

PROMOTION AND CONSERVATION OF INTANGIBLE CULTURAL HERITAGE ACT,
B.E. 2559 (2016)

BHUMIBOL ADULYADEJ, REX;
Given on the 11th Day of February B.E. 2559;
Being the 71st Year of the Present Reign.

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

Whereas it is expedient to have the law on promotion and conservation of intangible cultural heritage;

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

Section 1. This Act is called the “Promotion and Conservation of Intangible cultural heritage Act, B.E. 2559 (2016)”.

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. In this Act:

“intangible cultural heritage” means the cultural knowledge, expression, conduct or skill expressed through a person, an instrument or an object which has gained mutual recognition and a sense of belonging by persons, groups of persons or communities and has been

^{*} Translated by Associate Professor Dr. Pinai Nanakorn under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Tentative Version – subject to final authorisation by the Office of the Council of State.

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passed on from generation to generation with possible adjustment in response to their individual environment;

“community” means one or more groups of persons having the knowledge in, the conduct towards the transmission of, or the participation in, the intangible cultural heritage concerned;

“Commission” means the Promotion and Conservation of Intangible cultural heritage Commission;

“Director-General” means the Director-General of the Department of Cultural Promotion;

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

Section 4. Intangible cultural heritage to be afforded promotion and conservation under this Act shall be of any of the following categories:

- (1) folk literature and languages;
- (2) performing arts;
- (3) social practices, rituals, customs and festivals;
- (4) knowledge and practices concerning the nature and the universe;
- (5) traditional craftsmanship;
- (6) folk plays, folk sports and martial arts;
- (7) others as prescribed in the Ministerial Regulation.

The classification of intangible cultural heritage into any category under paragraph one shall be as prescribed by the Notification of the Commission.

Section 5. There shall be the Promotion and Conservation of Intangible cultural heritage Commission consisting of:

- (1) the Minister of Culture as Chairperson;
- (2) eleven *ex officio* qualified members, viz, Permanent Secretary for Tourism and Sports, Permanent Secretary for Agriculture and Co-operatives, Permanent Secretary for Interior, Permanent Secretary for Culture, Permanent Secretary for Education, Director-General of the Department of Intellectual Property, Director-General of the Department for Development of Thai Traditional and Alternative Medicine, Director-General of the Fine Arts Department, Director of the

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National Office of Buddhism, Permanent Secretary for the Bangkok Metropolitan Administration and President of the National Cultural Council of Thailand;

(3) eight qualified members appointed by the Minister from persons possessing the knowledge and expertise in the fields of folk literature and languages, performing arts, social practices, rituals, customs and festivals, knowledge and practices concerning the nature and the universe, traditional craftsmanship, folk plays, folk sports and martial arts or intangible cultural heritage management or other fields beneficial to the performance of duties under this Act, having regard also to the participation by the civil society sector and communities.

The Director-General shall be a member and secretary and the Director-General shall appoint Government officials of the Department of Cultural Promotion as assistant secretaries.

Section 6. A qualified member under section 5 (3) shall possess the qualifications and shall not be under any of the prohibitions as follows:

a. Qualifications:

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

b. Prohibitions:

- (1) being an incompetent person or a quasi-incompetent person;
- (2) being a holder of a political position, a member of a local assembly or a local administrator, an executive member or a holder of any position responsible for the administration of a political party, an adviser to a political party or an official of a political party;
- (3) having been expelled, dismissed or removed from the official service or a State agency or a State enterprise on the ground of corruption in the performance of duties or dismissed from employment in a private organisation on the ground of corruption in the performance of duties;
- (4) being a person of misbehavior or deficient morality.

Section 7. A qualified member under section 5 (3) shall hold office for a term of four years and may be re-appointed.

At the expiration of the term under paragraph one, if the appointment of new qualified members under section 5 (3) has not yet been made, the qualified members who vacate

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office upon the expiration of the term shall remain in office in the interest of the continuance of work until the qualified members newly appointed take office.

Section 8. In the case where a qualified member under section 5 (3) vacates office before the expiration of the term, the appointment of a qualified member shall be made to fill the vacancy within sixty days, except that where less than one hundred eighty days remain in the term of office of the qualified member the appointment of a qualified member may be omitted, and the replacing qualified member shall be in office for the remaining term of the replaced qualified member.

In the case where a qualified member under section 5 (3) vacates office before the expiration of the term, the Commission shall consist of the total number of existing members until the appointment of a replacing qualified member is made under paragraph one.

Section 9. In addition to the vacation of office upon the expiration of the term under section 7, a qualified member under section 5 (3) vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Minister on the ground of neglect of duties, misbehaviour or lack of competence;
- (4) being disqualified or being under any of the prohibitions under section 6;
- (5) being imprisoned by a final judgment to imprisonment except for an offence committed through negligence or a petty offence.

Section 10. The Commission shall have the powers and duties as follows:

- (1) to give recommendations or advice to the Minister in connection with the issuance of Ministerial Regulations under this Act;
- (2) to consider and give approval to policies and plans for the promotion and conservation of intangible cultural heritage proposed by the Department of Cultural Promotion, the Commission on Promotion and Conservation of Intangible cultural heritage for Bangkok and the Provincial Commission on Promotion and Conservation of Intangible cultural heritage;
- (3) to issue Notifications in connection with the classification of intangible cultural heritage under section 4 paragraph two;

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(4) to issue Rules in connection with rules for the preparation of preliminary lists of intangible cultural heritage;

(5) to issue Rules in connection with rules for work operation of the screening sub-committee under section 21;

(6) to issue Rules in connection with rules for the consideration and selection of preliminary lists of intangible cultural heritage for the purpose of listing intangible cultural heritage;

(7) to consider and give approval to the listing of intangible cultural heritage;

(8) to issue Rules in connection with rules and measures for the promotion and conservation of intangible cultural heritage;

(9) to consider and give approval to action plans and programmes for the promotion and conservation of intangible cultural heritage as proposed by the Department of Cultural Promotion;

(10) to supervise, follow and evaluate the promotion and conservation of intangible cultural heritage;

(11) to monitor, oversee and prevent actions likely to cause injury to listed intangible cultural heritage and give information or recommendations to users of intangible cultural heritage;

(12) to honour, by acclamation, persons, groups of persons, organisations or agencies undertaking activities beneficial to the promotion and conservation of intangible cultural heritage;

(13) to appoint a sub-committee or a working group for considering or performing any particular act as entrusted by the Commission;

(14) to perform any other act as provided by law to be the power and duty of the Commission or as entrusted by the Council of Ministers.

Section 11. At a meeting of the Commission, the presence of not less than one-half of the total number of members is required to constitute a quorum.

At a meeting of the Commission, if the Chairperson is not present or is unable to perform the duty, one member amongst themselves shall be elected at the meeting to preside over it.

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

The Commission must meet at least four times a year.

Section 12. The Commission shall appoint one or more screening sub-committees consisting of persons possessing knowledge and expertise in the categories of intangible cultural heritage under section 4, for considering and giving the Commission academic opinions to assist the consideration as to the listing of intangible cultural heritage.

Section 13. The provisions of section 11 shall apply to a meeting of a screening sub-committee, a sub-committee or a working group *mutatis mutandis*.

Section 14. There shall be the Commission on Promotion and Conservation of Intangible cultural heritage for Bangkok, consisting of:

(1) Permanent Secretary for the Bangkok Metropolitan Administration, as Chairperson;

(2) seven *ex officio* members, viz, the Director of the Cultural Networks Division of the Department of Cultural Promotion, Director of the Institute of Cultural Education of the Department of Cultural Promotion, Director of the Bangkok Primary Education Service Area Office, Director of the Office of the Promotion of Non-Formal Education and Informal Education for the Bangkok Area, Director of the Education Department of the Bangkok Metropolitan Administration, Director of the Culture, Sports and Tourism Department of the Bangkok Metropolitan Administration and President of the Bangkok Metropolitan Cultural Council;

(3) six qualified members appointed by Permanent Secretary for the Bangkok Metropolitan Administration from persons possessing the knowledge and expertise in the fields of folk literature and languages, performing arts, social practices, rituals, customs and festivals, knowledge and practices concerning the nature and the universe, traditional craftsmanship, folk plays, folk sports and martial arts or intangible cultural heritage management or other fields beneficial to the performance of duties under this Act, having regard also to the participation by the civil society sector and communities.

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The Director of the Cultural Division of the Culture, Sports and Tourism Department of the Bangkok Metropolitan Administration shall be a secretary and the Director-General shall appoint one official of the Department of Cultural Promotion as an assistant secretary, provided that the Permanent Secretary of the Bangkok Metropolitan Administration may appoint one official of the Culture, Sports and Tourism Department of the Bangkok Metropolitan Administration as another assistant secretary.

Section 15. There shall be the Provincial Commission on Promotion and Conservation of Intangible cultural heritage, consisting of:

- (1) the *Changwat* Governor, as Chairperson;
- (2) five *ex officio* members, viz, the *Changwat* Cultural Affairs Official, Director of the Primary Education Service Area Office 1, Director of the *Changwat* Office of the Promotion of Non-Formal Education and Informal Education, President of the *Changwat* Administrative Organisation and President of the Provincial Cultural Council;
- (3) six qualified members appointed by the *Changwat* Governor from persons possessing the knowledge and expertise in the fields of folk literature and languages, performing arts, social practices, rituals, customs and festivals, knowledge and practices concerning the nature and the universe, traditional craftsmanship, folk plays, folk sports and martial arts or intangible cultural heritage management or other fields beneficial to the performance of duties under this Act, having regard also to the participation by the civil society sector and communities.

The *Changwat* Governor shall appoint officials of the *Changwat* Cultural Office as a secretary and assistant secretaries.

Section 16. The Commission on Promotion and Conservation of Intangible cultural heritage Commission for Bangkok and the Provincial Commission on Promotion and Conservation of Intangible cultural heritage have the powers and duties as follows:

- (1) to propose policies and plans for the promotion and conservation of intangible cultural heritage of Bangkok or *Changwat*, as the case may be, and propose directions for the promotion and conservation of intangible cultural heritage of the country to the Commission;
- (2) to work together with communities for preparing preliminary lists of intangible cultural heritage;

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(3) to consider and select intangible cultural heritage from preliminary lists of intangible cultural heritage for the purpose of making recommendations to the Commission that intangible cultural heritage be listed;

(4) to co-ordinate co-operative networks amongst State or private agencies and congregate resources for the promotion and conservation of intangible cultural heritage;

(5) to disseminate, publicise and transfer knowledge in connection with intangible cultural heritage;

(6) to promote the appreciation and the transmission of intangible cultural heritage;

(7) to perform any other act as entrusted by the Commission.

Section 17. The provisions of section 6, section 7, section 8, section 9 and section 11 shall apply to the Commission on Promotion and Conservation of Intangible cultural heritage Commission for Bangkok and the Provincial Commission on Promotion and Conservation of Intangible cultural heritage *mutatis mutandis*.

Section 18. The Department of Cultural Promotion shall serve as the secretariat of the Commission and be responsible for clerical and academic affairs of the Commission and shall have the powers and duties as follows:

(1) to propose to the Commission policies and plans for the promotion and conservation of intangible cultural heritage of the country;

(2) to propose to the Commission action plans and programmes for the promotion and conservation of intangible cultural heritage in the aspects of financial support, academic affairs, training, dissemination and exchange of knowledge or conservation and transmission or in other aspects beneficial to the promotion and conservation of intangible cultural heritage;

(3) to propose to the Commission measures for the promotion and conservation of intangible cultural heritage as well as directions for co-operation amongst communities which have intangible cultural heritage;

(4) to gather and prepare preliminary lists of intangible cultural heritage of the country;

(5) to publish the listing of intangible cultural heritage approved by the Commission;

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(6) to promote and encourage co-operative networks amongst State or private agencies concerned for the purpose of the promotion and conservation of intangible cultural heritage, both in the country and in foreign countries;

(7) to disseminate, publicise and transfer knowledge in connection with intangible cultural heritage;

(8) to carry out training and research on intangible cultural heritage;

(9) to promote the transmission of intangible cultural heritage;

(10) to perform any other act as entrusted by the Commission.

Section 19. In the performance of duties, the Commission, the Commission on Promotion and Conservation of Intangible cultural heritage Commission for Bangkok, the Provincial Commission on Promotion and Conservation of Intangible cultural heritage, a screening sub-committee, a sub-committee, a working group or the Department of Cultural Promotion may, when it deems appropriate, request the presence of any person for giving facts, explanations, opinions or academic advice and may request co-operation from any person for the purpose of acquiring facts or exploring any activities likely to have impacts on intangible cultural heritage.

Section 20. When the Commission on Promotion and Conservation of Intangible cultural heritage Commission for Bangkok or the Provincial Commission on Promotion and Conservation of Intangible cultural heritage has made its consideration and deemed it appropriate to have any intangible cultural heritage listed, it shall nominate such intangible cultural heritage to the Department of Cultural Promotion for referring the same to the Commission for consideration.

Section 21. In considering the listing of any intangible cultural heritage under section 20, the Department of Cultural Promotion shall also refer it to a screening committee under section 12 for considering and giving academic opinions in order to assist the consideration of the Commission as to the listing of such intangible cultural heritage, in accordance with the Rule prescribed by the Commission.

Section 22. When the Commission considers the matter and is of the opinion that any particular intangible cultural heritage meets the requirements in the Rule prescribed by the

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Commission and should be treated as listed intangible cultural heritage, the Director-General shall publish the listing of such intangible cultural heritage in the Government Gazette.

Section 23. When it subsequently appears that the listing of any particular intangible cultural heritage has been made inaccurately or by mistake as to fundamental facts or that there occurs a change in known facts, the Commission shall have the power to amend or annul the listing of such intangible cultural heritage.

Section 24. When it appears that there occurs an act causing injury to listed intangible cultural heritage, the Commission shall make recommendations to the Minister for issuing an order restraining the said injurious act, except that in the case of urgent necessity or the likelihood of grave injury, the Minister shall have the power to issue an order restraining such injurious act.

Section 25. All intangible cultural heritage published by the Ministry of Culture as listed intangible cultural heritage prior to the day on which this Act comes into force shall be listed intangible cultural heritage under this Act.

Section 26. The Minister of Culture shall have charge and control of the execution of this Act and shall have the power to issue Ministerial Regulations for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

Countersigned by:

General Prayut Chan-o-cha
Prime Minister

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