

**Act on Establishment of Administrative Court and Administrative Court Procedure
(No.5), B.E. 2551 (2008)**

Translation

Bhumibol Adulyadej, REX.

Given on the 13th Day of February, B.E. 2551;

Being the 63rd Year of the Present Reign

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

Whereas it is expedient to amend the law establishing Administrative Court and Administrative Court Procedure;

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

Section 1

This Act is called the "Act on Establishment of Administrative Court and Administrative Court Procedure (No.5), B.E. 2551 (2008)".

Section 2

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

Section 3

The definition of the word "common interest" shall be added after the definition of the word "administrative contract" in Section 3 of the Act on Establishment of Administrative Court and Administrative Court Procedure, B.E. 2542 (1999).

"common interest" means the public interest or the interest resulting from the provision of public service or from the provision to the people in general public utilities or other interests arising from the execution or action which has the promoting or supporting characteristic or the people in general shall be benefited from such execution or action."

Section 4

The provisions of Section 51 of the Act on Establishment of Administrative Court and Administrative Court Procedure, B.E. 2542 (1999) shall be repealed and replaced by the following:

"Section 51

The case under Section 9 paragraph one (3) shall be filed within one year and the case under Section 9 paragraph one (4) shall be filed within five years as from the day the cause of action is known or should have been known, but the filing shall not be later than ten years as from the date of such cause of action."

Countersigned by

General Surayuth Julanont

Prime Minister

Remarks: The reason in promulgating this Act is that, ever since the commencement of operation of the Administrative Court, the separation of administrative contract from the civil contract gains utmost importance both in the jurisdiction of the courts over cases and

the substantive laws and procedural laws to be applied to those cases. Administrative contract becomes a new rule much discussed by lawyers as well to seek the proper meaning and process or as it should become. Each year, State agencies make contracts with private persons or even State agencies in various activities from minor activities to mega projects e.g. procurement contract, building contract for road or structure construction and concession contract, etc. In adding up the value of these contracts, a great volume of budget shall be involved. But under Section 9 paragraph 1 (4) of the Act on Establishment of Administrative Court and Administrative Court Procedure, B.E. 2542 (1999), a case shall be filed within one year as from the day the cause of action is known or should have been known and the filing shall not be later than ten years as from the date of such cause of action. Formerly the prescription of the said contract is ten years under the Civil and Commercial Code. When the interpretation of contract by the administrative court or by the Committee on conflict of jurisdictions is involved and should the interpretation indicates that it is an administrative contract, the duration of filing is limited to one year. By virtue of Section 51 of the Act on Establishment of Administrative Court and Administrative Court Procedure, B.E. 2542 (1999), the filing duration is reduced to one year. Accordingly, it is proper to amend to allow a longer duration. Furthermore, it exists today the question on how to interpret the meaning of "common interest", it is proper to legislate the definition of the term for clearer execution of law. It is thereby necessary to legislate this Act.

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