

Unofficial Translation

Standard Qualifications of State Enterprise Directors and Employees

B.E. 2518 (1975)

BHUMIBOL ADULYADEJ, REX;

Given on the 14th Day of January B.E. 2518;

Being the 30th 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 standard qualifications of state enterprise directors and employees;

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

Section 1. This Act is called the “Standard Qualifications of State Enterprise Directors and Employees Act B.E. 2518 (1975)”.

Section 2.¹ This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. The Act on Prescription of Retirement Age for Workers in State Organizations B.E. 2508 (1965) shall be repealed.

¹ Published in the Government Gazette, Vol. 92, Part 16, Special Issue, Page 5, on 25 January B.E. 2518 (1975).

This Act shall replace all other laws, regulations and rules with respect to parts already provided in this Act, or which are contrary to or inconsistent with the provisions of this Act.

Section 4. In this Act:

“state enterprise” means

(1) a government organization under the law on establishment of government organizations, or a state undertaking under the law establishing such undertaking, and shall include a business enterprise owned by the state, but shall not include an organization or undertaking which has the mere objective of providing welfare or promoting any non-business activity;

(2) a limited company or juristic partnership in which a Ministry, Sub-ministry, Department or political agency of equivalent standing and/or a state enterprise under (1) holds capital in excess of fifty percent; or

(3) a limited company or juristic partnership in which a Ministry, Sub-ministry, Department or political agency of equivalent standing and/or state enterprise under (1) and/or (2) hold two-thirds of the capital;

“director” means a director in the board of directors of a state enterprise, and shall also include the chairman and vice-chairman of the board of directors;

“executive officer”² means a governor, director, managing director, manager or other person holding the highest executive position having similar functions thereto in a state enterprise;

“employee”³ means an employee and wage-earner of a state enterprise, and shall also include an advisor to the board of directors, advisor to the state enterprise, secretary and assistant secretary to the board of directors, or a person holding a position

² Section 4, definition of “executive officer”, was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 4) B.E. 2543 (2000).

³ Section 4, definition of “employee”, was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 4) B.E. 2543 (2000).

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with similar functions thereto but given a different title in the state enterprise, provided that such definition shall only apply for the purposes of prescribing standard qualifications and the vacation of a position.

Section 5. A director of a state enterprise shall not only possess the qualifications and not have the prohibited qualities specifically provided for such state enterprise, but shall also possess the qualifications and not have the prohibited qualities, as follows:

- (1) having Thai nationality;
- (2) having attained not more than sixty-five years of age;
- (3) having suitable credentials and experiences for the undertakings of such state enterprise;
- (4)⁴ not being a bankrupt person, or not having been a fraudulently bankrupt person;
- (5) not having been imprisoned by a final judgment of imprisonment, except for a sentence for an offence committed negligently or a minor offence;
- (5/1)⁵ not being an insane or mentally disabled person;
- (5/2)⁶ not having been held by judgment or order of a court which vested assets in the state due to unusual wealth or an unusual increase in assets;
- (5/3)⁷ not being a member of the House of Representatives, senator, member of a local assembly or local administrator;

⁴ Section 5(4) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 5) B.E. 2550 (2007).

⁵ Section 5(5/1) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

⁶ Section 5(5/2) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

⁷ Section 5(5/3) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

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(6)⁸ not being a political official, except for a position held pursuant to a provision of law;

(7)⁹ not being a holder of any position in a political party, or an officer of a political party;

(7/1)¹⁰ not having been expelled, dismissed or removed from work because of fraudulent discharge of functions;

(8)¹¹ not being a shareholder of such state enterprise or a shareholder of a juristic person in which such state enterprise holds shares;

(9)¹² not being a holder of any position in a juristic person in which such state enterprise holds shares, except where entrusted by the board of directors of such state enterprise to hold a directorial position or other position in the juristic person in which such state enterprise holds shares;

(10)¹³ not being a director or executive officer or authorized officer or having an interest in a juristic person which is a concessionaire, joint venture party, or has an interest in the activities of such state enterprise, except for being a chairman of the board of directors, director or executive officer by entrustment of such state enterprise.

⁸ Section 5(6) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 2) B.E. 2519 (1976).

⁹ Section 5(7) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

¹⁰ Section 5(7/1) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

¹¹ Section 5(8) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 5) B.E. 2550 (2007).

¹² Section 5(9) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 5) B.E. 2550 (2007).

¹³ Section 5(10) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

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The provisions in (1) shall not apply to a foreign director who must be appointed by a state enterprise pursuant to an obligation or due to the characteristics of its undertakings.

The provisions in (8) shall not apply to a director who is not a government official, employee or wage-earner holding a permanent position or drawing a monthly salary in the central, regional and local administrations, or other state agency, and such director holds shares in the amount not exceeding zero point five percent of the paid-up capital of the state enterprise of which he/she is a director, or juristic person in which the state enterprise that he/she is a director holds shares.¹⁴

Section 6. A state enterprise shall have no more than eleven directors in total. However, if any state enterprise provides for fewer than eleven directors then the number of directors shall be as provided.

Where a state enterprise necessarily requires more than eleven directors, the Minister in Charge may seek the approval of the Council of Ministers specifically for such state enterprise. In any event, however, the total number of directors shall not exceed fifteen.¹⁵

Section 7.¹⁶ A person shall not hold the positions of directors in more than three state enterprises, inclusive of being *ex officio* directors and entrustments to act on behalf of others as directors.

The number of directorial positions held under paragraph one shall not include *ex officio* directorial positions that have been entrusted to other persons.

¹⁴ Section 5 paragraph three was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

¹⁵ Section 6 paragraph two was added by the Announcement of the National Peace Keeping Council on Directors of State Enterprises, dated 28 February B.E. 2534 (1991).

¹⁶ Section 7 was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

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Section 8. In addition to the vacation of office as provided for each state enterprise, a director vacates office upon:

- (1) death;
- (2) resignation;
- (3) lacking a qualification or having a prohibited quality under section 5.

A director of a state enterprise who is not an *ex officio* director under a law or Royal Decree shall hold office for a term of three years but may be reelected.

The provisions in paragraph two shall not apply to a director of a limited company or juristic partnership.

Section 8 bis.¹⁷ An executive officer of a state enterprise shall not have the status of a state enterprise employee.

In the case where the law establishing any state enterprise provides for employees to be competent officials under the Penal Code, the executive officer of such state enterprise shall be a competent official under the Penal Code.

Section 8 ter.¹⁸ An executive officer shall not only possess the qualifications and not have the prohibited qualities specifically provided for such state enterprise, but shall also possess the qualifications and not have the prohibited qualities, as follows:

- (1) having Thai nationality;
- (1/1)¹⁹ having attained not more than sixty years of age;
- (2) having the ability to perform full-time work for such state enterprise;
- (3) not being an insane or mentally disabled person;

¹⁷ Section 8 bis was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 4) B.E. 2543 (2000).

¹⁸ Section 8 ter was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 4) B.E. 2543 (2000).

¹⁹ Section 8 ter (1/1) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

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(4)²⁰ not being a bankrupt person or not having been a fraudulently bankrupt person;

(5)²¹ not having been imprisoned by a final judgment of imprisonment, except for a sentence for an offence committed negligently or a minor offence;

(6) not having been held by judgment or order of a court which vested assets in the state due to unusual wealth or an unusual increase in assets;

(7) not being an executive officer or employee of another state enterprise or profit-seeking activity;

(8) not being a government official, employee or wage-earner holding a permanent position or monthly salary in the central, regional and local administrations, or other state agency;

(9) not being a political official, member of the House of Representatives, senator, member of a local assembly or local administrator;

(10)²² not being a holder of any position in a political party or an officer of a political party;

(11)²³ not having been expelled, dismissed or removed from work because of fraud in the discharge of functions;

(12) not being, or within the three year period prior to appointment, not having been a director or executive officer or authorized officer or having an interest in a juristic person which is a concessionaire, joint venture party, or having an interest in the activities of such state enterprise, except for being a chairman of the board of directors or director of the juristic person by entrustment of such state enterprise.

²⁰ Section 8 ter (4) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 5) B.E. 2550 (2007).

²¹ Section 8 ter (5) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 7) B.E. 2558 (2015).

²² Section 8 ter (10) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

²³ Section 8 ter (11) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

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Section 8 quarter.²⁴ In the employment and appointment of a state enterprise's executive officer, the board of directors of such state enterprise shall appoint a selection committee consisting of five members who must possess the qualifications and not have the prohibited qualities under section 8 ter (1), (3), (4), (5), (6), (11) and (12).

The selection committee shall perform the duties of selecting persons having the knowledge, abilities and experiences suitable to become the executive officer of the state enterprise, who must possess the qualifications and not have the prohibited qualities under section 8 ter (1), (3), (4), (5), (6), (9), (10), (11) and (12), is not a director of such state enterprise except for an executive officer who is *ex officio* director, and has attained not more than fifty-eight years of age on the date of application submission.

Upon obtaining a suitable person, a nomination shall be made to the appointing authority for appointment as an executive officer of the state enterprise. A nomination may contain the names of more than one suitable person. In any event, the employment and appointment of a state enterprise's executive officer must be completed within one year as from the date of vacation of office by the previous executive officer.

An executive officer shall be employed for a term not exceeding four years as from the effective date of the employment contract.

In the execution of an employment contract, the chairman of the state enterprise board of directors, or a director entrusted by the state enterprise board of directors in the case where there is no chairman of the state enterprise board of directors, shall sign the employment contract and the employment under such contract shall not be subject to the law on labour protection, the law on labour relations, the law on state enterprise labour relations, the law on social security and the law on compensations.

The employment contract under paragraph five must at least provide for terms pertaining to the tenure, conditions of work, retirement from office, conditions for

²⁴ Section 8 quarter was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

termination of employment contract, work performance appraisals and remuneration or other benefits of the executive officer.

The determination of remuneration or other benefits, as well as the conditions of employment of the executive officer, shall be as determined by the board of directors of the state enterprise with the approval of the Ministry of Finance.

In the case where the board of directors of a state enterprise wishes to re-employ an executive officer after the completion of the period in the employment contract on account of the executive officer's good work performance and that the re-employment of such executive officer would confer significant benefits to the state enterprise, a nomination may be made to the appointing authority for the executive officer of such state enterprise without the need to carry out the procedures under paragraph one, paragraph two and paragraph three, but such employment shall not exceed two consecutive terms.

Section 8 quinquies.²⁵ In addition to the vacation of office specifically provided for a particular state enterprise, an executive officer vacates office upon:

- (1) death;
- (2) resignation;
- (3) lacking a qualification or having a prohibited quality under section 8 ter;
- (4) being absent from more than three consecutive meetings of the state enterprise board of directors without due cause;
- (5) completion of employment contract;
- (6) termination of employment contract.

Section 9. A state enterprise employee shall not only possess the qualifications and not have the prohibited qualities specifically provided for such state

²⁵ Section 8 quinquies was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 4) B.E. 2543 (2000).

enterprise, but shall also possess the qualifications and not have the prohibited qualities, as follows:

- (1) having Thai nationality;
- (2) having attained not more than sixty years of age;
- (3) having the ability to perform full-time work for such state enterprise;
- (4)²⁶ not being a bankrupt person or not having been a fraudulently bankrupt person;
- (5)²⁷ not having been imprisoned by a final judgment of imprisonment, except for a sentence for an offence committed negligently or a minor offence or a period of more than five years has already lapsed since the completion of the sentence;
 - (5/1)²⁸ not being an insane or mentally disabled person;
 - (5/2)²⁹ not having been held by judgment or order of a court which vested assets in the state due to unusual wealth or an unusual increase in assets;
- (6)³⁰ not being a government official holding a permanent position or monthly salary, including a political official, wage-earner of a Ministry, Sub-ministry, department or political agency of equivalent standing, local official and member of a local assembly or Bangkok Metropolitan Assembly and local administrator;

²⁶ Section 9(4) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 5) B.E. 2550 (2007).

²⁷ Section 9(5) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 7) B.E. 2558 (2015).

²⁸ Section 9(5/1) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

²⁹ Section 9(5/2) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

³⁰ Section 9(6) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 2) B.E. 2519 (1976).

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(7)³¹ not being a holder of any position in a political party or an officer of a political party;

(8)³² not having been expelled, dismissed or removed from work because of fraud in the discharge of functions.

The provisions in (1) shall not apply to a foreign employee whose employment by a state enterprise is necessary due to the characteristics of work of such state enterprise.

The provisions in (3) shall not apply to an employee who is an advisor to the board of directors, advisor to the state enterprise, secretary and assistant secretary to the board of directors.

Section 10.³³ A state enterprise employee who is an advisor to the board of directors or advisor to the state enterprise, or a person holding a position having similar functions thereto but called otherwise in the state enterprise, must possess the appropriate credentials and experience for the undertakings of such particular state enterprise.

Section 11.³⁴ In addition to the vacation of office specifically provided for a particular state enterprise, an employee vacates office upon:

- (1) death;
- (2) resignation;

³¹ Section 9(7) was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

³² Section 9(8) was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

³³ Section 10 was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 4) B.E. 2543 (2000).

³⁴ Section 11 was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 3) B.E. 2520 (1977).

(3) lacking a qualification or having a prohibited quality under section 9 or section 10.

As for the vacation of office of an employee upon attaining the age of sixty years, such vacation shall be effective at the end of the budget year under the law on budgetary procedures of the year which such employee attains the age of sixty years.

Section 12. A state enterprise which has more than eleven directors shall carry out revisions to maintain a number of directors not exceeding such number within two months as from the date of coming into force of this Act.

Section 12/1.³⁵ In the appointment of other directors who are not *ex officio* directors in a state enterprise, the appointing authority shall consider the appointment of persons listed in the directors' list prepared by the Ministry of Finance in a number not fewer than one-third of the number of other directors in such state enterprise.

The preparation of a directors' list under paragraph one shall be in accordance with the rules and procedures prescribed by the Council of Ministers.

Section 13. In the case where a person holds directorial positions in state enterprises exceeding the number prescribed in section 7, such person shall resign from the directorial positions in any state enterprise within one month of the date of coming into force of this Act. If a resignation is not tendered, such person shall be deemed to have vacated the directorial positions in order of the most recent appointments upon expiration of the one month period.

Section 14. A state enterprise director or employee who lacks a qualification or has a prohibited quality under this Act on the date of coming into force of this Act shall vacate office upon the expiration of one month as from the date of coming into force of this Act.

³⁵ Section 12/1 was added by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 6) B.E. 2550 (2007).

Section 15. The three year period under paragraph two of section 8 shall commence from the date of most recent appointment of the director.

A director who has been in office for more than three years as from the most recent appointment date shall vacate office upon the expiration of one month as from the date of coming into force of this Act but may be reappointed.

Section 16.³⁶ The Minister of Finance shall have charge and control of the execution of this Act.

Countersigned by:

Sanya Thammasak

³⁶ Section 16 was amended by the Standard Qualifications of State Enterprise Directors and Employees Act (No. 7) B.E. 2558 (2015).

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