Appointment and Holding of Office of Senior Judges B.E. 2542”.

Section 2¹ This Act shall come into force as from the date following the date of its publication in the Government Gazette onwards.

Section 3 In this Act:

“Judicial Officer” means the judicial officer under the law governing rules and regulations of judicial officers of the Court of Justice.

“Judicial Commission” means the Judicial Commission under the law governing rules and regulations of judicial officers of the Court of Justice.

“Minister” means the Minister shall be in charge under this Act.

Section 4² In addition to judicial officers under the law governing rules and regulations of judicial officers of the Court of Justice, senior judges shall be appointed under this Act.

¹ The Government Gazette, Volume 116 Section 75 (A), p.1 (1999, August 20).

² Section 4 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.2) B.E. 2550”.

Senior judges shall have powers and duties of trial in the Court of First Instance, the Court of Appeal or the Supreme Court as appointed, and shall have powers and duties to attend general meetings in the Court of Appeal or the Supreme Court, as the case may be, under the law governing procedure, and shall have powers as prescribed in the Charter of Courts of Justice for judges; provided that senior judges shall have no rights to be elected as members of the Judicial Administration Commission under the law governing rules and regulations of judicial officers of the Court of Justice.

Section 5 Senior judges shall receive salaries equal to the original salaries received prior to the holding of office of senior judges, except for those who have already received the maximum salary rates of their classes shall receive salaries at one level higher than their original salaries, and in the next fiscal years, salary rates of each job position shall be increased by one level on a yearly basis without no annual salary raise.

The original salaries under Paragraph 1 shall include salaries to be received after the annual salary raise of the fiscal year following the year that such people shall assume the office of senior judges.³

Senior judges shall receive position allowances equal to the original position allowances received prior to the holding of the office of senior judges, except for salary raise under Paragraph 1 which resulted in higher rates of salaries to be received by senior judges, then, such people shall receive position allowances for senior judges at higher levels.

Section 6⁴ A judicial officer who is completely 60 years old or above in any fiscal year may request for holding of the office of senior judge, in case, such person has been performing duties for not less than 20 years in the fiscal year prior to the fiscal year that such person has requested for holding of such office.⁵

Any judicial officer who intends to assume the office of senior judge in any fiscal year shall give the President of the Supreme Court a written notice thereof of not less than 90 days prior to the start of the fiscal year to assume the office of senior judge, and upon holding of the office of a senior judge, such person shall no longer reassume the office of other judicial officer.

Section 6/1⁶ A judicial officer who is completely 65 years old in any fiscal year shall be released from the office at the end of such fiscal year, and shall assume the office of senior judge until such judicial officer shall be released from official service under Section 8/1 of the Act on Rules and Regulations of Judicial Officers of the Court of Justice B.E.2543.

³ Section 5 Paragraph 2 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.3) B.E. 2551”.

⁴ Section 6 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.3) B.E. 2551”.

⁵ Section 6 Paragraph 1 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.4) B.E. 2560”.

⁶ Section 6/1 was added by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.4) B.E. 2560”.

Section 7⁷ Regarding the appointment of a judicial officer to assume the office of senior judge in any court, the Secretary of the Judicial Commission shall, at the court stage, propose a list of potential appointees in each court who shall not be higher than the original office of such person prior to holding of the office of senior judge, to the Judicial Commission for prior approval, and upon receiving the approval of such appointment, the Judicial Commission shall propose such list of potential appointees to His Majesty the King for appointment.

Section 8⁸ Upon receiving the appointment to assume the office of senior judge in any court, such judicial officer may not be transferred from such court without receiving consent, except for appointment and transfer by rotation, or being subject to disciplinary action or becoming the accused in a criminal case, which shall affect the justice in trial or having a force majeure or other unavoidable necessities, thus, as per the regulations prescribed by the Judicial Commission and publicized in the Government Gazette.

Section 9⁹ A judicial officer who shall be completely 65 years old in any fiscal year shall undergo the performance appraisal test as conducted by the Judicial Commission in such fiscal year, and the result of performance appraisal test shall be proposed to the Judicial Commission for consideration and appointment to assume the office.

The criteria and method of performance appraisal under Paragraph 1 shall be in accordance with the regulations prescribed by the Judicial Commission and publicized in the Government Gazette.

Section 10¹⁰ A judicial officer who has assumed the office of senior judge may not be appointed to assume the office or to act for other person in positions prescribed in Section 8, Section 9, Section 10 and Section 11 of the Charter of Courts of Justice, and may not act for other person as per the order of seniority as prescribed in such provisions.

Section 11 A judicial officer who has assumed the office of senior judge may not be ordered to perform works in other position on a temporary basis or may not be transferred to act as government official under the attentive supervision of other departments.

Section 12 A senior judge shall not be eligible for selection as a specialized member of the Judicial Commission.

⁷ Section 7 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.2) B.E. 2550”.

⁸ Section 8 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.3) B.E. 2551”.

⁹ Section 9 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.4) B.E. 2560”.

¹⁰ Section 10 was amended by the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.4) B.E. 2560”.

Section 13 A judicial officer who has been released from official service due to retirement on 1st October 1998, and intended to be appointed to assume the office of senior judge, shall express his or her intention thereof to the Minister within 15 days as from the date when this Act shall come into force, and the Minister shall propose the list of such person to the Judicial Commission for approval within 30 days as from the date when this Act shall come into force, and upon receiving approval from the Judicial Commission, such list of potential appointees shall be proposed to His Majesty the King for appointment.

In case, before having been released from the official service, a judicial officer who has been appointed to assume the office of senior judge as per the provisions contained in Paragraph 1 was subject to the provisions of the Government Pension Fund Act B.E.2539, such person shall still be a member of the Government Pension Fund, and regarding the release from official service, in case of a pensioner, such person shall be cancelled from receiving pension as from the date of appointment as senior judge; however, in case of being a pensioner, such pensioner shall be cancelled from receiving such pension as from the date of having been appointed as senior judge, and shall refund the accumulated retirement savings, contributions, initial funds, compensation and benefits of such money received, to the authorities and the Government Pension Fund within 90 days as from the date of having been appointed as senior judge.

In case, before having been released from the official service, a judicial officer who has been appointed to assume the office of senior judge as per the provisions contained in Paragraph 1 was subject to the provisions of the Government Pension Fund Act B.E.2494, such person shall still be subject to the provisions of the Government Pension Fund Act B.E.2494, and regarding the release from the official office, in case of a pensioner, such person shall be cancelled from receiving such pension as from the date of having been appointed as senior judge; but in case of a remuneration recipient, such person shall refund the remuneration to the authorities within 90 days as from the date of having been appointed as senior judge.

A senior judge under this Section shall be entitled to receive the continuous counting of the length of service before having been released from official service with the official service in the position of senior judge for the purpose of calculation of government pension.

Section 14 The Minister of Justice shall be in charge under this Act.

Counter-Signature:

Mr. Chuan Leekpai

Prime Minister

Note:- Reason for promulgation of this Act: Whereas, under Section 334 (2) of the Constitution of the Kingdom of Thailand, it is prescribed to enact the law governing the criteria for judges of the court of justice who shall be completely 60 years old in any fiscal year to assume the office of senior judge for hearing and trial in the Court of First Instance as from the date following the last date of the fiscal year that such judges are completely 60 years old until the last date of the fiscal year that such judges shall be completely 65 years old; and in case, any senior judge has passed the performance appraisal as prescribed law that such senior judge has still been capable of performing the duties, then, such senior judge shall assume the office continuously until the last date of the fiscal year that such judge shall be completely 70 years old. It is deemed expedient to prescribe the criteria for compliance with the provisions of the Constitution of the Kingdom of Thailand; therefore, it is necessary to enact this Act.

The Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.2) B.E. 2550.¹¹

Note:- Reason for promulgation of this Act: Whereas, the “Act on the Criteria for Appointment and Holding of Office of Senior Judges B.E. 2542” has prescribed the criteria for a senior judge who shall be completely 60 years old in any fiscal year to assume the office of senior judge for trial in the Court of First Instance; however, since the current manpower of judges in the Superior Court has not been enough to cope with the total quantity of legal cases, including the increasing missions under the Constitution and laws. It is expedient that a senior judge with expertise of laws and long-time experiences in trial of cases shall assume the office of senior judges in the Superior Court; therefore, it is necessary to enact this Act.

The Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.3) B.E. 2551.¹²

Section 7 During the period of first 10 years as from the fiscal year that this Act shall come into force, judicial officers who are not senior judges shall be released from the currently assumed office, as per the following criteria:

(1) A judicial officer who shall be completely 60 years old in the fiscal year of 2008 shall be released from the currently assumed office when such judicial officer shall be completely 61 years old at the end of the fiscal year of 2009.

(2) A judicial officer who shall be completely 60 years old in the fiscal year of 2009 shall be released from the currently assumed office when such judicial officer shall be completely 62 years old at the end of the fiscal year of 2011.

(3) A judicial officer who shall be completely 60 years old in the fiscal year of 2010 shall be released from the currently assumed office when such judicial officer shall be completely 63 years old at the end of the fiscal year of 2013.

(4) A judicial officer who shall be completely 60 years old in the fiscal year of 2011 shall be released from the currently assumed office when such judicial officer shall be completely 64 years old at the end of the fiscal year of 2015.

¹¹ The Government Gazette, Volume 124 Section 39 (A), p.5 (2007, August 3).

¹² The Government Gazette, Volume 125 Section 32 (A), p.4 (2008, February 11).

(5) A judicial officer who shall be completely 60 years old in the fiscal year of 2012 shall be released from the currently assumed office when such judicial officer shall be completely 65 years old at the end of the fiscal year of 2017.

(6) A judicial officer who shall be completely 60 years old in the fiscal year of 2013 shall be released from the currently assumed office when such judicial officer shall be completely 66 years old at the end of the fiscal year of 2019.

(7) A judicial officer who shall be completely 60 years old in the fiscal year of 2014 shall be released from the currently assumed office when such judicial officer shall be completely 67 years old at the end of the fiscal year of 2021.

(8) A judicial officer who shall be completely 60 years old in the fiscal year of 2015 shall be released from the currently assumed office when such judicial officer shall be completely 68 years old at the end of the fiscal year of 2023.

(9) A judicial officer who shall be completely 60 years old in the fiscal year of 2016 shall be released from the currently assumed office when such judicial officer shall be completely 69 years old at the end of the fiscal year of 2025.

(10) A judicial officer who shall be completely 60 years old in the fiscal year of 2017 shall be released from the currently assumed office when such judicial officer shall be completely 70 years old at the end of the fiscal year of 2027.

A judicial officer who has been released from office under Paragraph 1 (1)-(9) shall assume the office of senior judge in the next fiscal year, and shall be released from official service at the end of the fiscal year that such person shall be completely 70 years old, except in the event that any judicial officer has given the President of the Supreme Court a written notice of not less than 90 days prior to the due date under Paragraph 1 that he or she intended not to assume such office, then, the President of the Supreme Court shall manage such judicial officer to be released from official office under the law governing the government pension at the end of such fiscal year.

Subject to the provisions of this Section, a judicial officer under Paragraph 1 who is completely 60 years old in any fiscal year shall not be prohibited from requesting for holding of the office of senior judge under Section 6 of the “Act on the Criteria for Appointment and Holding of Office of Senior Judges B.E. 2542”, as amended by this Act.

Section 8 The provisions of Section 6 Paragraph 1 of the “Act on the Criteria for Appointment and Holding of Office of Senior Judges B.E. 2542”, as amended by this Act, shall not affect a judicial officer who has assumed the office of senior judge on the date when this Act shall come into force.

Section 9 The President of the Supreme Court shall be in charge under this Act.

Note:- Reason for promulgation of this Act: Whereas, under Section 306 of the Constitution of the Kingdom of Thailand, it is prescribed to enact the law governing the criteria for judges of the court of justice to assume the office until they shall be completely 70 years old; whereas, those who are completely 60 years old or above in a period of the first 10 years as from the date when such law

shall come into force, shall be gradually and continuously released from the currently assumed office in each year, and any judge of the court of justice who is completely 60 years old or above and having performed duties for not less than 20 years and having passed the performance appraisal, may request for assuming the office of senior judge. It is deemed expedient to amend the provisions of the law to be in conformity with the provisions of the Constitution of the Kingdom of Thailand, and it is deemed expedient to revise the criteria for transfer of senior judge to be more appropriate; therefore, it is necessary to enact this Act.

The Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.4) B.E. 2560.¹³

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

Section 7 Section 7 of the “Act on the Criteria for Appointment and Holding of Office of Senior Judges (No.3) B.E. 2551” shall be repealed.

Section 8 The provisions of Section 9 of the “Act on the Criteria for Appointment and Holding of Office of Senior Judges B.E. 2542”, as amended by this Act, shall apply to judicial officers who have assumed the office of senior judges or have passed the performance appraisal to be appointed for holding of the office of senior judges on the date prior to the date when this Act shall come into force.

Section 9 The President of the Supreme Court shall be in charge under this Act.

Note:- Reason for promulgation of this Act: Whereas, it is necessary to amend the provisions that judicial officers who are completely 65 years old shall assume the office of senior judges to perform the duties of trial without assuming any managerial position until such people shall be released from official service; therefore, it is necessary to enact this Act.

¹³ The Government Gazette, Volume 134 Section 83 (A), p.4 (2017, August 13).

Revised by: Wachira
24th August 2007

Revised by: Sutthana
11th December 2013

Checked by: Witchapong
12th December 2013

Added by: Pimmada
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