

(Translation)

Unofficial Translation*

**GENDER EQUALITY ACT,
B.E. 2558 (2015)**

BHUMIBOL ADULYADEJ, REX.

**Given on the 8th Day of March B.E. 2558;
Being the 70th Year of the Present Reign.**

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

Whereas it is expedient to have a law on gender equality;

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

Section 1 This Act is called the “Gender Equality Act, B.E. 2558 (2015)”.

Section 2 This Act shall come into force after the expiration of one hundred and eighty days from the date of its publication in the Government Gazette.¹

Section 3 In this Act:

“unfair gender discrimination” means to perform or not to perform any act dividing, obstructing or limiting any direct or indirect privilege without fairness on the grounds that such person is male or female or expresses themselves differently from their inborn gender;

“Fund” means Promotion of Gender Equality Fund;

“Department” means the Department of Women’s Affairs and Family Development;

“competent official” means a person appointed by the Minister for the execution of this Act;

“Director General” means the Director General of the Department of Women’s Affairs and Family Development;

“Minister” means the Minister having charge and control of the execution of this Act.

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Section 4 The Minister of Social Development and Human Security shall have charge and control of the execution of this Act, and shall have the power to appoint competent officials and issue Rules or Notifications for the execution of this Act.

Rules or Notifications under paragraph one shall come into force upon their publication in the Government Gazette.

CHAPTER I

COMMITTEE FOR THE PROMOTION OF GENDER EQUALITY

Section 5 There shall be a committee called the “Committee for the Promotion of Gender Equality”, in brief “the Committee for PGE”, consisting of

- (1) Prime Minister as Chairperson;
- (2) The Minister of Social Development and Human Security as Vice-Chairperson;
- (3) *Ex officio* members in the amount of eleven persons, namely the Permanent Secretary of the Office of the Prime Minister, the Permanent Secretary of the Ministry of Defence, the Permanent Secretary of the Ministry of Finance, the Permanent Secretary of the Ministry of Foreign Affairs, the Permanent Secretary of the Ministry of Social Development and Human Security, the Permanent Secretary of the Ministry of Interior, the Permanent Secretary of the Ministry of Justice, the Permanent Secretary of the Ministry of Labour, the Permanent Secretary of the Ministry of Culture, the Permanent Secretary of the Ministry of Education and the Permanent Secretary of the Ministry of Public Health;
- (4) Nine qualified members shall be appointed by the Council of Ministers, with six persons selected among representatives of women’s organizations and organizations working on the rights of LGBT (Lesbian, Gay, Bisexual, and Transgender) having knowledge, expertise and experience of no less than five years of work related to gender equality and three persons from the areas of law, human rights, social science or psychology.

The Director General shall be a member and the secretary and shall have the power to appoint no more than two government officers in the Department to serve as assistant secretaries.

Section 6 A qualified member shall have qualifications and not be under any prohibitions, as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than thirty five years of age;

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- (3) not being bankrupt or an incompetent person or quasi-incompetent person;
- (4) not having been expelled, dismissed from official service, a State agency or a State enterprise due to breach of discipline;
- (5) not having been imprisoned due to a final judgment to a term of imprisonment except for an offence committed through negligence or a petty offence;
- (6) not being bound by a decision made by the Committee on Determination of Unfair Gender Discrimination that they have unfairly discriminated against another person on the basis of gender;
- (7) not having been ordered by a final judgment or a final order of the Court that their property shall vest in the State on the grounds of unusual wealth or unusual increase of property;
- (8) not having committed sexual molestation, intimidation, or harassment;
- (9) not being a member of the House of Representatives, a senator, a political official, a member of a local assembly or a local administrator, a director of or a person holding any position responsible for the administration of a political party or an advisor or official of a political party.

Section 7 A qualified member shall hold office for a term of three years.

Upon the expiration of the term of office under paragraph one, if a new qualified member has not yet been appointed, the qualified member whose term of office has expired shall be in office to continue to perform their duties until a new qualified member assumes those duties.

A qualified member who vacates office upon the expiration of the term may be reappointed, but may not hold office more than two consecutive terms.

Section 8 In addition to vacating office on the expiration of term, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers due to negligence or dishonesty in the performance of duty, disgraceful behaviour or incapability;
- (4) vacating or being discharged from the role of representative of a women's organization or organization working for the rights of LGBT individuals under section 5 (4);
- (5) being disqualified or under any of the prohibitions under section 6.

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Section 9 In the case where a qualified member vacates office before the expiration of the term, another person shall be appointed to replace the vacating member. However, if the unexpired term of the vacating member is less than ninety days, a replacement may not be appointed. The person appointed to replace the vacated member shall be in office for the unexpired term of office of the qualified member already appointed.

During the period in which a qualified member has not yet been appointed to replace the vacated member, the Committee for PGE shall consist of the remaining members.

Section 10 The Committee for PGE shall have the following powers and duties:

- (1) to prescribe policy, measures and an action plan for promoting gender equality in every agency in the government and private sectors, including central, provincial and local sectors;
- (2) to recommend policies and recommendations for improvement of a law, an ordinance or a Regulation to the Council of Ministers to comply with the objective of this Act;
- (3) to prescribe a guideline for providing assistance, compensation and remedy or relief to an injured person from unfair gender discrimination;
- (4) to examine, recommend and give advice with regard to the performance of duties of State officials and State agencies for the execution of this Act;
- (5) to promote studies, research and the dissemination of knowledge with regard to the prevention of unfair gender discrimination;
- (6) to promote data collection of gender classification, including submitting a report relating to the execution of this Act to the Council of Ministers at least one time per year;
- (7) to issue Rules relating to supervision and to examine proceedings of the Committee for the Determination of Unfair Gender Discrimination and other related Rules for the execution of this Act;
- (8) to perform other acts prescribed by law as powers and the duties of the Committee for PGE or as entrusted by the Council of Ministers.

In carrying out the act under paragraph one, the following special measures shall be prescribed in order to truly promote the gender equality:

- (1) to promote opportunities for access to any rights, including social, economic and political rights;
- (2) to improve the tradition of social and cultural behaviours between genders to eliminate biased practices based on disparity and gender-based violence in order to eliminate obstacles in accessing rights.

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Section 11 At the meeting of the Committee for PGE, the presence of not less than one-half of members is required to constitute a quorum.

At the meeting of the Committee for PGE, if the Chairperson does not attend the meeting or is unable to perform the duties, the Vice-Chairperson shall preside over the meeting. If the Chairperson and the Vice-Chairperson do not attend the meeting or are unable to perform the duties, the meeting participants shall elect one of the Committee members to preside over the meeting.

A decision of the meeting shall be made by a majority of votes. In casting votes, each member shall have one vote. In case of a tie, the presiding member shall have an additional vote as a casting vote.

Section 12 The Committee for PGE shall have the power to appoint a sub-committee for considering or performing any act as entrusted by the Committee for PGE.

The provisions of section 11 shall apply to the meeting of the sub-committee *mutatis mutandis*.

CHAPTER II

THE COMMITTEE ON THE DETERMINATION OF UNFAIR GENDER DISCRIMINATION AND THE DEPARTMENT OF WOMEN'S AFFAIRS AND FAMILY DEVELOPMENT

Section 13 There shall be a committee called the "Committee on the Determination of the Unfair Gender Discrimination" in brief, "the Committee on DUGD" consisting of a Chairperson and no less than eight but no more than ten other members appointed by the Minister by way of recruitment among persons not serving as qualified members of the Committee for PGE, with three persons who have knowledge and experience in the protection of unfairly discriminated persons or promoting gender equality and at least one person each from the areas of human rights, law, social science, psychology and labour.

The Director General shall have the power to appoint government officers in the Department to be secretary and assistant secretary.

Rules and procedures for recruitment of the Chairperson and the members under paragraph one shall comply with Rules prescribed by the Committee for PGE.

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Section 14 The Committee on DUGD shall have the following powers and the duties:

- (1) to consider problems submitted by petition claiming unfair gender discrimination under section 18;
- (2) to prescribe provisional measures before rendering decisions for protection or mitigation under section 19;
- (3) to issue orders under section 20;
- (4) to submit matters to the Ombudsman under section 21;
- (5) to carry out any other act as prescribed by law as powers and duties of the Committee on DUGD.

Section 15 The provisions under section 6, section 7, section 8, section 9, section 11 and section 12 shall apply to the Committee on DUGD *mutatis mutandis*.

Section 16 The Department shall be responsible for the administration and academic work of the Committee for PGE and the Committee on DUGD and shall have the following powers and duties:

- (1) to receive petitions claiming unfair gender discrimination as well as render legal opinions to the Committee for PGE, the Committee on DUGD or the sub-committee, as the case may be;
- (2) to provide studies, research and dissemination of knowledge with regard to the prevention of unfair gender discrimination;
- (3) to coordinate with any person, agency or other organization including government, private and civil sectors, for prevention of unfair gender discrimination on national and international levels;
- (4) to provide reports on the execution of this Act for submission to the Committee for PGE for further submission to the Council of Ministers at least once a year;
- (5) to carry out other acts as prescribed by law or entrusted by the Minister, the Committee for PGE and the Committee on DUGD or the sub-committee.

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CHAPTER III
EXAMINATION OF UNFAIR GENDER DISCRIMINATION

Section 17 Prescribing policies, ordinances, Rules, Notifications, measures, projects or procedures for State agencies, private organisations or any person which appear to discriminate unfairly by gender shall be prohibited. Proceedings under paragraph one for eliminating obstacles to access to rights and freedoms, for enabling a person to use rights and freedoms equivalently to other persons, for protecting the welfare and safety of a person for following religious rules, or for security of the nation shall not be deemed unfair gender discrimination.

Section 18 Any person who deems they are being damaged or may be damaged by an act which appears to be unfair gender discrimination and if the matter is not filed in a court or if the final judgment or order on the matter has not been passed by a court, that person shall have right to submit a petition to the Committee on DUGD for consideration and determination of whether unfair gender discrimination occurred. The decision of the Committee on DUGD shall be final, provided that the rules and procedures related to the submission of the petition, consideration and decision comply with the Rules prescribed by the Minister by advice of the Committee for PGE.

The request under paragraph one shall not deprive the petitioner of their right to file a lawsuit to claim for damages from wrongful acts in the court with territorial jurisdiction. The court shall have the power to prescribe other damages which are not pecuniary losses to the person being discriminated against unfairly due to gender. If such unfair gender discrimination is an act of intention or gross negligence, the court may prescribe punitive damages to the person being discriminated against unfairly due to gender in the amount not exceeding four times the actual damages.

With the exercise of rights under paragraph one or paragraph two, the person being discriminated against unfairly due to gender may request a related organization to act on their behalf to submit petitions or to file lawsuit to the court.

In filing the lawsuit under paragraph two, the petitioner shall file a lawsuit within the period of two years from the date on which the Committee on DUGD renders the decision or from the date on which the Administrative Court renders a final judgment, as the case may be.

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Section 19 During the consideration and decision on unfair gender discrimination, the Committee on DUGD may prescribe provisional measures before rendering its decision for protection or mitigation to the person being unfairly discriminated against due to gender where it is necessary and appropriate.

Section 20 In the case where the Committee on DUGD finds unfair gender discrimination, the Committee on DUGD shall have the power to issue an order as follows:

- (1) to order the State agency, private organisation or related person to perform their duties by appropriate methods to cease and prevent recurrence of unfair gender discrimination;
- (2) to provide compensation and remedy for the injured person under the provisions of Chapter IV.

The order of the Committee on DUGD under paragraph one shall show explicit reasons and may prescribe any condition necessary and may include remarks proposed to the Committee for PGE for the State agency, private organization or related person to execute any act it deems appropriate.

Section 21 In the case where the Committee on DUGD decides that there is unfair gender discrimination by virtue of the provisions of law which are contrary to or inconsistent with the Constitution and there has not yet been a decision of the Constitutional Court on such provisions, the Committee on DUGD shall submit the matter to the Ombudsman for consideration to submit the matter to the Constitutional Court to decide whether the provisions of the law are contrary to or inconsistent with the Constitution.

Section 22 For the execution of this Act, the Committee on DUGD, the sub-committee or the competent official entrusted by the Committee on DUGD shall have the following powers and duties:

- (1) to enter into a dwelling or any place for gathering related evidence by a search warrant;
- (2) to issue letter to question or to summon a person to give a statement or deliver objects or related documents for consideration.

The related person shall facilitate, give written statements of facts, answer the inquiry letter or deliver the related objects or documents to the Committee on DUGD, the sub-committee or the competent official for the execution of paragraph one.

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Section 23 The Committee on DUGD, the sub-committee and the competent official who executes under this Act shall be officials under the Penal Code.

In the performance of duties, the competent official shall produce their identity card to the person concerned.

The identity card of the competent official shall be in the form prescribed by the Minister.

CHAPTER IV COMPENSATION AND REMEDY OF THE INJURED PERSON

Section 24 When the Committee on DUGD renders a decision that unfair gender discrimination has occurred, the injured person shall have the right to request compensation and remedy by submitting an application to the Department under the form prescribed by the Director General within one year as from the date of the receipt of the Committee on DUGD's decision.

The right to request compensation and remedy under paragraph one is purely personal and cannot be transferred and inherited.

Section 25 In the case where the injured person is a minor, a quasi-incompetent or an incompetent person or in the case where the injured person is unable to submit an application for compensation and remedy by themselves, a guardian, a curator, a custodian, a spouse, a caretaker or any other person for the benefit of the injured person, as the case may be, may submit an application on behalf of the injured person, provided that the rules and procedures shall be as prescribed by the Director General.

Section 26 Compensation and remedy for the injured person shall be done by any assistance or pecuniary assistance as follows:

- (1) loss of earnings during disability to normally work;
- (2) loss of opportunities which is commercial damage that can be calculated in monetary terms;
- (3) expenses related to medical treatment, including physical and mental recovery;
- (4) compensation and remedy in other forms or categories.

Rules, procedures and the amount of money compensated and remedied to the injured person under paragraph one shall comply with Rules prescribed by the Committee for PGE.

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Section 27 Receipt of compensation and remedy under section 26 shall not deprive the injured person of rights to filing a lawsuit to claim for damages from wrongful acts in the court having territorial jurisdiction, provided that the provisions of section 18 paragraph two and paragraph three shall apply *mutatis mutandis*.

CHAPTER V

THE PROMOTION OF GENDER EQUALITY FUND

Section 28 A fund shall be established in the Department called “the Promotion of Gender Equality Fund” for financing the promotion of gender equality under this Act.

Section 29 The Fund consists of:

- (1) subsidies provided by the Government from its annual budget;
- (2) grants from agencies related to the promotion of gender equality;
- (3) money or property donated to the Fund;
- (4) fines received from punishment of offenders under this Act;
- (5) interest from the Fund;
- (6) other revenues.

The money and property under paragraph one shall be remitted to the Fund without remittance to the Treasury as State revenue.

Section 30 Money from this Fund shall be spent under the following objectives:

- (1) for activities or affairs related to the promotion of gender equality;
- (2) for prevention of unfair gender discrimination;
- (3) for assisting, compensating and remedying, or relieving the injured person from unfair gender discrimination under section 26;
- (4) for supervising and giving recommendation or advice with regard to the performance of duties of State officials and State agencies for the implementation of this Act;
- (5) for promoting studies, research and the dissemination of knowledge with regard to the prevention of unfair gender discrimination;
- (6) for communicating and coordinating with any person, agency or other organization including government, private and civil sectors; or
- (7) for other purposes as the Committee for PGE deems expedient.

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Section 31 There shall be a Committee of Fund Administration consisting of the Director General as Chairperson, a representative from the Bureau of the Budget, a representative from the Comptroller General's Department, and four qualified members appointed by the Committee for PGE with three representatives from the private sector having knowledge and experience in promoting gender equality and one person in fund administration as members.

The Deputy Director entrusted by the Director General shall be a member and secretary.

The Committee of Fund Administration may appoint no more than two government officers in the Department to be assistant secretaries.

Section 32 The provisions of section 6, section 7, section 8, section 9, section 11 and section 12 shall apply to the Committee of Fund Administration *mutatis mutandis*.

Section 33 The Committee of Fund Administration has the following powers and duties:

(1) to administer the Fund, receipts, payments and maintenance of funds including undertakings with regard to raising capital, investments, acquisition of interest and management of the Fund, provided that there is compliance with the Rules prescribed by the Committee for PGE with the approval of the Ministry of Finance;

(2) to consider and approve payments for compensation and remedy to the injured person under the Rules prescribed by the Committee for PGE;

(3) to report financial statements and the Fund administration to the Committee for PGE.

CHAPTER VI

PENALTIES

Section 34 Whoever fails to comply with the order of the Committee on DUGD under section 20 (1) shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding twenty thousand baht or to both.

Section 35 Whoever fails to comply with section 22 paragraph two shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding ten thousand baht or to both.

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Section 36 All offences under this Act may be settled by the following competent official by way of payment of a fine if the competent official holds that the alleged offender should not be punished with imprisonment or should not be prosecuted:

- (1) The Director General or a person entrusted by the Director General for offences committed in Bangkok;
- (2) The Governor or a person entrusted by the Governor for offences committed in other *Changwat*.

In the case of inquiry, if an inquiry official finds that any person commits an offence under this Act and such person consents to a settlement, the inquiry official shall submit the case to the competent official having power to settle under (1) or (2), as the case may be, within seven days from the date of consent.

Upon payment by the alleged offender of the settled amount of the fine within thirty days, the case shall be deemed settled under the Criminal Procedure Code.

Countersigned by
General Prayut Chan-o-cha
Prime Minister

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Note:- Reason for promulgation of this Act: Whereas, at present, there is no clear measure to prevent unfair gender discrimination, resulting in no protection and fair treatment to victims of unfair gender discrimination. Therefore, it is deemed expedient to enact the law to prescribe measures for protection of victims of unfair gender discrimination and for prevention of unfair gender discrimination in accordance with the international human rights principles as per the international obligations for which Thailand has been a party thereto; therefore, it is necessary to enact this Act.

Prepared by: Preeyanuch
16th March 2015

Checked by: Variya
16th March 2015

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