

PUBLIC PROSECUTOR'S OFFICE ACT

PUBLIC PROSECUTOR'S OFFICE ACT

Wholly Amended by Act No. 3882, Dec. 31, 1986

Amended by Act No. 4043, Dec. 31, 1988

Act No. 4395, Nov. 22, 1991

Act No. 4543, Mar. 10, 1993

Act No. 4930, Jan. 5, 1995

Act No. 4946, Mar. 30, 1995

Act No. 4961, Aug. 4, 1995

Act No. 5263, Jan. 13, 1997

Act No. 5430, Dec. 13, 1997

Act No. 6855, Feb. 4, 2003

Act No. 7078, Jan. 20, 2004

Act No. 7796, Dec. 29, 2005

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to provide for the organization, scope of duties, personnel affairs and other necessary matters of the public prosecutor's office.

Article 2 (Public Prosecutor's Office)

(1) The public prosecutor's office shall have control over the affairs of public prosecutors.

(2) The public prosecutor's office shall consist of the Supreme Public Prosecutor's Office, high public prosecutor's office and district public prosecutor's office.

Article 3 (Establishment and Territorial Jurisdiction of Public Prosecutor's Office)

(1) The Supreme Public Prosecutor's Office shall be established in correspondence to the Supreme Court; the high public prosecutor's office, to the appellate court; and the district public prosecutor's office, to the district court and the family court. *<Amended by Act No. 4930, Jan. 5, 1995>*

(2) In an area where a branch court is established, a district public prosecutor's branch office (hereinafter referred to as the "branch office") may be established in correspondence thereto.

PUBLIC PROSECUTOR'S OFFICE ACT

(3) The location of the Supreme Public Prosecutor's Office and the names and locations of the public prosecutor's offices other than the Supreme Public Prosecutor's Office (hereinafter referred to as "each public prosecutor's office") and branch offices shall be determined by the Presidential Decree.

(4) The territorial jurisdiction of each public prosecutor's office and branch office shall correspond to that of each court and branch court.

Article 4 (Duties of Public Prosecutors)

(1) The public prosecutors shall have the following duties and authority as representatives of the public interest:

1. The investigation of crimes, the institution of public prosecution and matters necessary for the maintenance thereof;
2. The direction and supervision of judicial police officials with respect to the investigation of crimes;
3. The requests to the court for due application of Acts and subordinate statutes;
4. The direction and supervision of the execution of criminal judgment;
5. The institution, pursuit, direction and supervision of civil lawsuits and administrative litigation, in which the State is a party or intervener; and
6. Matters which they are authorized to carry out under other Acts and subordinate statutes.

(2) In performing his duties, the public prosecutor shall observe political neutrality as a servant of the people and shall not abuse the powers bestowed upon him. <Newly Inserted by Act No. 5263, Jan. 13, 1997>

Article 5 (Jurisdiction Where Public Prosecutors Perform Their Duties)

Except as otherwise provided by Acts and subordinate statutes, public prosecutors shall perform their duties within the territorial jurisdiction of the public prosecutor's offices to which they belong: *Provided*, That if it is required for an investigation, they may carry out their duties outside such territorial jurisdiction.

Article 6 (Class of Public Prosecutor)

Classes of public prosecutors shall be classified into the Prosecutor General and public prosecutor. <Amended by Act No. 4543, Mar. 10, 1993; Act No. 7078, Jan. 20, 2004>

Article 7 (Direction and Supervision Concerning Prosecutorial Affairs)

PUBLIC PROSECUTOR'S OFFICE ACT

(1) A public prosecutor shall follow the direction and supervision by his superiors with respect to prosecutorial affairs.

(2) When any public prosecutor has dissenting opinions on whether or not the direction and supervision under paragraph (1) relating to a definite case are lawful or justifiable, he may raise an objection.

[This Article Wholly Amended by Act No. 7078, Jan. 20, 2004]

Article 7-2 (Delegation, Transfer of and Succession to Public Prosecutor's Duties)

(1) The Prosecutor General, chief public prosecutor of each public prosecutor's office or a branch chief may have any public prosecutor under his command perform part of his duties.

(2) The Prosecutor General, chief public prosecutor of each public prosecutor's office or a branch chief may himself perform the duties of his subordinate public prosecutor, or have another public prosecutor perform such duties.

[This Article Newly Inserted by Act No. 7078, Jan. 20, 2004]

Article 8 (Direction and Supervision of Minister of Justice)

The Minister of Justice shall, as the supreme superintendent of prosecutory affairs, direct and generally supervise public prosecutors, and with respect to specific cases, direct and supervise only the Prosecutor General.

Article 9 (Mutual Assistance in Execution of Duties)

Public officials of the public prosecutor's offices shall assist one another in executing the duties of the public prosecutor's offices.

Article 10 (Appeal and Reappeal of Ruling)

(1) Any complainant or accuser who is dissatisfied with a public prosecutor's disposition not to institute a prosecution, may file in writing an appeal with the chief public prosecutor of the competent high public prosecutor's office through the district public prosecutor's office or branch office to which the public prosecutor belongs. In this case, if the public prosecutor of the district public prosecutor's office or the branch office deems such appeal of a ruling well-grounded, he shall rectify the disposition.

(2) If the chief public prosecutor of the high public prosecutor's office deems that the appeal referred to in paragraph (1) is well-grounded, he may have the public prosecutor under his control directly rectify the disposition not to institute a prosecution by the public prosecutor of the district public prosecutor's office or the branch office. In this case, the

PUBLIC PROSECUTOR'S OFFICE ACT

public prosecutor of the high public prosecutor's office shall be regarded as the person executing duties as the public prosecutor of the district public prosecutor's office or the branch office. <Newly Inserted by Act No. 5430, Dec. 13, 1997>

(3) Any appellant who is dissatisfied with a disposition to reject an appeal as referred to in paragraph (1) may file in writing a reappeal of a ruling to the Prosecutor General through the high public prosecutor's office to which the public prosecutor belongs. In this case, if the public prosecutor of the high public prosecutor's office deems the reappeal well-grounded, he shall rectify the disposition.

(4) The appeal and the reappeal of a ruling as referred to in paragraphs (1) and (3) shall be filed within thirty days after receipt of a notification under Article 258 (1) of the Criminal Procedure Act, or a notification on disposition to reject such appeal: *Provided*, That if it is clearly explained that the appellant fails to file an appeal or reappeal of a ruling in such period by any cause which is not attributable to him, the period shall be counted from the time when such cause is settled. <Amended by Act No. 5430, Dec. 13, 1997>

(5) Any appeal or reappeal of a ruling received after the period as referred to in paragraph (4) shall be rejected, except in a case where any new important evidence is found, and the complainant or accuser clearly explains the cause. <Amended by Act No. 4930, Jan. 5, 1995; Act No. 5430, Dec. 13, 1997>

(6) If a request for a ruling is made under Article 260 of the Criminal Procedure Act, no appeal of a ruling shall be filed under paragraph (1): *Provided*, That if the request is withdrawn before a ruling is made, a new appeal of a ruling may be filed within a period as referred to in paragraph (4). <Amended by Act No. 5430, Dec. 13, 1997>

(7) If an appellant requests a ruling, his appeal on a ruling shall be considered to be withdrawn.

Article 11 (Provisions of Delegation)

Matters necessary for the affairs of the public prosecutor's office shall be determined by the Ordinance of the Ministry of Justice.

CHAPTER II SUPREME PUBLIC PROSECU-

PUBLIC PROSECUTOR'S OFFICE ACT

TOR'S OFFICE

Article 12 (Prosecutor General)

(1) The Prosecutor General shall be assigned to the Supreme Public Prosecutor's Office.

(2) The Prosecutor General shall take charge of affairs of the Supreme Public Prosecutor's Office, exercise general controls over the prosecutory affairs, and direct and supervise public officials of the public prosecutor's offices.

(3) The term of the Prosecutor General shall be two years, and he shall not be reappointed. <Newly Inserted by Act No. 4043, Dec. 31, 1988>

(4) and (5) Deleted. <by Act No. 7078, Jan. 20, 2004>

Article 13 (Deputy Prosecutor General)

(1) The Deputy Prosecutor General shall be assigned to the Supreme Public Prosecutor's Office. <Amended by Act No. 7078, Jan. 20, 2004>

(2) The Deputy Prosecutor General shall assist the Prosecutor General and perform his duties on his behalf in case of accident.

Article 14 (Public Prosecutors of Supreme Public Prosecutor's Office)

The Supreme Public Prosecutor's Office shall have its own public prosecutors. <Amended by Act No. 7078, Jan. 20, 2004>

Article 15 (Prosecution Research Officers)

(1) The Supreme Public Prosecutor's Office shall include prosecution research officers.

(2) The prosecution research officers shall be appointed from among public prosecutors, and they may concurrently hold the position of public prosecutor of the high or district public prosecutor's offices. <Amended by Act No. 4543, Mar. 10, 1993>

(3) The prosecution research officers shall assist the Prosecutor General, and they shall be engaged in planning, research and study concerning prosecutory affairs.

Article 16 (Organization of Office)

(1) The Supreme Public Prosecutor's Office shall have departments and an administration bureau, which have divisions, respectively, and the establishment and the affairs of the departments, the administration bureau and the divisions shall be determined by the Presidential Decree.

(2) The department chief, director general of the administration bureau

PUBLIC PROSECUTOR'S OFFICE ACT

and division chief shall be assigned to each department, administration bureau and division as referred to in paragraph (1), and the department chief shall be appointed from among public prosecutors; the director general of the administration bureau, from among public officials in general service belonging to the Senior Civil Service; and the division chief, from among Grade III prosecution administrative officers, Grade III information and communication officers, Grade IV prosecution administrative and investigation, information and communication or industry officers: *Provided*, That the division chiefs of departments may be appointed from among public prosecutors. <Amended by Act No. 4395, Nov. 22, 1991; Act No. 4543, Mar. 10, 1993; Act No. 4946, Mar. 30, 1995; Act No. 4961, Aug. 4, 1995; Act No. 7078, Jan. 20, 2004; Act No. 7796, Dec. 29, 2005>

(3) The department chief, director general of the administration bureau and division chief as referred to in paragraph (2) shall, by command of their superiors, take charge of the affairs of the department, administration bureau or division, and direct and supervise the public officials under their control.

(4) The Supreme Public Prosecutor's Office may assign officers in charge to the Deputy Prosecutor General or department chief officials, who assist the Deputy Prosecutor General or department chief officials directly through planning of policies, drafting of plans, study and research, examination and evaluation, and public relation under the conditions as prescribed by the Presidential Decree. In this case, such officials shall be appointed from among state public officials in extraordinary service equivalent to Grade III or IV, but if it is deemed to be specially required, they may be appointed from among public prosecutors. <Amended by Act No. 4543, Mar. 10, 1993; Act No. 4946, Mar. 30, 1995>

CHAPTER III HIGH PUBLIC PROSECUTOR'S OFFICE

Article 17 (Chief Public Prosecutor of High Public Prosecutor's Office)

(1) A chief public prosecutor shall be assigned to each high public prosecutor's office. <Amended by Act No. 7078, Jan. 20, 2004>

(2) The chief public prosecutor of the high public prosecutor's office shall take charge of the affairs of the high public prosecutor's office, and direct

PUBLIC PROSECUTOR'S OFFICE ACT

and supervise the public officials under his control.

Article 18 (Deputy Chief Public Prosecutor of High Public Prosecutor's Office)

(1) Each high public prosecutor's office shall have a deputy chief public prosecutor. *<Amended by Act No. 7078, Jan. 20, 2004>*

(2) The deputy chief public prosecutor shall assist the chief public prosecutor of the high public prosecutor's office to which he belongs and shall perform the chief public prosecutor's duties on his behalf in case of accident.

Article 18-2 (Department Chief Public Prosecutor of High Public Prosecutor's Office)

(1) Each high public prosecutor's office may have departments so as to allow them to take partial charge of affairs.

(2) Each department of the high public prosecutor's office shall have a department chief public prosecutor.

(3) The department chief public prosecutor shall, by the command of his superior, take charge of the affairs of the department under his control.

[This Article Newly Inserted by Act No. 5430, Dec. 13, 1997]

Article 19 (Public Prosecutors of High Public Prosecutor's Office)

(1) Each high public prosecutor's office shall have public prosecutors. *<Amended by Act No. 4930, Jan. 5, 1995>*

(2) The Minister of Justice may have any public prosecutor of the high public prosecutor's office settle affairs at the seat of the district public prosecutor's office in his jurisdiction. *<Newly Inserted by Act No. 4930, Jan. 5, 1995>*

[This Article Wholly Amended by Act No. 4543, Mar. 10, 1993]

Article 20 (Organization of Office)

(1) The high public prosecutor's office shall have an administration bureau, which has divisions, and the establishment of divisions and affairs of the division among them shall be determined by the Presidential Decree.

(2) The departments of the high public prosecutor's office may have divisions, and the establishment and the affairs of the divisions shall be determined by the Presidential Decree. *<Newly Inserted by Act No. 5430, Dec. 13, 1997>*

(3) The director general of the administration bureau and division chief

PUBLIC PROSECUTOR'S OFFICE ACT

shall be assigned to the administration bureau and each division as referred to in paragraphs (1) and (2), and the director general of the administration bureau shall be appointed from among public officials in general service belonging to the Senior Civil Service, and the division chief, from among Grade III or IV prosecution administrative and investigation officers, and Grade IV information and communication officers, Grade V prosecution administrative or investigation officers, Grade V narcotics investigation officers, and Grade V electricity or communication officers. *<Amended by Act No. 4543, Mar. 10, 1993; Act No. 4961, Aug. 4, 1995; Act No. 5263, Jan. 13, 1997; Act No. 5430, Dec. 13, 1997; Act No. 7796, Dec. 29, 2005>*

(4) The director general of the administration bureau and division chief as referred to in paragraph (3) shall, by the command of their superiors, take charge of the affairs of the administration bureau and division, direct and supervise the public officials under their control. *<Amended by Act No. 5430, Dec. 13, 1997>*

CHAPTER IV DISTRICT PUBLIC PROSECUTOR'S OFFICE AND BRANCH OFFICE

Article 21 (Chief Public Prosecutor of District Public Prosecutor's Office)

(1) Each district public prosecutor's office shall have a chief public prosecutor. *<Amended by Act No. 7078, Jan. 20, 2004>*

(2) The chief public prosecutor shall take charge of the affairs of the district public prosecutor's office, direct and supervise the public officials under his control.

Article 22 (Chief of Branch Office)

(1) The branch office shall have a branch chief. *<Amended by Act No. 4543, Mar. 10, 1993; Act No. 4930, Jan. 5, 1995; Act No. 7078, Jan. 20, 2004>*

(2) The branch chief shall, by the command of the chief public prosecutor of the district public prosecutor's office, take charge of the affairs of the branch office, direct and supervise the public officials under his control.

Article 23 (Deputy Chief Public Prosecutors of District Public Prosecutor's Office and Branch Office)

(1) The district public prosecutor's office, and the branch office prescribed

PUBLIC PROSECUTOR'S OFFICE ACT

by the Presidential Decree shall retain its deputy chief public prosecutor.
<Amended by Act No. 4543, Mar. 10, 1993>

(2) The deputy chief public prosecutor shall assist the chief of the office to which he belongs and perform the chief's duties on his behalf in case of accident.

Article 24 (Department Chief Public Prosecutor)

(1) The district public prosecutor's office and the branch office may establish departments to allow it to take charge of partial affairs.

(2) Each department of the district public prosecutor's office and the branch office shall have a department chief public prosecutor. <Amended by Act No. 4543, Mar. 10, 1993>

(3) The department chief public prosecutor shall, by the command of his superior, take charge of the affairs of the department under his control.

Article 25 (Public Prosecutors of District Public Prosecutor's Office and Branch Office)

Public prosecutors shall be assigned to the district public prosecutor's office and the branch office, respectively.

[This Article Wholly Amended by Act No. 4930, Jan. 5, 1995]

Article 26 (Organization of Office)

(1) The administration bureau shall be established in each district public prosecutor's office and the branch office prescribed by the Presidential Decree, and divisions shall be established in the administration bureau. The establishment of divisions and affairs of the divisions shall be determined by the Presidential Decree.

(2) Any branch office in which an administration bureau is not established, shall have divisions, and the establishment of divisions and affairs of the divisions shall be determined by the Presidential Decree.

(3) Divisions may be established in the departments of the district public prosecutor's office and the branch office, and the establishment of divisions and affairs of the divisions shall be determined by the Presidential Decree.

(4) The director general of the administration bureau and the division chief shall be assigned to the administration bureau and the division as referred to in paragraphs (1) through (3), and the director general of the administration bureau shall be appointed from among public officials in general service belonging to the Senior Civil Service, Grade III or IV

PUBLIC PROSECUTOR'S OFFICE ACT

prosecution administrative officers or Grade IV prosecution administrative and investigation officers, and the division chief, from among Grade III or IV prosecution administrative and investigation officers, Grade IV information and communication officers, Grade V prosecution administrative or investigation officers, Grade V narcotic investigation officers, or Grade V electricity or communication officers. <Amended by Act No. 4543, Mar. 10, 1993; Act No. 4961, Aug. 4, 1995; Act No. 5263, Jan. 13, 1997; Act No. 7796, Dec. 29, 2005>

(5) The director general of the administration bureau and the division chief as referred to in paragraph (4) shall, by the command of their superiors, take charge of the affairs of the administration bureau or division, direct and supervise public officials under their control.

CHAPTER V PUBLIC PROSECUTORS

Article 27 (Qualification for Prosecutor General)

The Prosecutor General shall be appointed from among persons who held the following positions for not less than fifteen years: <Amended by Act No. 4930, Jan. 5, 1995>

1. A judge, public prosecutor or attorney-at-law;
2. A person who is qualified as an attorney-at-law, and has been engaged in legal affairs for a governmental organization, local government, government-run and public establishment-run enterprises, government-invested institutions as prescribed in Article 2 of the Framework Act on the Management of Government-Invested Institutions or any other juristic person; and
3. A person who is qualified as an attorney-at-law, and has worked as a professor or an assistant professor of law at a college or university.

Article 28 (Criteria for Appointment of Chief Public Prosecutor of High Public Prosecutor's Office, etc.)

The chief public prosecutor of the high public prosecutor's office, Deputy Prosecutor General of the Supreme Public Prosecutor's Office, prosecutors of the Supreme Public Prosecutor's Office, chief public prosecutor of the district public prosecutor's office and deputy chief public prosecutor of the high public prosecutor's office shall be appointed from among those who have held the positions falling under any of subparagraphs of Article

PUBLIC PROSECUTOR'S OFFICE ACT

27 for not less than ten years. <Amended by Act No. 7078, Jan. 20, 2004>

Article 29 (Qualification for Public Prosecutor)

The public prosecutor shall be appointed from among those who fall under any of the following subparagraphs: <Amended by Act No. 4930, Jan. 5, 1995>

1. Those who have completed the prescribed courses of the Judicial Research and Training Institute after passing the Judicial Examination; and
2. Those who are qualified as an attorney-at-law.

[This Article Wholly Amended by Act No. 4543, Mar. 10, 1993]

Article 30 (Appointment of Department Chief Public Prosecutors of High Public Prosecutor's Office)

(1) Department chief public prosecutors of the high public prosecutor's office, the chief of the branch office to which the deputy chief public prosecutor is assigned under Article 23 (1), and the deputy chief public prosecutor of the district public prosecutor's office determined by the Presidential Decree shall be appointed from among those who have held the positions falling under any of subparagraphs of Article 27 for not less than ten years.

(2) The public prosecutor of the high public prosecutor's office, and the deputy chief public prosecutor, the department chief public prosecutor, the branch chief of the district public prosecutor's office and the branch offices other than those referred to in paragraph (1) shall be appointed from among those who have held the positions falling under any of subparagraphs of Article 27 for not less than five years.

[This Article Wholly Amended by Act No. 5430, Dec. 13, 1997]

Article 31 (Summing Up of Service Years)

For a person who has held two or more positions, the number of years of service in each position shall be summed up in application of the provisions of Articles 27, 28 and 30. <Amended by Act No. 4543, Mar. 10, 1993>

Article 32 (*Locum Tenens* for Public Prosecutor)

(1) The Prosecutor General may, at the request of the Director of the Judicial Research and Training Institute, order any trainee of the Judicial Research and Training Institute to perform the duties of a public prosecutor of the district public prosecutor's office or branch office on his behalf for a prescribed period.

(2) If the Prosecutor General deems it necessary, he may have Grade IV prosecution administrative and investigation officers, Grade V prose-

PUBLIC PROSECUTOR'S OFFICE ACT

cution administrative officer, Grade V prosecution investigation officer, or Grade V prosecution narcotic investigation officers perform on his behalf the duties of public prosecutors of the district public prosecutor's office or branch office. <Amended by Act No. 4961, Aug. 4, 1995; Act No. 7078, Jan. 20, 2004>

(3) No person who acts on behalf of the public prosecutor under paragraphs (1) and (2), shall take charge of any case to be brought to a collegial judgment under the Court Organization Act.

(4) Matters necessary for the scope of vicarious performance of prosecutor's duties under the provisions of paragraph (2) and other necessary matters regarding operations etc. of vicarious performance of prosecutor's duties, shall be prescribed by the Presidential Decree. <Newly Inserted by Act No. 7078, Jan. 20, 2004>

Article 33 (Disqualification)

No person who falls under any of the following subparagraphs, shall be appointed as public prosecutor:

1. A person who falls under any of subparagraphs of Article 33 (1) of the State Public Officials Act;
2. A person who is sentenced to imprisonment without prison labor or heavier punishment; and
3. A person who is removed from his office by a disposition of impeachment, and for whom five years have not yet passed thereafter.

Article 34 (Appointment and Assignment, etc. of Public Prosecutor)

(1) The appointment and assignment of the public prosecutor shall be made by the President upon the proposal of the Minister of Justice. In this case, the Minister of Justice shall propose an assignment of the prosecutor by hearing an opinion of the Prosecutor General.

(2) When the President makes an appointment of the Prosecutor General upon the proposal of the Minister of Justice, he shall go through a confirmation hearing of the National Assembly.

[This Article Wholly Amended by Act No. 7078, Jan. 20, 2004]

Article 35 (Public Prosecutor Personnel Committee)

(1) In order to deliberate on the matters necessary for the appointment, transference or other important matters for personnel affairs of the public prosecutors, the Public Prosecutor Personnel Committee shall be established in the Ministry of Justice. <Amended by Act No. 7078, Jan. 20, 2004>

PUBLIC PROSECUTOR'S OFFICE ACT

(2) Matters concerning the composition, operation and deliberative matters of the Public Prosecutor Personnel Committee shall be determined by the Presidential Decree. *<Amended by Act No. 7078, Jan. 20, 2004>*

Article 36 (Fixed Number, Remuneration and Discipline)

(1) The public prosecutors shall be public officials in special service, and matters necessary for the fixed number, remuneration and discipline of the public prosecutors shall be determined by other Acts.

(2) The positions of the public prosecutors shall be respected, and their remuneration shall be determined so as to be corresponding to their duties and dignity.

(3) For trainees of the Judicial Research and Training Institute, who carry out the duties of public prosecutors on their behalf under Article 32 (1), the actual expenses shall be paid under the conditions as prescribed by the Presidential Decree.

Article 37 (Guarantee of Status)

No public prosecutor shall be subject to the removal, retirement, suspension of office or reduction of salary, except in case where he is impeached or sentenced to imprisonment without prison labor or heavier punishment, or is subject to a disciplinary disposition or an examination of eligibility. *<Amended by Act No. 7078, Jan. 20, 2004>*

Article 38 (Temporary Retirement of Office)

(1) If a public prosecutor is conscripted or drafted for military service, or leaves his office in order to perform another duty as prescribed by the Act, the Minister of Justice shall order him to retire temporarily from his office until such service is completed, and if a public prosecutor presents a petition for temporary retirement for the purpose of legal research and study at a domestic or foreign legal institute, college, university, etc., or medical treatment of his disease, etc., the Minister of Justice may, if deemed well-grounded, grant his permission for a fixed period of not more than two years.

(2) In a case as referred to in paragraph (1), matters necessary for the payment of remuneration, etc. during such temporary retirement shall be determined by the Presidential Decree.

Article 39 (Examination of Eligibility for Public Prosecutors)

(1) With regard to the prosecutors (excluding the Prosecutor General), an examination of eligibility shall be conducted in each year in which

PUBLIC PROSECUTOR'S OFFICE ACT

seven years are elapsed from the year of appointment.

(2) In order to make an examination under paragraph (1), the Public Prosecutor's Eligibility Examination Committee (hereinafter referred to as the "Committee") shall be established in the Ministry of Justice, and it shall consist of nine members falling under each of the following subparagraphs:

1. One person of the legal experts recommended by the Chief Justice of the Supreme Court;
2. One person of the lawyers recommended by the President of the Korean Bar Association;
3. One person of the professors of laws recommended by the Minister of Education and Human Resources Development;
4. Two persons of those who have knowledge and experience in the judicial system and commissioned by the Minister of Justice; and
5. Four persons of the prosecutors nominated by the Minister of Justice.

(3) The members under paragraph (2) 1 through 3 shall be commissioned by the Minister of Justice upon a recommendation of the relevant recommending institution.

(4) Where the Committee admits that it is difficult for the public prosecutor to make a normal performance of duties as the public prosecutor, such as a remarkable lack of ability to perform the duties, it shall recommend a retirement of the said public prosecutor to the Minister of Justice by going through a resolution by not less than two thirds of the incumbent members.

(5) The Committee shall, before the resolution under paragraph (4), provide the relevant public prosecutor with an opportunity enabling to make a sufficient statement by attending the relevant Committee.

(6) When the Minister of Justice admits that the recommendation under the provisions of paragraph (4) is reasonable, he shall make a proposal to the President to render a retirement order to the said public prosecutor.

(7) Matters necessary for the qualification standards and term of office of the members falling under each subparagraph of paragraph (2), mode of investigation and deliberation by the Committee and other matters for its operation, shall be prescribed by the Presidential Decree.

[This Article Wholly Amended by Act No. 7078, Jan. 20, 2004]

PUBLIC PROSECUTOR'S OFFICE ACT

Article 39-2 (Retirement Due to Mental and Physical Handicap)

When any public prosecutor is unable to perform his duties due to the serious mental and physical handicaps, the President may order the said public prosecutor to retire from his office upon a proposal of the Minister of Justice.

[This Article Newly Inserted by Act No. 7078, Jan. 20, 2004]

Article 40 (Honorable Retirement)

(1) If a public prosecutor who has served for twenty or more years, retires voluntarily from his office before his retirement age, he may be paid the honorable retirement allowance.

(2) Matters necessary for the amount and payment of the honorable retirement allowance as referred to in paragraph (1) shall be determined by the Presidential Decree.

Article 41 (Retirement Age)

The mandatory retirement age of the Prosecutor General shall be sixty-five, and that of public prosecutors other than the Prosecutor General shall be sixty-three. *<Amended by Act No. 4930, Jan. 5, 1995>*

Article 42 Deleted. *<by Act No. 7078, Jan. 20, 2004>*

Article 43 (Prohibition of Political Movement, etc.)

No public prosecutor shall commit any of the following acts while in office:

1. To be a member of the National Assembly or a local council;
2. To participate in any political movement;
3. To be engaged in a business the purpose of which is to obtain any monetary profit; and
4. To be engaged in any remunerative duties without permission of the Minister of Justice.

Article 44 (Concurrent Office of Public Prosecutor)

Any person who is one of the staff of the Ministry of Justice or its subordinate agencies, and is qualified as a public prosecutor, may concurrently hold the office of public prosecutor. In this case, he shall receive a higher remuneration between them, and such concurrent office shall not be included in the fixed number as prescribed in Article 36.

Article 44-2 (Prohibition of Dispatch of Public Prosecutor)

No public prosecutor shall be dispatched to the Presidential Secretariat or hold the additional office of the Presidential Secretariat.

[This Article Newly Inserted by Act No. 5263, Jan. 13, 1997]

PUBLIC PROSECUTOR'S OFFICE ACT

CHAPTER VI STAFF OF PUBLIC PROSECUTOR'S OFFICE

Article 45 (Staff of Public Prosecutor's Office)

The public prosecutor's office shall have public officials in general service belonging to the Senior Civil Service, Grade III or IV prosecution administrative and investigation officers, Grade V prosecution administrative officers, Grade V investigation officers, Grade V narcotic investigation officers, prosecution administrative officers, and narcotic investigation officials in Grades VI, VII, VIII and IX, and public officials in extraordinary service. <Amended by Act No. 4043, Dec. 31, 1988; Act No. 4395, Nov. 22, 1991; Act No. 4961, Aug. 4, 1995; Act No. 7796, Dec. 29, 2005>

Article 46 (Duties of Grade IV Prosecution Administrative and Investigation Officers, etc.)

(1) Grade IV prosecution administrative and investigation officers, Grade V prosecution administrative officers, prosecution administrative officials, and narcotic investigation officials in Grades VI and VII shall be engaged in the following affairs: <Amended by Act No. 4961, Aug. 4, 1995>

1. Affairs concerning investigations ordered by public prosecutors;
2. Preparations and preservation of criminal records;
3. Assistancess in litigation of the public prosecutor designated as a person to carry out law suits or administrative litigations in which the State is the party or an intervener, or in affairs concerning the preparation and preservation of records and other documents related to such litigation; and
4. Other affairs concerning prosecutory administration.

(2) Grade IV prosecution administrative and investigation officers, Grade V investigation officers, and Grade V narcotic investigation officers shall assist public prosecutors, and conduct criminal investigations under the direction of public prosecutors. <Amended by Act No. 4961, Aug. 4, 1995>

(3) The prosecution administrative officials and narcotic investigation officials in Grades VIII and IX shall assist Grade IV prosecution administrative and investigation officers, prosecution administrative officers, investigation officers, narcotic investigation officers in Grade V, or prosecution

PUBLIC PROSECUTOR'S OFFICE ACT

administrative officials and narcotic investigation officials in Grades VI and VII. *<Amended by Act No. 4961, Aug. 4, 1995>*

(4) On the preparation of an investigation protocol, if the opinion of the public prosecutor is different from their opinion, Grade IV prosecution administrative and investigation officers, Grade V prosecution administrative officers, and prosecution administrative officials and narcotic investigation officials in Grades VI and VII may mention it at the end of the protocol. *<Amended by Act No. 4961, Aug. 4, 1995>*

Article 47 (Performance of Duties as Judicial Police Officers)

(1) If a prosecution administrative or narcotic investigation official in Grade VI, VII, VIII or IX receives a direction of the Prosecutor General or the chief public prosecutor of each public prosecutor's office with respect to a case received by the public prosecutor's offices or branch offices to which they belong, the prosecution administrative or narcotic investigation officials in Grade VI or VII shall perform the duties of the judicial police officer under Article 196 (1) of the Criminal Procedure Act, and prosecution administrative or narcotic investigation officials in Grade VIII or IX, the duties of the judicial policeman under Article 196 (2) of the said Act. *<Amended by Act No. 4961, Aug. 4, 1995>*

(2) Any public officials in extraordinary service, equivalent to Grades V through VII, who receive the direction of the chief public prosecutor of each public prosecutor's office, shall perform the duties of the judicial police officer as prescribed in Article 196 (1) of the Criminal Procedure Act, and those equivalent to Grades VIII and IX, the duties of judicial policeman as prescribed in Article 196 (2) of the said Act. *<Newly Inserted by Act No. 4930, Jan. 5, 1995>*

Article 48 (Assistant of Prosecutor General)

(1) The Supreme Public Prosecutor's Office shall assign an assistant to the Prosecutor General.

(2) The assistant shall be appointed from among the Grade IV prosecution administrative and investigation officers or the state public officials in extraordinary service equivalent to Grade IV, and take charge of confidential matters under the command of the Prosecutor General.

<Amended by Act No. 4961, Aug. 4, 1995>

Article 49 (Interpreters and Technical Officials)

(1) The public prosecutor's office may employ interpreters and public

PUBLIC PROSECUTOR'S OFFICE ACT

officials taking charge of the affairs in the technical fields.

(2) The public officials as referred to in paragraph (1) shall, by the command of their superiors, be engaged in the translation, interpretation or technical affairs.

Article 50 (Assignment of Staff of Public Prosecutor's Office)

(1) The assignment of positions to the staff of the public prosecutor's office shall be made by the Minister of Justice: *Provided*, That this shall not apply in a case where there are special provisions in this Act or other Acts.

(2) The Minister of Justice may delegate the part of his authority as referred to in paragraph (1) to the Prosecutor General or the chief public prosecutor of each public prosecutor's office.

(3) The provisions of subparagraphs 1 and 2 of Article 33 shall apply *mutatis mutandis* to the staff of the public prosecutor's office. <Amended by Act No. 7078, Jan. 20, 2004>

Article 51 (Concurrent Office of Staff of Public Prosecutor's Office)

The staff of the Ministry of Justice may concurrently hold the office of the staff of the public prosecutor's office under this Act. In this case, the provisions of the latter part of Article 44 shall be applicable *mutatis mutandis* to their remuneration.

Article 52 (Fixed Number of Staff of Public Prosecutor's Office)

The fixed number of the staff of the public prosecutor's office shall be determined by the Presidential Decree.

CHAPTER VII DIRECTION AND SUPERVISION OVER JUDICIAL POLICE OFFICERS

Article 53 (Duties of Judicial Police Officers)

Judicial police officers shall obey any official order issued by the competent public prosecutor in a criminal investigation.

Article 54 (Request for Replacement)

(1) If a judicial police officer other than the chief of a police station, whose class is the same as or below the super-intendant, commits any unjust act in the performance of his duties, the chief public prosecutor

PUBLIC PROSECUTOR'S OFFICE ACT

of the district public prosecutor's office may order him to suspend the investigation of the case concerned, and request the person who has the authority to appoint him to replace him.

(2) The person having the competence to appoint shall, upon receiving a request under paragraph (1), comply with the request for replacement unless he presents any justifiable reason.

ADDENDA

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) (Transitional Measures) The deputy chief public prosecutor and the administration bureau of the branch office located in the Seoul Special Metropolitan City at the time this Act enters into force, shall be subject to the previous provisions until the Presidential Decree under this Act enters into force.

(3) Omitted.

ADDENDA <Act No. 4043, Dec. 31, 1988>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) (Transitional Measures) The term of the Prosecutor General in active service at the time this Act enters into force shall be counted as the date of his appointment.

(3) (Transitional Measures concerning Staff of Public Prosecutor's Office) Notwithstanding the provisions of Article 45, public officials in extraordinary service and administrative and public health services who are transferred for search of narcotics, etc. from the Ministry of Health and Welfare to the public prosecutor's office, shall be engaged in the affairs of the staff of the public prosecutor's office equivalent to the class of the officer concerned under Articles 46 and 47 from the enforcement date of this Act, and may perform the duties of the judicial police officials.

ADDENDUM <Act No. 4395, Nov. 22, 1991>

This Act shall enter into force on the date of its promulgation.

PUBLIC PROSECUTOR'S OFFICE ACT

ADDENDA <Act No. 4543, Mar. 10, 1993>

- (1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.
- (2) (Transitional Measures) Those who hold the office of the senior public prosecutor or public prosecutor at the time this Act enters into force, shall be considered to have been appointed as public prosecutors under this Act.
- (3) Omitted.

ADDENDUM <Act No. 4930, Jan. 5, 1995>

This Act shall enter into force on March 1, 1995.

ADDENDUM <Act No. 4946, Mar. 30, 1995>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 4961, Aug. 4, 1995>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 5263, Jan. 13, 1997>

- (1) (Enforcement Date) This Act shall enter into force on the date of its promulgation: *Provided*, That the amended provisions of Article 44-2 shall enter into force on September 1, 1997.
- (2) Omitted.

ADDENDUM <Act No. 5430, Dec. 13, 1997>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 6855, Feb. 4, 2003>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Article 2 Omitted.

ADDENDA <Act No. 7078, Jan. 20, 2004>

PUBLIC PROSECUTOR'S OFFICE ACT

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Article 2 (Application Example Concerning Examination of Public Prosecutor's Qualifications)

With regard to the public prosecutor in his office at the time of the enforcement of this Act, the examination of public prosecutor's qualifications under the amended provisions of Article 39 shall be conducted from the first year in which the number of years in office of the relevant public prosecutor arrives at a multiple of seven.

Article 3 Omitted.

ADDENDA <Act No. 7796, Dec. 29, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2006.

Articles 2 through 6 Omitted.