

The Act on Older Persons B.E. 2546 (2003 A.D.)



Given on the 27th day of November B.E. 2546

Being the 53rd year of the Present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased

The Act on Older Persons

B.E. 2546 (2003 A.D.)

Whereas it is expedient to make laws on older persons;

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 "Older Persons Act B.E.2546"

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

Section 3 In this Act:

"Older persons" means persons who have attained the age of at least sixty years and are of Thai nationality;

"Fund" means the Older Persons Fund;

Ministry of Social Development and Human Security

The Act on Older Persons B.E. 2546 (2003 A.D.)

BHUMIBOL ADULYADEJ REX.

Given on the 31th day of December B.E. 2546

Being the 58th year of the Present Reign

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

Whereas it is expedient to have a law on older persons;

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 “Older Persons Act, B.E.2546”

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

Section 3 In this Act:

“Older persons” means persons who have attained the age of at least sixty years and are of Thai nationality;

“Fund” means the Older Persons Fund;

Section 5 Qualified members appointed by the Council

Ministers shall hold office for a term of four years as from the day of taking

office and may be re-appointed, but not for more than two consecutive

terms.

“Commission” means the National Older Persons Commission;

“Responsible Minister” means the Minister exercising control over the agency entrusted with responsibilities relating to the protection, promotion and support of older persons under section 11

Section 4 There shall be a National Older Persons Commission, abbreviated as “NOPC”, consisting of:

(1) the Prime Minister as Chairman;

(2) the Minister for Social Development and Human Security as First Vice-Chairman;

(3) the President of the Older Persons Council of Thailand under the Royal Patronage of Her Royal Highness the Queen Mother as the Second Vice-Chairman;

(4) the Permanent-Secretary for Finance, Permanent-Secretary for Foreign Affairs, Permanent-Secretary for Social Development and Human Security, Permanent-Secretary for Interior, Permanent-Secretary for Labour, Permanent-Secretary for Education, Permanent Secretary for Public Health, Permanent-Secretary for Bangkok Metropolitan Administration, Budget Director of the Bureau of the Budget, Secretary-General of the Economic and Social Development Board, President of the Social Relief Council under His Majesty’s Royal Patronage and the Secretary-General of the Thai Red Cross Society as ex officio members;

(5) not more than five qualified members appointed by the Council of Ministers from representatives of private organisations relevant to works on the protection, promotion and support of statuses, roles and activities of older persons;

(6) not more than five qualified members appointed by the Council of Ministers.

The Director-General of the Bureau of Welfare Promotion and Protection of Children, Youth, the Disadvantaged, Persons with Disabilities and Older Persons, Ministry of Social Development and Human Security, shall be a member and secretary. The Director of the Office of Empowerment for Older Persons, Bureau of Welfare Promotion and Protection of Children, Youth, the Disadvantaged, Persons with Disabilities and Older Persons, Ministry of Social Development and Human Security, and the Director of the Institute of Geriatric Medicine, Department of Medical Services, Ministry of Public Health shall be assistant-secretaries.

The appointment of qualified members who are representatives of private organisations under (5) shall be made from persons selected by the private organisations themselves and the appointment of qualified members shall be made from persons who are not officials holding permanent positions or salaries, officers or employees of a Government agency, State agency, State enterprise or local government organisation except for those who teach at a higher education institution of the State.

The rules and procedures for the selection and vacation of office of representatives of private organisations shall be in accordance with the rules prescribed by the Minister. Members under (1), (2), (3), (4) and (5) shall carry out the recruitment and selection of qualified persons to be submitted to the Council of Ministers for appointment as members under (6).

Section 5 Qualified members appointed by the Council of Ministers shall hold office for a term of four years as from the day of taking office and may be re-appointed, but not for more than two consecutive terms.

A qualified member who vacates office on the expiration of term shall continue to perform duties until new qualified members have been appointed.

In the case where qualified members vacate office before the expiration of term or in the case of the appointment of additional qualified members during the term of qualified members already appointed, notwithstanding that it is an additional or replacing appointment, the appointee shall hold office for the remaining term of the qualified members already appointed.

Section 6 In addition to vacating office on the expiration of term under section 5, qualified members vacate office upon:

- (1) death;
- (2) resignation;
- (3) being a bankrupt;
- (4) being an incompetent or quasi-incompetent person;
- (5) being removed by the Council of Ministers for defectiveness or dishonesty in performance of duties, having damaging behaviour or lacking in ability;
- (6) being imprisoned by a final judgment.

Section 7 At a meeting of the Commission, the presence of not less than one-half of the total number of members is required to constitute a quorum.

In the case where the Chairman is not present at the meeting or is unable to perform duties, the Vice-Chairman shall preside over the meeting. If the Chairman and Vice-Chairman are not present at the meeting or are unable to perform duties, the members present shall elect one amongst themselves to preside over the meeting.

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

There shall be not less than two meetings of the Commission in each year.

Section 8 The Commission has the power to appoint a sub-committee to consider or perform any act entrusted by the Commission.

Section 7 shall apply to a meeting of the sub-committee *mutatis mutandis*.

Section 9 The Commission shall have the powers and duties as follows:

(1) to determine policies and principal plans in connection with the protection, promotion and support of statuses, roles and activities of older persons with the approval of the Council of Ministers; in this regard, the participation of family institutions in the care of older persons shall be promoted and supported;

(2) to determine practice directions under the policies and principal plans under (1) as well as to coordinate, monitor and evaluate performance results under such policies and principal plans.

(3) to consider the support and assistance of activities organised by State and private organisations in connection with the relief and development of older persons;

(4) to prescribe rules in connection with the administration of the Fund, investment of the Fund and management of the Fund with the approval of the Ministry of Finance under section 20(1);

(5) to prescribe rules in connection with the deliberation for approval of payment of monies for the protection, promotion and support of older persons under section 20(2);

(6) to prescribe rules in connection with the preparation of reports on financial status and administration of the Fund under section 20(3);

(7) to prescribe rules in connection with the receipt of monies, the payment of monies and the safekeeping of monies of the Fund with the approval of the Ministry of Finance under section 21;

(8) to prescribe other relevant rules for the execution of this Act;

(9) to propose suggestions and observations to the Council of Ministers for the enactment or amendment of laws relating to the protection, promotion and support of statuses, roles and activities of older persons;

(10) to submit a report on national affairs of older persons to the Council of Ministers at least once annually;

(11) to consider other matters relating to older persons under this Act or other laws which provide such matters to be within the powers and duties of the Commission or as entrusted by the Council of Ministers.

Section 10 The Office of Empowerment for Older Persons, Bureau of Welfare Promotion and Protection of Children, Youth, the Disadvantaged, Persons with Disabilities and Older Persons, Ministry of Social Development and Human Security shall have power and duties in connection with the protection, promotion and support in relation to older persons and shall be responsible for the secretarial tasks and technical work of the Commission and shall have the powers and duties as follows:

(1) to prepare practice directions under the policies and principal plans in connection with the protection, promotion and support of statuses, roles and activities of older persons for mission to the Commission;

(2) to gather data, study, analyse and undertake developments relating to the protection, promotion and support of older persons;

(3) to act as a center for the coordination, dissemination and advertisement of works or activities related to older persons;

(4) to build a system of care for older persons in communities;

(5) to cooperate and coordinate with central administrative agencies, regional administrative agencies, local administrative agencies and State enterprises as well as other organisations in the provision of protection, promotion and support of older persons under this Act and other relevant laws;

(6) to monitor and evaluate performance under the principal plans of relevant agencies and report to the Commission;

(7) to consider the proposal of opinions to the Commission on the enactment or amendment of laws on the protection, promotion and support of statuses, roles and activities of older persons;

(8) to perform other duties entrusted by the Commission.

Section 11 An older person shall be entitled to protection, promotion and support in various areas as follows:

(1) convenient and expedient medical and public health services that have been especially provided for older persons;

(2) education, religion and news that are beneficial for the carrying on of life;

(3) appropriate occupation or occupational training;

(4) self-development and participation in social activities and the formation of groups bearing the characteristics of a network or community;

- (5) the direct provision of facilities and maintenance of safety for older persons in buildings, places, vehicles or other public services;
- (6) appropriate subsidies for transport fares;
- (7) the exemption of entry fees to State places;
- (8) the aid of older persons facing the dangers of torture or unlawful exploitation or abandonment;
- (9) the giving of advice and consultation on other proceedings in connection with a case or the remedy of family problems;
- (10) the extensive provision of accommodation, food and clothing where necessary;
- (11) to provide extensive and fair relief in the form of maintenance allowances where necessary;
- (12) relief for holding traditional funerals;
- (13) other matters prescribed by the Commission in a Notification.

In proceeding under paragraph one, the Commission shall submit an opinion to the Prime Minister for consideration and prescription by Notification that any agency of a Ministry, Sub-Ministry in the central administration, regional administration, local administration and State enterprise has the powers and duties regarding the responsibilities of implementation. Significant account shall be given to the exclusive expertise, the relationships with primary functions and the amount of work within the responsibility of each agency as well as the participation of the private sector.

Protection, promotion and support under paragraph one shall be undertaken by the agency under paragraph two free or charge or with discounts in special cases as the case may be and in accordance with the rules, procedures and conditions prescribed by the responsible Minister in a Notification.

Section 12 The claim of rights or obtaining of rights or benefits of older persons under this Act shall not constitute a disentitlement to rights or benefits obtainable by older persons under the provisions of other laws.

Section 13 There shall be established a fund in the Bureau of Welfare Promotion and Protection of Children, Youth, the Disadvantaged, Persons with Disabilities and Older Persons called the "Older Persons Fund" as capital for the protection, promotion and support of older persons under this Act.

Section 14 The Fund shall consist of:

- (1) the initial funds appropriated by the government;
- (2) monies received from annual budgetary appropriations;
- (3) monies or properties donated or given by persons;
- (4) sponsorship from foreign countries or international organisations;
- (5) monies or properties which have reverted to the Fund or been received by the Fund under the law or through other juristic acts;
- (6) interests accruing from the monies or properties of the Fund.

Section 15 Monies and interests under section 14 shall not be remitted to the Ministry of Finance as revenues of the State.

Section 16 Donors of monies or properties to the Fund has the right to apply such donations as a deduction in the assessment of income tax or be exempt from tax on properties which have already been donated, as the case may be, in accordance with the rules, procedures and conditions prescribed in the Tax Code.

Section 17 A caretaker of parents who are older persons that do not have sufficient income for maintenance of life shall have right to receive tax deductions in accordance with the rules, procedures and conditions prescribed in the Tax Code.

Section 18 There shall be a Fund Executive Committee consisting of the Permanent-Secretary for Social Development and Human Security as Chairman, the Director-General of the Bureau of Welfare Promotion and Protection of Children, Youth, the Disadvantaged, Persons with Disabilities and Older Persons as Vice-Chairman, a representative of the Ministry of Public Health, a representative of the Bureau of the Budget, a representative of the Comptroller-General's Department, five qualified members appointed by the Commission where in this number there shall be a representative of an older person's organisation, a representative of a private organisation related to works in connection with the protection, promotion and support of statuses, roles and activities of older persons and a member who has knowledge and expertise in capitalisation, and the Director of the Office of Empowerment for Older Persons shall be a member and secretary.

Section 19 The provisions in section 5, section 6, section 7 and section 8 shall apply to the holding of office, the vacation of office, the additional appointment of members, the meeting and appointment of sub-committees by the Fund Executive Committee mutatis mutandis.

Section 20 The Fund Executive Committee shall have the powers and duties as follows:

(1) to administer the Fund as well as carry out matters relating to the investment and management of the Fund in accordance with the rules prescribed by the Commission;

a Notification.

(2) to consider the approval of payment for the protection, promotion and support of older persons in accordance with the rules prescribed by the Commission;

(3) to report the financial status and management of the Fund to the Commission in accordance with the rules prescribed by the Commission.

Section 21 The receipt of monies, payment of monies and the safekeeping of monies in the Fund shall be in accordance with the rules prescribed by the Commission.

Section 22 The Fund Executive Committee shall prepare a balance sheet and operating accounts which shall be submitted to an auditor for auditing within one hundred and twenty days as from the last day of each accounting year.

The Office of the Auditor General of Thailand shall be the Fund's auditor for every annual period and shall prepare an auditor's report of the Fund for submission to the Commission.

Section 23 The National Promotion and Coordination of Older Persons Commission under the Rules of the Office of the Prime Minister on National Promotion and Coordination of Older Persons, B.E. 2542 (1999) shall perform duties for the time being until the appointment of qualified members as a Commission under this Act.

Section 24 The Prime Minister and the Minister for Social Development and Human Security shall have charge and control of the execution of this Act and shall have the power to issue Notifications or Rules for the execution of this Act in relation to matter within their respective Ministries.

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

Reasons

Whereas section 54 of the Constitution of the Kingdom of Thailand contains provisions on the rights of older persons as having the right to receive aids from the State; in order to comply with the provisions of law and enact laws which encompass every aspect of older persons; therefore, to carry out works in connection with the protection, promotion and support of rights and benefits of older persons in a manner that is efficient and consistent with provisions of the Constitution of the Kingdom of Thailand, it is necessary to enact this Act.