

**GOVERNMENT PENSION FUND ACT,
B.E. 2539 (1996)**

**HIS MAJESTY KING BHUMIBOL ADULYADEJ REX;
Given on the 26th day of September B.E. 2539;
Being the 51st year of the Present Reign.**

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

Whereas it is deemed appropriate to have the law on government pension fund;

Be it therefore enacted by the King, by and with the advice and consent of the Parliament as follows.

Section 1 This Act shall be called the “Government Pension Fund Act, B.E. 2539”

Section 2¹ This Act shall come into force as from the day following the date of its publication in the Government Gazette except that the provisions under Chapter 3 shall come into force on the one hundred and eightieth day following the date on which this Act has come into force.

Section 3 In this Act:

“Official”² means a civil official under the law on civil official rules, a judicial official under the law on judicial official rules, a public prosecutor under the law on public prosecutor rules, a civil official in a university under the law on civil officials in the university rules, a teacher under the law on teacher rules, an ordinary parliamentary official under the law on ordinary parliamentary official rules, a police official under the law on police official rules, a military official under the law on military official rules, a constitution court official under the law on constitution court office, and a civil official prescribed under the law as a civil official under this Act;

¹ The Royal Gazette No. 113 / Chapter 42 A / Page 1/27, September B.E. 2539 (1996).

² Section 3, the definition of “Official” is amended by the Government Pension Fund Act (2nd Edition) B.E. 2542 (1999).

“Local Official”³ means the Official, officer or employee called in the other name of provincial administrative organization, municipality, sub-district administrative organization, the Bangkok Metropolitan Administration, the Pattaya City and other Local Administrative Organization established by law;

“University Officer”⁴ means the officer, personnel or employee called in the other name of university or higher education institution under the state supervision under the law on university or higher education institution excluding the permanent employee and the temporary employee;

“Local Administrative Organization”⁵ means the provincial administrative organization, municipality, sub-district administrative organization, Bangkok Metropolitan Administration, Pattaya City and other Local Administrative Organization established by law;

“Fund” means the Government Pension Fund;

“Member” means a member of the Government Pension Fund;

“Salary” means a salary received under the law on the rules with respect to such Official including a monthly academic honorarium, a remuneration for a position of the risky duties for combat or suppression of offenders but excluding other additional money;

“Member Contribution” means the money saved by a Member with the Fund hereunder;

“Employer Contribution” means the money added by the Government to the Member Contribution hereunder;

“Pre-reform Compensation” means the money put by the Government into the Fund as an additional payment to a Member who was an Official before the date on which the provisions under Chapter 3 has come into force and chose to receive a Pension;

“Post-reform Compensation” means the money put by the Government into the Fund as an additional payment to a Member who receives a Pension;

“Pension” means the money paid to a Member on a monthly basis when his/her membership terminates;

³ Section 3, the definition of “Local Official” is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

⁴ Section 3, the definition of “University Employee” is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

⁵ Section 3, the definition of “Local Organization” is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

“Gratuity” means the money paid to a Member once and for all when his/her membership terminates;

“Living Gratuity”⁶ means the money paid to a pensioner once and for all in order to help his or her living;

“Bequesting Gratuity” means the money paid to the heirs once and for all in case of death of a Member or a pensioner;

“Official Term” means the period commencing on the date on which a Member serves as an Official until the last day of his/her Salary pursuant to the rules and procedures provided herein and also includes the calculation of double Official Term under the law on Officials’ Gratuity and Pension;

“Juristic Person”⁷ means a Juristic Person established under Thai or foreign law;

“Committee” means the Committee of the Government Pension Fund;

“Committee Member” means a member of the Committee of the Government Pension Fund;

“Secretary-General” means the Secretary-General of the Committee of the Government Pension Fund;

“Staff” means a staff of the Government Pension Fund;

“Employee” means an employee of the Government Pension Fund;

“Authority” means a person appointed by the Minister to execute this Act;

“Minister” means the Minister who takes charge of this Act.

Section 4 The Minister of the Ministry of Finance shall take charge of this Act and shall have the powers to appoint the Authorities and to prescribe the Ministerial Regulations for the implementation hereof. Such Ministerial Regulations, upon publication in the Government Gazette, shall come into force.

⁶ Section 3, the definition of “Living gratuity” is added by the Government Pension Fund Act (3rd Edition) B.E. 2546 (2003).

⁷ Section 3, the definition of “Juristic person” is added by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

CHAPTER 1
ESTABLISHMENT OF THE FUND AND NATURE OF ITS AFFAIRS

Section 5 The Fund called the “Government Pension Fund”, as abbreviatedly called the “GPF” shall be established.

The Fund shall be a Juristic Person having the following objectives.

- (1) To serve as a security for the payment of Gratuity and Pension and to provide the benefits for the Official upon their termination of official services;
- (2) To promote the savings of the members;
- (3) To provide the welfare and other benefits for the Members.

Section 6 The Fund consists of the following property.

- (1) Member Contribution, Employer Contribution, Pre-reform Compensation and Post-reform Compensation;
- (2) Money allotted under Section 72;
- (3) Donated property;
- (4) Money allocated by the Government as necessary for the implementation of the Fund’s objectives;
- (5) Other revenues;
- (6) Accruements of the money or property of the Fund.

Section 7 The affairs of the Fund are not subject to the laws on labor protection, on labor relations, on state enterprise personnel relations and on social security.

Section 8 The Fund shall have its headquarter located at such place prescribed and published in the Government Gazette and may establish the branches or agencies in any other place as necessary.

Section 9 The Fund shall have the powers to conduct the affairs within the scope of objectives under Section 5 and such powers shall include

- (1) the holding of title, possession and real rights;
- (2) the creation of rights or undertakings of any juristic acts both within and outside the Kingdom;
- (3) the extension of loan to the Members;
- (4) the investment from the property of the Fund;
- (4/1)⁸ establishing the limited company to serve the Fund or Juristic Person which the Fund is the shareholder or hold shares from seventy five percent of all shares in such Juristic Person;
- (5) the undertakings of such other acts as relating to or connecting with the achievement of the objectives of the Fund.

Section 10 The expenses for operations of the Fund shall be paid out of the money of the Fund in accordance with the rules and procedures prescribed by the Committee.

Section 11 The Fund is neither a government agency nor a state enterprise under the law on budgeting and the revenues of the Fund are not required to remit as the state revenues.

CHAPTER 2 CONTROL AND ADMINISTRATION

Section 12 The Committee called the “Committee of the Government Pension Fund” shall be established consisting of the Permanent Secretary of the Ministry of Finance as the Chairman, the Director of the Bureau of the Budget, the Secretary-General of the Council of State, the Secretary-General of the Civil Service Commission, the Secretary-General of the National Economic and Social Development Board, the Director of the Fiscal Policy Office, the Director-General of the Comptroller-General’s Department, the Governor of the Bank of Thailand, the Secretary-General of the Securities and Exchange Commission, one representative Official of each type of the Members under Section 3 who has been elected under Section 13 and 3 experts who have been elected under Section 14 as the members.

⁸ Section 9 (4/1) is added by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

The Secretary-General shall be a member and secretary.

The Committee may appoint a Staff not exceeding two persons to be the assistants to the secretary.

Section 13 An election of a representative of the Members as a member of the Committee under Section 12 paragraph one shall be made in accordance with the rules and procedures prescribed by the Minister.

Section 14 The Chairman, *ex officio* members, and representatives of the Members shall convene to elect the expert members.

Section 15 An expert member shall not be subject to the following prohibitions.

(1) A person who has been expelled, removed, dismissed by the Government or state enterprise or other state agency or whose employment has been terminated on account of misconducts or constructive misconducts of the duties;

(2) A political official holding a political position, a member of a local assembly, or a local administrator or a Committee Member or an advisor or staff member of a political party.

Section 16 A representative of the Members shall remain in office for each term of two years but may not hold such office exceeding two consecutive terms.

Section 17 An expert member shall remain in office for each term of two years but may not be an expert member exceeding two consecutive terms.

Section 18 Apart from vacating an office by his/her term, a representative member or expert member shall vacate the office when such person

- (1) dies;
- (2) resigns;
- (3) becomes a bankrupt;
- (4) becomes an incompetent or semi-incompetent person;
- (5) is sentenced to an imprisonment by the final judgment thereof except for the penalty for offenses committed recklessly or petty offenses;

(6) ceases to be a Member or Official of such type as he/she has been elected in the case of a representative member;

(7) is prohibited under Section 15 in the case of an expert member.

Section 19 In case where a representative member or expert member vacates the office by the term, a new member shall be elected within 60 days. Pending an election of a new member, the vacating member shall remain in office to continue his/her functions until a new member assumes his/her duties.

Section 20 In case where any representative member vacates the office before the term, a person having the supporting votes next to such member and whose name was so listed in the election of such type of Official shall be a member. In case where no such person was listed, then an election of a new representative member shall be made in accordance with the procedures prescribed by the Minister.

In case where an expert member vacates the office before the term, an election of a new expert member shall be made in accordance with Section 14.

The member so appointed or elected to fill such vacancy under paragraphs one and two shall remain in the office for the term left for such replaced member.

Section 21 The Chairman and members under Section 12 paragraph one shall appoint the Secretary-General from among the persons who are not prohibited as follows:

- (1) Having Thai nationality;
- (2) Not above sixty years of age;
- (3) Capable of working full-time for the Fund;
- (4) Having never been sentenced to an imprisonment by the final judgment thereof except for the penalty for offenses committed recklessly or petty offenses;
- (5) Not being or having been a bankrupt;
- (6) Not being an Official, staff member or employee of any ministry, bureau, department, local administration, state enterprise under the law on budgeting or other state agencies;

(7) Not being a political official, a person holding political office, a member of local assembly, or a local administrator, or Committee Member or an advisor or staff member of a political party;

(8) Not being a managing director or manager or holding any such other position as having similar nature of work in a partnership or company;

(9) Not being an interested person in the contracts with the Fund or in any business done for the Fund either directly or indirectly except a person who has been assigned by the Committee to be a director in a company of which the Fund is a shareholder.

Section 22 The holding of office, removal from office and determination of conditions for probation or work of the Secretary-General shall be in accordance with an employment contract prescribed by the Committee provided that each term of employment shall not exceed four years and upon expiration of such term the Committee may renew such employment contract.

The Chairman shall have the power to execute an employment contract appointing the Secretary-General on behalf of the Fund.

The Secretary-General shall receive the wages, remuneration and other money prescribed by the Committee.

Section 23 Apart from vacating an office by the term of employment, the Secretary-General shall vacate the office when such Secretary –General

- (1) dies;
- (2) resigns;
- (3) lacks the qualifications or is prohibited under Section 21;
- (4) is deemed by the Committee to terminate his/her employment.

Section 24 The Secretary-General shall be the superior of the Staff and Employees and responsible for the administration of affairs of the Fund to be in compliance with the objectives of the Fund and the laws, rules, regulations and policies formulated by the Committee.

The Secretary-General must be responsible to the Committee for the administration of affairs of the Fund.

Section 25 With respect to the affairs of the Fund involving other third persons, the Secretary-General shall act as the representative of the Fund. The work of the Secretary-General and the delegation of his/her powers to other persons to act on his/her behalf shall be in accordance with the regulations prescribed by the Committee.

Any juristic act undertaken in violation of the regulations under paragraph one is not binding on the Fund unless the Fund gives a ratification therefor.

Section 26 The Committee shall have the following functions;

(1) To formulate the policies, to prescribe rules, regulations, announcements and orders for the administration of the Fund;

(2) To formulate the investment policies of the Fund in accordance with the rules prescribed in the Ministerial Regulations;

(3) To supervise and manage the Fund;

(4) To prescribe the regulations on the work of the Secretary-General and the delegation of his/her powers to other persons to act on his/her behalf;

(5) To prescribe the expenses of operations of the office and such other expenses as relating to the affairs of the Fund;

(6) To set up the rules and procedures for the receipt, keeping and payment of the money of the Fund;

(7) To prescribe the rules, regulations and orders relating to the personnel administration, recruitment, removal and disciplines of the Staff and Employees as well as determination of the Salary and other money including support and welfare;

(8)⁹ To consider the assignment of financial institution or other Juristic Person to manage the money of the Fund;

(9) To appoint a subcommittee to perform the functions as assigned by the Committee;

(10) To appoint a representative to attend the meetings and to vote in the meeting of shareholders of a company or any other agency whose shares are held by the Fund;

⁹ Section 26 (8) is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

(11) To perform any other function in compliance with the objectives of the Fund as provided herein.

Section 27 Not less than one-half of all Committee Members shall be present at the meeting of the Committee in order to constitute a quorum.

At the meeting of the Committee, if the Chairman is absent or unable to perform his/her duties, the members present at such meeting shall elect one member as the Chairman of the meeting.

A decision of the meeting shall be made by a majority vote. One member shall have one vote. If there is a tie of votes, the Chairman of the meeting shall have a casting vote.

The appointment or termination of employment of the Secretary-General shall require the votes of not less than one-half of all members in office.

Section 28 Any member who is an interested person in a matter so considered shall not participate in such meeting.

Section 29 The members of the Committee and Subcommittee shall receive the benefits prescribed by the Minister upon approval of the Cabinet.

Section 30 The Investment Subcommittee shall be established consisting of the Director of the Fiscal Policy Office as the Chairman of the Subcommittee, a representative of the Bank of Thailand and four experts appointed by the Committee as the member and the Secretary-General as a member and secretary of the Subcommittee.

Section 31 The Investment Subcommittee shall have the following functions:

- (1) To give advice with respect to the investments to the Committee;
- (2)¹⁰ To give advice in relation to the determination of rule for the selection of financial institution or other Juristic Person to be assigned to manage the money of the Fund;
- (3)¹¹ To monitor and supervise the operation of such financial institution or other Juristic Person as assigned to manage the money of the Fund;

¹⁰ Section 31 (2) is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

¹¹ Section 31 (3) is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

(4) To report on the outcome of investment operations and to submit the opinions to the Committee;

(5) To perform any other function as assigned by the Committee.

Section 32 The Subcommittee called the “Member Relations Subcommittee” shall be established consisting of the Secretary-General of the Office of the Civil Service Commission as the Chairman of the Subcommittee, a representative of the Comptroller-General’s Department, a representative of the Public Relations Department and five representatives of the Members as the members of the Subcommittee and the Secretary-General shall be a member and secretary of the Subcommittee.

The election of the representatives under paragraph one shall be in accordance with the rules and procedures prescribed by the Committee.

Section 33 The Member Relations Subcommittee shall have the following functions:

(1) To act as a media between the Fund and its Members as well as to strengthen the knowledge and understanding for the Members;

(2) To disseminate the information, news and to report the progress of management of the Fund;

(3) To welcome the opinions and problems of the Members;

(4) To recommend the Committee with respect to the provisions of welfare and other benefits for the Members;

(5) To perform any other function as assigned by the Committee.

Section 34 Sections 17, 18, 19, 20, 27 and 28 shall apply *mutatis mutandis* to the holding of office, removal from office and meetings of the Subcommittee.

CHAPTER 3 MEMBERS AND THEIR BENEFITS

Section 35 The following persons shall be the Members:

(1) A person who serves as an Official as from the date on which the provisions of this Chapter come into force;

(2) A person who has been transferred to be an Official under this Act as from the date on which the provisions of this Chapter come into force.

Section 36 The following persons may apply for a Membership:

(1) An Official who was in service before the date on which the provisions of this Chapter come into force;

(2) An Official who was out of service in order to perform the functions under the Royal Decree on the rules for the order of Official to perform their functions whose term of service shall also be regarded as the full Official Term before the date on which the provisions of this Chapter come into force and resumes his/her service as from the date on which the provisions of this Chapter come into force.

An application for a Membership shall be in accordance with such rules and procedures prescribed by the Ministry of Finance and published in the Government Gazette.

Section 37¹² The Gratuity and Pension, Living Gratuity and Bequesting Gratuity shall be paid out of the government budget, and the Member Contribution, Employer Contribution, Pre-reform Compensation, Post-reform Compensation and the benefits thereof shall be paid out of the Fund subject to the rules prescribed by this Act.

Section 38 For an official who is out of service, if resuming his/her service as from the date on which the provisions of this Chapter come into force, the Official Term for the calculation of Gratuity and Pension before being out of service shall be counted as part of the Official Term after resuming his/her service unless such official was removed or expelled from the official service on account of material breach of the disciplines and without the right to receive the allowances, Gratuity and Pension for his/her previous service.

An official who has received the Gratuity shall return such Gratuity together with the interest at the rate fixed by the Government Savings Bank for the savings of fixed period in order to be able to include his/her previous Official Term as part of his/her latter service under paragraph one. The period required for the return of such Gratuity shall be in accordance with the rules and procedures prescribed by the Ministry of Finance.

¹² Section 37 is amended by the Government Pension Fund Act (3rd Edition) B.E. 2546 (2003).

An Official who has received or is entitled to receive the Pension shall be able to include his or her previous Official Term with his or her latter official service under paragraph one, if such Official refunds the Pre-reform Compensation, Post-reform Compensation and the benefits thereof already received to the Fund in accordance with the rules and procedures prescribed by the Committee, and the Pension for the latter term of official service shall not be paid. However, if such Official wishes to continually receive the Pension, he or she shall submit a letter of intention to his or her office within thirty days as from the date of his or her resumption of the official service and the previous Official Term shall not be included with the latter official service. In case where an Official does not refund the Pre-reform Compensation, Post-reform Compensation and the benefits thereof as mentioned above to the Fund, it shall also be deemed that such Official wishes to continually receive the Pension. In any case of continually receiving the Pension aforementioned, if the Salary received at the time of his or her resumption of the official service is equal to or higher than that Salary received at the time when he or she was out of official service, the Pension shall not be paid. If such new Salary is less than the previous Salary, the Pension shall be paid equal to the difference between the new and previous Salaries provided that the present government agency for which such Official resumes his or her official service shall notify the government agency paying the Pension to such Official and the Fund in order to suspend or reduce the Pension. When such Official is out of official service, he or she shall be entitled to receive the Pension calculated from his or her Salary and the new Official Term shall be included for the calculation of his or her original Pension. The Pension for the new Official Term may be changed into the Gratuity.¹³

For the purposes of this Section, an Official who resumes his or her official service may be entitled to receive the Pre-reform Compensation and Post-reform Compensation in accordance with the rules and conditions prescribed by the Ministerial Regulations.¹⁴

The provisions hereof shall apply *mutatis mutandis* to a Local Official who resumes his/her official service as an official of any type as defined in Section 3.

Section 38/1¹⁵ In case where the Member who resumes his or her official service wishes to remit the Member Contribution, Employer Contribution and the benefits thereof already

¹³ Section 38 paragraph three is amended by the Government Pension Fund Act (6th Edition) B.E. 2551 (2008).

¹⁴ Section 38 paragraph four is amended by the Government Pension Fund Act (6th Edition) B.E. 2551 (2008).

¹⁵ Section 38/1 is amended by the Government Pension Fund Act (6th Edition) B.E. 2551 (2008).

received to the Fund in order to invest for benefits, the rules and procedures prescribed by the Committee shall be applied.

Section 39¹⁶ A Member shall remit the Member Contribution to the Fund at the rate prescribed in the Ministerial Regulations unless such Member in official service before the date on which the provisions of this Chapter come into force who may or may not remit the Member Contribution to the Fund.

In a case where the Member who wish to remit the Member Contribution to the Fund at the rate more than specified in paragraph one, the rules and procedures prescribed by the Committee shall be applied provided that the total of Member Contribution under this Section shall not be remitted more than fifteen percent of such Member's Salary.

If a Member is not entitled to a Salary or receives an incomplete Salary for any period, he or she shall remit the Member Contribution in proportion of the Salary received by such Member.

A state agency shall withhold the Member Contribution under this Section from the Salary received by such Member and shall remit such Member Contribution to the Fund on the date of payment of the Salary.

A state agency shall remit the Employer Contribution for the amount equal to the Member Contribution rate prescribed by the Ministerial Regulations together with such Member Contribution for the Member. If a Member has not received a Salary or partially receive Salary, his or her Salary shall be remitted for the Employer Contribution in proportion of the Salary received by such Member.

For the purposes hereof, the Salary shall not include a monthly academic honorarium, a remuneration for a position of the risky duties, the combat or suppression of offenders but excluding other additional money.

Section 40 The Ministry of Finance shall calculate a Pre-reform Compensation for a Member in accordance with the rules and procedures prescribed in the Ministerial Regulations to be remitted to the Fund.

¹⁶ Section 39 is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

The remittance of such Pre-reform Compensation shall be made out of the government deposits.

Section 41 A state agency shall remit a Post-reform Compensation to the Fund for Member's account at the rate prescribed in the Ministerial Regulations every time a Salary is paid to the Member. In this respect, Section 39 paragraph six shall apply *mutatis mutandis*.¹⁷

If a Member is not entitled to a Salary or receives an incomplete Salary for any period, he/she shall remit the Post-reform Compensation in proportion to the Salary received by such Member.

Section 42 A Member is entitled to receive the welfare and other benefits from the Fund prescribed by the Committee.

Section 43 A Member is entitled to apply for a loan from the Fund not exceeding the Member Contribution, Employer Contribution and the benefits thereof as recorded in an individual account of such Member for uses in accordance with the objectives, rules and procedures prescribed by the Committee.

Section 44 A membership of a Member terminates when such Member is out of service unless such Member is removed from service by an order under the law on regulations of such type of officials or is out of service for the performance of functions under the Royal Decree on the rules for the order of Official to perform their functions whose term of service shall be regarded as the full Official Term.

Section 45 A Member is entitled to receive a Gratuity, Pension, Member Contribution, Employer Contribution, Pre-reform Compensation and Post-reform Compensation and the benefits thereof in accordance with the rules provided herein upon termination of membership of such Member.

Section 46 A Member who has remitted the Member Contribution to the Fund shall be entitled to receive the Member Contribution, Employer Contribution and the benefits thereof from the Fund.

¹⁷ Section 41 paragraph one is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

Section 47 A Member whose Official Term is from ten full years and above but less than twenty-five full years shall be entitled to receive a Gratuity.

Section 48 A Member under Section 35 whose Official Term is from twenty-five full years and above shall be entitled to receive a Pension, Post-reform Compensation and the benefits thereof unless he/she chooses to receive the Gratuity.

A Member under Section 36 (1) or (2) whose Official Term is from twenty-five full years and above shall be entitled to receive the Pension, Pre-reform Compensation, Post-reform Compensation and the benefits thereof unless he/she chooses to receive the Gratuity.

Section 49 In addition to the matters provided in Sections 47 and 48, a Member is entitled to receive an Gratuity or Pension on account of any of the following reasons;

- (1) Disability;
- (2) Reimbursement;
- (3) Senility.

Section 50 A Gratuity or Pension on account of disability shall be paid to a Member who is out of official service by reasons of illness or disability whom an officially certified physician has examined and is of the opinion that such person is no longer able to serve in his/her incumbent office.

Section 51 A Gratuity or Pension on account of reimbursement shall be paid to a Member who is out of service by reasons of termination or dissolution of his/her office or removal order without fault or in case of a military official who is out of allowance reserves.

Section 52 A Gratuity or Pension on account of senility shall be paid to a Member who is out of service upon attaining full sixty years of age or upon resignation when attaining full fifty years of age.

Section 53 A Member who is entitled to receive the Gratuity or Pension on account of disability, reimbursement or senility shall receive the money in accordance with the following rules:

- (1) If his/her Official Term is from one full year and above but less than ten full years, a Member shall be entitled to receive a Gratuity;

(2) If his/her Official Term is ten full years and above;

(a) Member under Section 35 shall be entitled thereto under Section 48 paragraph one;

(b) a Member under Section 36 (1) or (2) shall be entitled thereto under Section 48 paragraph two.

Section 54 If a Member is expelled from service or dies as a result of his/her material and malicious misconducts, such Member or his/her heirs shall not be entitled to receive the Gratuity, Pension, Pre-reform Compensation, Post-reform Compensation and the benefits thereof.

Section 55 The right to receive a Pension shall commence when a membership of a Member terminates until his/her death.

Section 56 (nullified)¹⁸

Section 57 A pensioner hereunder shall be entitled to receive the same welfare and other allowances as those received by a pensioner under the law on Officials' Gratuity and Pension.

Section 57/1¹⁹ The pensioner is entitled to receive the Living Gratuity at the rate and procedures prescribed by the Ministerial Regulations but not exceed fifteen times of monthly Pension received by such pensioner.

In case where the pensioner is a special pensioner for disability cause under the law on Officials' Gratuity and Pension as well, the Pension and special Pension for disability cause shall be calculated in an amount of monthly Pension and paid as the Living Gratuity to such pensioner.

After receiving the Living Gratuity, the pensioner hereunder is not entitled to receive any more Living Gratuity, if such pensioner resumes his or her official service and is out of latter official service by choosing to receive a Pension.

¹⁸ Section 56 is nullified by the Government Pension Fund Act (6th Edition) B.E. 2551 (2008).

¹⁹ Section 57/1 is amended by the Government Pension Fund Act (3rd Edition) B.E. 2546 (2003).

The pensioner who already received the Living Gratuity, if resuming his or her official service hereafter and the Official Term for the calculation of Gratuity and Pension before being out of official service has been counted consecutively to the Official Term after resuming his or her latter official service under Section 38 and such pensioner chooses to receive the Gratuity upon being out of latter official service. In such case, the received Gratuity shall be deducted for an amount equal to the Living Gratuity.

In a case where the pensioner already declared his or her intention to receive the Living Gratuity but has died before receiving such Living Gratuity, the payment of such money shall be ceased.

Section 57/2²⁰ In a case where the pensioner or the special pensioner for disability cause may exercise the right on the Bequesting Gratuity to be a security guarantee for a loan from the financial institution in accordance with the rules, procedures and conditions prescribed by the Ministerial Regulations.

In a case where the pensioner or the special pensioner for disability cause already received the Living Gratuity, if he or she desires to use the right of Living Gratuity to be a security guarantee for a loan from the financial institution, the Living Gratuity shall be remitted from the right on the Bequesting Gratuity.

Section 57/3²¹ In a case where the pensioner or the special pensioner for disability cause, who exercised his or her right on the Bequesting Gratuity to be a security guarantee for the loan, dies or breaches the loan agreement which the right on the Bequesting Gratuity shall be enforced as a security guarantee of loan, the Ministry of Finance shall pay to the financial institution which such pensioner exercised the right on the Bequesting Gratuity to be a security guarantee for the loan in the same enforced amount but not exceeding the amount of the right on the Bequesting Gratuity to be a security guarantee for the loan.

Payment to the financial institution under the paragraph one shall be paid by the Ministry of Finance from the budget set up for the withdrawal of Bequesting Gratuity.

²⁰ Section 57/2 is added by the Government Pension Fund Act (7th Edition) B.E. 2553 (2010).

²¹ Section 57/3 is added by the Government Pension Fund Act (7th Edition) B.E. 2553 (2010).

Section 57/4²² In a case where the Ministry of Finance has been paid the money under Section 57/3 to the financial institution, the Ministry of Finance shall withhold such amount from the right on the Bequesting Gratuity in the amount paid to the financial institution.

In a case where the Ministry of Finance could not withhold the amount paid to the financial institution from the right on the Bequesting Gratuity under the paragraph one, the Ministry of Finance shall reclaim the money from the pensioner or the special pensioner for disability cause or from its estate as the case may be in the amount of which the Ministry of Finance paid to the financial institution in accordance with the rules and procedures prescribed by the Ministry of Finance.

Section 57/5²³ Any pensioner or the special pensioner for disability cause, who has exercised his or her right on the Bequesting Gratuity to be a security guarantee for a loan, if thereafter he or she resumes his or her official service by using the right to consecutively count the Official Term for the calculation of Gratuity and Pension before being out of official service to the Official Term after resuming his or her service under Section 38 and the Gratuity shall be chosen upon being out of latter official service, the Gratuity shall be paid to such pensioner according to his or her right but not exceeding the outstanding amount of the Bequesting Gratuity to be a security guarantee for the loan. In this connection, the Ministry of Finance shall deduct the Gratuity equal to such outstanding amount of the Bequesting Gratuity. When the loan agreement is come to an end without enforcement on the right of Bequesting Gratuity as a security guarantee for the loan, the Ministry of Finance shall repay the Gratuity which is deducted.

In case where a Grantee dies or the loan agreement is come to an end and if the right of Bequesting Gratuity as a security guarantee for the loan is enforced, the Ministry of Finance shall pay the Bequesting Gratuity to the financial institution. However, the Ministry of Finance is entitled to withhold the Bequesting Gratuity from the Gratuity which is deducted under the paragraph one. If there is any outstanding amount, it shall be paid to the Grantee or his or her heir as the case may be.

²² Section 57/4 is added by the Government Pension Fund Act (7th Edition) B.E. 2553 (2010).

²³ Section 57/5 is added by the Government Pension Fund Act (7th Edition) B.E. 2553 (2010).

Section 58 In case of death of any Member during his/her official service and such death is not caused by his/her material and malicious misconduct or in case of death of a pensioner, a Bequesting Gratuity shall be paid to the heirs of such Member or pensioner in accordance with the following criterias:

- (1) A child shall receive two parts of such Gratuity. If a deceased Member has three children and above, they shall receive three parts of such Gratuity;
- (2) A husband or wife shall receive one part of such Gratuity;
- (3) The parents or father or mother who is till alive shall receive one part of such Gratuity.

In case where there is no such heir in any Subsection or such heir has died before such Member, the said Gratuity shall be distributed among the heirs who are entitled thereto in the Subsection under which the heirs are entitled thereto.

In case where there is no heir in the said three Subsections, the said Gratuity shall be paid to the person for whom the deceased Member has expressed his/her intention to the agency for which such deceased Member has served in accordance with the form and procedures prescribed by the Ministry of Finance.

In case where there is no heir and the person for whom the deceased Member has expressed his/her intention under paragraph three or such person has died before the deceased Member, the right to receive the Gratuity shall be forfeited.

In case where the Bequesting Gratuity has been paid, if it appears that there is a child who by a judgment of the court is a legitimate child of the deceased where an action of legitimation has been instituted before or within one year as from the date his/her father dies or as from the date on which the death of the father is known or should have been known, the Bequesting Gratuity shall be redistributed among the heirs who are entitled thereto provided that such legitimate child by a court judgment shall be deemed as the heir who is entitled thereto as from the date of such death. In this case, the Ministry of Finance shall recover the Bequesting Gratuity from the heirs who have received such Bequesting Gratuity in accordance with the rules prescribed by the Ministry of Finance.

In case where such Bequesting Gratuity cannot be recovered from the heirs who have received the same in excess of that to which they are entitled under paragraph five, the Ministry of Finance shall not be responsible to pay such Bequesting Gratuity for any reason whatsoever

to a child who is adjudged by the court to be the legitimate child retroactively to the date on which the right to receive such Bequesting Gratuity was created.

Section 59 If the deceased Member has remitted the Member Contribution to the Fund, the Member Contribution, Employer Contribution and the benefits thereof shall be paid to a person who is entitled to receive the inheritance of the Member under the Civil and Commercial Code.

Section 60 In case where a pensioner dies, the heirs shall not only be entitled to receive the Bequesting Gratuity under Section 58 but also be entitled to receive a special allowance under the Royal Decree on Payment of Salary, Annual Allowance, Gratuity, Pension and Other Money of the Same Nature.

Section 61 The right to receive the money under this Act is personal and inalienable.

Section 62 The calculation of Gratuity shall be made on the basis of the Salary of the last month multiplied by the Official Term.

Section 63 The calculation of Pension shall be made on the basis of the average Salaries for the last sixty months multiplied by the Official Term and divided by fifty but shall not exceed seventy percent of the average Salaries for the last sixty months.

With respect to the calculation of Pension of a person who assumes his/her official service under Section 38, if such new Official Term is less than five years, the average Salary to be used for the calculation of Pension shall be in accordance with the Ministerial Regulations.

Section 64 The Bequesting Gratuity to be paid to the heirs of a Member shall be calculated from the Salary of the last month multiplied by the Official Term of the deceased.

Section 65 The Bequesting Gratuity to be paid to the heirs of a pensioner shall be paid thirty times as much as the rate of Pension to which the deceased was entitled.

In case where the pensioner has received the Living Gratuity and the pensioner dies, the Bequesting Gratuity to be paid under paragraph one shall be deducted in the amount of the Living Gratuity before making payment.²⁴

²⁴ Section 65 paragraph two is added by the Government Pension Fund Act (3rd Edition) B.E. 2546 (2003).

Section 65/1²⁵ Under Section 65, in case where the pensioner or the special pensioner for disability cause has exercised the right on the Bequesting Gratuity to be a security guarantee for the loan and if the loan agreement is come to an end without enforcement on the right of Bequesting Gratuity as a security guarantee for the loan, the heir of such pensioner is entitled to receive the full amount of the Bequesting Gratuity. Notwithstanding, in a case where the pensioner or the special pensioner for disability cause has died or the loan agreement is terminated with an enforcement on the right of Bequesting Gratuity as a security guarantee for loan, the heir of such pensioner is entitled to receive the outstanding amount of Bequesting Gratuity after the Ministry of Finance has deducted the money paid to the financial institution from the right on Bequesting Gratuity under Section 57/4.

Section 66 The counting of Official Term for a calculation of the amount of Gratuity or Pension shall include the number of years and their odds. The counting of odd days and months shall be made in accordance with the method of salary payments and twelve months shall be counted as one year. For the number of days, if there are several intervals, thirty days shall be counted as one month.

Section 67 When a person submits an application for the money under Section 45, the responsible agency to which such application is submitted shall examine the right to receive the Member Contribution, Employer Contribution, Pre-reform Compensation, Post-reform Compensation and the benefits thereof of such applicant subject to the rules prescribed by the Committee provided that such agency shall complete such examination and notify the Fund within fifteen working days as from the date of receipt of such application except in case of reasonable grounds.

The payment of money from the Fund to the person entitled thereto under paragraph one shall be made by the Fund within seven working days as from the date such notification from the responsible government agency and all of the correct and complete evidences are appeared.²⁶

²⁵ Section 65/1 is added by the Government Pension Fund Act (7th Edition) B.E. 2553 (2010).

²⁶ Section 67 paragraph two is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

Section 67/1²⁷ A person who is entitled to receive the Member Contribution, Employer Contribution, Pre-reform Compensation, Post-reform Compensation and the benefits thereof under Section 45 and has not submitted an application to receive the money or to gradual receive the money, the Fund shall continue manage the money which has not been received. However, if such person make a requirement to transfer the money to a provident fund or other fund which have an objective to be a security for resignation or retirement, the Fund shall transfer the money to such fund within seven working days from the day on which such person making the requirement and all of the correct and complete evidences are appeared. In this connection, the rules and procedures prescribed by the Committee shall be applied.

Section 67/2²⁸ In case where the Pre-reform Compensation pursuant to the individual account of Member, which is remitted by the Ministry of Finance to the Fund under Section 40, has been adjusted the balance of the Pre-reform Compensation and the accruelements thereof of any Member by additional information, the Fund shall calculate monthly the outcome of the net change. If the outcome of the net change is in excess of money, the Fund shall remit such money to the Ministry of Finance. Notwithstanding, if the outcome of the net change is in deficit of money, the Fund shall advance money from the general account to the individual account of Member and notify the Ministry of Finance thereafter. The Ministry of Finance shall return the money in the amount equal to such advanced money to the general account within the following fiscal year.

Section 68 The provisions of the law on Officials' Gratuity and Pension shall apply *mutatis mutandis* in so far as it is not conflicting or incompatible with this Act.

Section 69²⁹ The acquisition of benefits of the Fund shall be in accordance with the policy of the Committee and may assign any person to perform such benefits making as being appropriated.

In case where the assignment to manage the money of the Fund within the Kingdom of Thailand, the Fund shall have to assign at least two financial institutions or other Juristic Persons which are investment specialists and are permitted to manage the provident fund

²⁷ Section 67/1 is added by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

²⁸ Section 67/2 is added by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

²⁹ Section 69 is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

under the law on provident fund or the private fund under the law on security and stock exchange provided that the distribution of risks shall be taken into consideration. For the purposes of acquisition of benefits of the Fund in the Kingdom of Thailand, the assignee to manage the Fund shall have duty and be subject to the provisions of the law on provident fund or the law on security and stock exchange as if the Fund were the provident fund or private fund as the case may be.

In case where the assignment to manage the money of the Fund outside the Kingdom of Thailand, the Fund shall have to assign the financial institution or other Juristic Person who is an external investment specialist and is permitted to manage the Fund by the authority which is in charge under the law of such country.

The assignment to the financial institution or other Juristic Person to manage the Fund within or outside the Kingdom of Thailand, the qualification of the assignee, operation procedure and expense of such operation shall be in accordance with the rules and procedures prescribed by the Ministerial Regulations.

Section 70³⁰ The money of the Fund other than the invested portion according to the investment plan under paragraph two shall be invested pursuant to the rules prescribed in the Ministerial Regulations which shall at least require on investment in the securities of high stability not less than sixty percent except that the reserve under Section 72 shall first be invested in the state or state enterprise debt instruments.

The Fund may establish the investment plan for the money in the individual account only in the part of Member Contribution, Employer Contribution and the accruelements thereof under Section 71 (3) for the selection of Member. In each investment plan may require on investment in the securities of high stability different from the proportion as specified under paragraph one.

The arrangement of investment plan, the investment plan selection, the information providing for Member consideration and the change of investment plan shall be in accordance with the rules and procedures prescribed by the Committee.

³⁰ Section 70 is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

CHAPTER 3/1

ACCEPTION OF OFFICIAL TRANSFERED TO LOCAL OFFICIAL BEING A MEMBER³¹

Section 70/1³² In case where the law or the resolution of the Council of Ministers requires to transfer the duties to serve the public services performed by the state to the Local Administrative Organization, the Member transferred to the Local Official as from the date on which the provision under this Chapter has come into force shall continually be the Member.

The provisions under Chapter 3 on Members and Their Benefits shall be applied *mutatis mutandis* in so far as they are not conflict or contradict to the provisions under this Chapter.

Section 70/2³³ In case where the Member under Section 70/1 has ever been the Official and Member before being transferred to the Local Official, the membership of such Member shall continually exist from the former membership. In this respect, such Member is entitled to receive the Gratuity and Pension, Bequesting Gratuity, Member Contribution, Employer Contribution, Pre-reform Compensation, Post-reform Compensation and the benefits thereof, as the case may be, continually from the former right and the Official Term shall be continually counted upon being the Local Official. Section 38 shall be applied *mutatis mutandis* unless the Living Gratuity, and the special Gratuity and Pension shall be in accordance with the law on Official Gratuity and Pension of the Local Official.

Section 70/3³⁴ Section 39 and Section 41 shall be applied *mutatis mutandis* to the remittance of Member Contribution by the Member under Section 70/1 and the remittance of Employer Contribution and Post-reform Compensation to the Fund.

Section 70/4³⁵ The Gratuity and Pension of Member under Section 70/1 shall be paid from the Government Pension Fund of the Local Official under the law on Official Gratuity and Pension of the Local Official.

³¹ Chapter 3/1 Acception of Official transferred to Local official being a Member from Section 70/1 to Section 70/5 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

³² Section 70/1 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

³³ Section 70/2 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

³⁴ Section 70/3 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

³⁵ Section 70/4 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

The calculation of Gratuity and Pension shall be in accordance with this Act.

The regulations prescribed by the Ministry of Interior shall be applied *mutatis mutandis* to the application for receiving a Gratuity and Pension.

Section 70/5³⁶ The execution under this Act with mentioned to the government agency shall include the Local Administrative Organization as well.

CHAPTER 3/2
ACCEPTION OF UNIVERSITY OFFICER UNDER SUPERVISION OF THE GOVERNMENT
BEING A MEMBER³⁷

Section 70/6³⁸ In case where the law prescribes that the state university or higher education institution is the agency under supervision of the state, the Member who changes his or her status to be the University Officer and desires to be Member as from the date on which the provisions under this Chapter has come into force shall continually be the Member.

The provisions under Chapter 3 on Members and Their Benefits shall be applied with the Member under this Chapter *mutatis mutandis* in so far as they are not conflict or contradict to the provisions of this Chapter.

Section 70/7³⁹ In case where the Member under Section 70/6 has ever been the Official and Member before changing his or her status to the University Officer, the membership of such Member shall continually exist from the former membership. In this respect, such Member is entitled to receive the Gratuity and Pension, Living Gratuity, Bequesting Gratuity, Member Contribution, Employer Contribution, Pre-reform Compensation, Post-reform Compensation and the benefits thereof, as the case may be, continually from the former right and the Official Term shall be continually counted upon being the University Officer. In this connection, Section 38 shall be applied *mutatis mutandis*.

³⁶ Section 70/5 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

³⁷ Chapter 3/2 Acception of University Officer under supervision of the Government being a Member from Section 70/6 to Section 70/9 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

³⁸ Section 70/6 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

³⁹ Section 70/7 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006)

Section 70/8⁴⁰ The Member under Section 70/6 shall remit the Member Contribution to the Fund by calculating from the Salary account and at the rate prescribed by the Ministerial Regulations. However, the remittance of Member Contribution shall not exceed fifteen percent of the Salary.

The university or higher education institution under the supervision of the state, where the Member is in office, shall remit the Member Contribution under paragraph one and pay the Employer Contribution in the same amount of the remitted Member Contribution prescribed by the Ministerial Regulations together with the remittance of such Member Contribution.

The university or higher education institution under the supervision of the state, where the Member is in office, shall remit the Post-reform Compensation to the Fund by calculating according to the Salary account under paragraph one and at the rate prescribed by the Ministerial Regulations.

Section 70/9⁴¹ The Gratuity and Pension shall be calculated by using the Salary account under Section 70/8 paragraph one.

The payment of Gratuity and Pension, Living Gratuity and Bequesting Gratuity shall be in accordance with the rules and procedures prescribed by the Ministry of Finance.

CHAPTER 4 FINANCE, ACCOUNTING AND INSPECTIONS

Section 71 The Fund shall have the accounts consisting of

- (1) a reserves account stating the reserves and accruals thereof;
- (2) a general account stating the donated money, account money, individual money without a recipient, common money not belonging to any Member and the accruals thereof;
- (3) an individual account stating the Member Contribution, Employer Contribution, Pre-reform Compensation, Post-reform Compensation and the accruals thereof belonging to each member.

⁴⁰ Section 70/8 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

⁴¹ Section 70/9 is added by the Government Pension Fund Act (4th Edition) B.E. 2549 (2006).

Section 72 The State shall allot an annual expenditure budget for the amount not less than twenty percent of the annual expenditure budget for Officials' Gratuity and Pension to a reserves account annually until the reserves, general fund and the accruals thereof reach three times of the annual expenditure budget for Officials' Gratuity and Pension. Thereafter, an annual expenditure budget shall be set up to maintain the reserves, general fund and the accruals thereof at the level of three times of the expenditure budget for Officials' Gratuity and Pension in each year. If the reserves, general fund and the accruals thereof are above three times of the annual expenditure budget for Officials' Gratuity and Pension, such excess money shall be remitted as the state revenues.

In case of national economic crises, the State may order the Fund to remit the money from the reserves account as the state revenues to be paid as Officials' Gratuity and Pension by virtue of a royal decree but the State shall allot the budget to compensate the money used to the Fund in the following fiscal year.

Section 73⁴² The accruals from the money of the Fund in each account invested under Section 70, upon the deduction of operation expense in proportion to the investment of each account, the accruals from the investment of reserve money shall be recorded in the reserve account. The accruals from the investment of general money shall be recorded in the general account. The accruals from the investment of individual money shall be recorded in the individual account. The accruals from the investment pursuant to the investment plan of individual money only in the part of Member Contribution, Employer Contribution and the accruals thereof shall be separately recorded in accordance with the performance of each investment plan by allocation the benefits in the individual account of Member according to the benefits rate of each investment plan chosen by the Member in proportion of the money in each account separately. In this respect, the calculation of accruals, expense and allocation of benefits shall be calculated regularly in accordance with the rules and procedures prescribed by the Committee.

The Member shall not be entitled to claim the benefits from other investment plan which such Member does not choose.

⁴² Section 73 is amended by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

Section 73/1⁴³ In case of no payment of Pre-reform Compensation or Post-reform Compensation of Member because the Member is not entitled to receive such money caused by being out of official service or by receiving the Gratuity or Bequeathing Gratuity as the case may be, the Fund shall promptly remit the Pre-reform Compensation or Post-reform Compensation of such Member with the accruals thereof to the Ministry of Finance in accordance with the rules and procedures prescribed by the Ministry of Finance.

Section 74 The Fund shall notify a Member of the balance of the Member Contribution, Employer Contribution, Pre-reform Compensation and Post-reform Compensation together with the benefits thereof with respect to each Member at least once a year.

Section 75 The Fund shall submit a report stating the management of the Fund to the Minister at least once a month in accordance with the rules and procedures prescribed by the Minister.

Section 76 The Fund must formulate and maintain an accounting system as appropriate to its affairs classified in accordance with the essential part of work, have the credit and debit accounts of assets and liabilities stating the actual affairs in accordance with the types of work together with the statements of origin such items and have such accounts audited on a regular basis.

Section 77 The Fund must prepare the balance sheet, operating account and loss and profit account to be submitted to an auditor within one hundred and twenty days as from the last day of an accounting year.

Section 78 The Office of the Auditor-General of Thailand shall be the auditor to audit and certify all types of accounts of the Fund.

Section 79 The auditor has the power to inspect all books, accounts and documents and evidence of the Fund. In this respect, the auditor shall have the power to inquire the Chairman of the Committee, members of the Committee, Staff and Employees.

⁴³ Section 73/1 is added by the Government Pension Fund Act (5th Edition) B.E. 2550 (2007).

Section 80 The auditor must submit a report on the outcome of audit of accounts of the Fund to the general meeting of representative Members within one hundred and fifty days as from the last day of an accounting year in order to be submitted to the Committee.

Section 81 The Fund shall hold a general meeting of representative Members at least once a year in order to consider the report on the operations, financial status and credit and debit of the Fund.

The holding of such general meeting and the election of representative Members under paragraph one shall be in accordance with the rules and procedures prescribed by the Minister.

The general meeting of representative Members shall have the power to give opinions and recommendations with respect to the operations of the Fund to the Committee.

Section 82 Upon receiving such opinions and recommendations with respect to the operations of the Fund from the general meeting of representative Members, the Committee shall submit a report on the audit together with the opinions and recommendations to the Minister to be proposed to the Cabinet and to publish such report on the audit in the Government Gazette.

CHAPTER 5

SUPERVISION OF THE MANAGEMENT OF THE FUND

Section 83 The Committee shall have the power to direct the persons assigned to manage the Fund, Committee Members, manager or a person responsible for the operations of the persons assigned to manage the Fund to clarify the facts relating to the management of the Fund within a specified period.

In case where the persons assigned to manage the Fund fail to clarify the facts relating to the management of the Fund within a specified period without reasonable grounds or it appears that the persons assigned to manage the Fund has managed the Fund in such a manner as to cause damage to the Fund, the Committee shall have the power to direct the persons assigned to manage the Fund to correct or suspend such action or to terminate the assignment of the persons assigned to manage the Fund.

Section 84 The Minister shall have the functions of general directions and supervision of the management of the Fund. For the purpose hereof, the Minister may appoint a Competent Official to investigate the facts and to report to the Minister.

In case where the Minister regards that the persons assigned to manage the Fund have managed the Fund in such a manner as may cause damage to the Fund, the Minister may request the Committee to consider undertaking under Section 83 paragraph two.

Section 85 Upon receiving the direction under Section 83 paragraph two, the persons assigned to manage the Fund shall immediately cease to manage the Fund and return the property within the period specified in such directions.

Section 86 In performing the duties hereunder, a Competent Official shall have the following powers:

(1) To enter the business premises or places of the persons assigned to manage the Fund during sunrise to sunset or during the working hours of such places in order to inspect the books, accounts or documents and evidence relating to the Fund;

(2) To seize or attach the documents or evidence relating to the commission of offenses hereunder for the purpose of investigation of facts or prosecution;

(3) To order the directors, manager, personnel or employees of the persons assigned to manage the Fund to testify or submit the copies or present the books and accounts or documents and evidence relating to the management of the Fund.

In performing the duties under paragraph one, the persons concerned shall facilitate accordingly.

After having entered the premises and undertaking to inspect under (1), if such inspection has not been completed, it may be continued at night time or after the working hours of such places.

Section 87 In performing the duties, a Competent Official must present the identity card to the persons concerned.

The identity card of such Competent Official shall be in accordance with the form prescribed by the Committee and published in the Government Gazette.

Section 88 In performing the duties under this Act, a Competent Official shall be the authority under the Penal Code.

CHAPTER 6

PENALTY

Section 89 Any person assigned to manage the Fund fails to comply with Section 85 shall be subject to a fine not exceeding one million baht and an additional fine not exceeding one hundred thousand baht daily until such compliance is made.

In case where a person assigned to manage the Fund commits an offense under paragraph one, the directors, manager or any person responsible for the operations of a person assigned to manage the Fund shall be subject to an imprisonment not exceeding three years or a fine not exceeding one million and five hundred thousand baht or both unless proved that such persons have not taken part in the commission of an offense of the person assigned to manage the Fund.

Section 90 Any person fails to comply with the order of or fails to facilitate a Competent Official performing the duties under Section 86 shall be subject to an imprisonment not exceeding three months or a fine not exceeding thirty thousand baht or both.

Section 91 The directors, manager, or a person responsible for the operations of any person assigned to manage the Fund presenting a false statement to or conceal the facts which should be manifested in essence with respect to the management of the Fund from the Committee shall be subject to an imprisonment not exceeding five years or a fine not exceeding two million and five hundred thousand bath or both.

Section 92 The Committee shall have the power to effect a fine of the offenses under Sections 89 and 90. Upon payment by an accused of the effected fine within a specified period, the case shall be deemed to rest under the Criminal Procedure Code.

If such accused does not agree with such effected fine or if agrees but fails to pay the fine within a specified period, a prosecution shall proceed.

TRANSITIONAL PROVISIONS

Section 93 An election of representative Members and expert Members and appointment of the Secretary-General shall be made in order to form the Committee of the Government Pension Fund under this Act within two hundred and forty days as from the date on which this Act comes into force.

Pending a formation of the Committee under paragraph one, a Committee shall be established consisting of the Permanent Secretary of the Ministry of Finance as the Chairman of the Committee, the Director of the Bureau of the Budget, the Secretary-General of the Council of State, the Secretary-General of the Civil Service Commission, the Secretary-General of the National Economic and Social Development Board, the Director of the Fiscal Policy, the Director-General of the Comptroller-General's Department, the Governor of the Bank of Thailand, the Secretary-General of the Securities and Exchange Commission as the members and the Director-General of the Comptroller-General's Department shall be a member and secretary to act as the Committee of the Government Pension Fund and the Director-General of the Comptroller-General's Department shall act as the Secretary-General to implement this Act for the time being.

Pending a formation of the Committee under paragraph one, the Director-General of the Comptroller-General's Department may appoint any person to be an assistant to the secretary.

Countersigned by;

Mr. Banharn Silpa-archa

Prime Minister

Published in the Government Gazette, Volume 113, Part 42a., dated 27th September B.E. 2539 (1996)

Notes:

The reason for the promulgation of this Act is that the current Officials' Gratuity and Pension system which requires annual budget from the Government without any allocation of the reserves therefor in advance is inappropriate and incompatible with the existing financial situations and thereby rendering it impractical to formulate the long-term financial administration and personnel development plans. It is therefore appropriate to improve such Gratuity and Pension system by establishing the Government Pension Fund which is a Juristic Person to ensure the payment of Gratuity and Pension as well as other benefits to the Official upon their retirement and to promote the savings as well as to provide the welfare and other benefits to the Official who are members of the Fund which shall also serve as a savings institution that plays a significant role in helping solve the problems of domestic savings shortages and promotion of investment thereby promoting the economic and social development as a whole. It is therefore necessary to enact this Act.

The Government Pension Fund Act (II) was promulgated in B.E. 2542 to annul the definition of "Official" under Section 3 of the Government Pension Act B.E. 2539 and to prescribe the new definition thereof.