

Act on Procedure of Narcotic Case B.E. 2550¹**BHUMIBOL ADULYADEJ, REX.****Given on the 31st day of December B.E. 2550****Being the 62nd year of the Present Reign**

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

Whereas it is expedient to enact a law on Procedure of Narcotics Case;

This Act contains provisions relating to the restriction of rights and liberties of the people which section 29 together with section 33 section 36 and section 41 of the Constitution of the Kingdom of Thailand allows to be done by virtue of provisions of law;

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the Council of National Legislation as follows;

Section 1: This Act is called the “Act on Procedure of Narcotic Case B.E. 2550”

Section 2: This Act shall come into force after one hundred and eighty days as from the day following the date of its publication in the Government Gazette.

Section 3: Any provision or procedure of which has not specially prescribed by this Act, the provision or procedure of the Criminal Procedure Code, the law governing Establishment of Juvenile and Family Court and Procedure of Juvenile and Family Case, the law governing Establishment of District court and the Criminal Procedure in District Court or the law governing the Military Court, shall use for applying as inconsistent with this Act.

Section 4: It is prohibited to apply the provision of procedure for the Court of First Instance in Chapter 3 and the provision of Appeal and Dika Appeal in Chapter 4 of this Act to the Juvenile and Family case under the law governing Establishment of the Juvenile and Family Court and the Procedure of the Juvenile and Family case

Section 5: In this Act, except the wording of the text has provided otherwise;

¹ Published in the Government Gazette Vol.125, dated 14th January B.E.2551 (2008).

“**Public Prosecutor**” includes the Military Prosecutor under the law governing the Military Court,

“**Narcotics**” means narcotics under the law governing narcotics control.

“**Laws relating to narcotics**” means the law on controlling the use of volatile substances, law on narcotics control, law on measures for the suppression of offenders in an offence relating to narcotics, law on Narcotics and law on psychotropic substances.

“**Offence relating to narcotics**” means the offence under the laws relating to narcotics;

“**Official**” means the competent officials under the law governing narcotics control and the administrative or police official under the Criminal Procedure Code.

“**Appeal Court**” means the Appeal Court of which apart from the Regional Court of Appeal.

Section 6: The President of the Supreme Court of Justice, the Prime Minister, the Minister of Defense, the Minister of Interior and the Minister of Justice shall have charge and control of this Act. The President of the Supreme Court of Justice shall have the power to issue the Regulations prescribed by the General Meeting of the Supreme Court of Justice and the Prime Minister, the Minister of Defense, the Minister of Interior and the Minister of Justice shall have the power to issue the Ministerial Regulations for the execution of this Act pertaining to their respective authorities.

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

Chapter I

Investigation

Section 7 In the case where the necessity and to the purpose of operations in this Act. The competent official, who has obtained the permission in writing from the Head of the Royal Thai Police, the Secretary-General of Narcotics Control Board or their authorized person, as the case may be, entitles to undercover operation with a view to the investigation of an offence relating narcotic law.

“Undercover” means all operations to conceal the competent official’s status or the aim of operations by misrepresenting other person to the false direction or to cover the competent official’s operations in secret.

In the case where emergency and reasonable causes The competent official entitles to undercover operation with a view to the investigation of an offence relating narcotic law previously and then rapidly report to the permissible authority under paragraph one.

The permission and undercover under paragraph one including the operation under paragraph three, shall be in accordance with the rules, the procedures and the conditions prescribed by the Ministerial Regulation. The said Ministerial Regulation shall have the standard measures for controlling and checking the exercise of power.

The activity and the evidence has obtained from the undercover operation of the competent official in this section, shall be admissible.

Section 8 In the case where the necessity and to the purpose of operations in this Act. The competent official, who has obtained the permission in writing from the Head of the Royal Thai Police, the Secretary-General of Narcotic Control Board or their authorized person, as the case may be, entitles to possess or to provide narcotic possession under control, both internal or external the Kingdom, with a view to the investigation of an offence relating narcotic law.

Any authorized person under paragraph one shall be an official who have responsible for relevant matters. By the delegation regards to the level of responsibilities of an authorized person

“Controlled Delivery” means the temporary narcotic possession for consigning to a suspect involved in the commission of the offence under supervision, command or surveillance of the competent official. The said consignment includes importation or exportation through or pass out of the Kingdom.

The application of permission, the permission, the possession, the period of possession or providing narcotic possession under control, shall be in accordance with the rules, the procedures and the conditions prescribed by the Ministerial Regulation. The said Ministerial Regulation shall have the standard measures for controlling and checking the exercise of power.

The activity and evidence has obtained from the operation of the competent official in this Section, shall be admissible.

Section 9 In the case where the competent official ask for any person who have the knowledge and experience specially in any matter, to be the assistant of the competent official, for the operations in this Act. The said person shall not civil liability in personal for the damage have occurred, except he/she have acted with intention or gross negligence, but it does not exclude the rights of the injured person to claim the damages from the state

Section 10 In the case where the necessity and to the purpose of the operations in this Act. For using evidence in proof of one's guilty and charging an offence relating narcotics, the competent official may request to an officer under the law governing the commission of an offence relating computer, whom administers to acquire a computer's data.

When an officer under the law governing the commission of an offence relating computer, receives the said request, an officer have the power to operate according to said request under the provisions of the said law.

The competent official who discloses and transfers a computer's data which have acquired under paragraph one to other person, and it does not to the purpose of charging an offender in this Act or action by negligence in cause of other person have known the said computer's data, shall be liable to the same penalty imposed for an officer under the law governing the commission of an offence relating computer.

Chapter II Inquiry

Section 11 In the offence relating narcotics prescribed by Ministerial Regulation, the inquiry official have detained the article under the law and indicated it to be narcotic. The inquiry official shall have sent the article so seized within three official days from the time of the inquiry official have accepted the said article as a property in case, to the expert for testing and making the opinion by written together with the file. Except in the case of force majeure or other necessity ground which is unable to send the article so seized within the said

period, makes a note of the said force majeure or necessary situation together with the file.

Chapter III Procedure in the Courts of First Instance

Section 12 In the case of the offence relating narcotics which the accused has a counsel. If it appears that any accused intends to absent from the Court or to abscond, and where necessity for preventing evidence from losing or difficult adducing evidence afterward have. When the Court has properly opinion, the Court has the power to taking of evidence in the absence of the accused. But it must give opportunity the accused's counsel to cross-examine and adduce evidence to contradict any testimony.

Section 13 In the trial of a case, if the accused pleads guilty to the charge, the Court may give judgement without taking any further evidence, provided that if the Court is of any reasonable doubt that the accused has not committed the offence, or the minimum punishment in the case where the accused pleads guilty to the charge is imprisonment for life or heavier, the Court must hear the evidence for the prosecution until it is satisfied that the accuse is guilty.

Chapter IV Appeal and Dika Appeal

Section 14 There shall be established the Narcotic Case Division in the Appeal Court, which have the power for trial and adjudication all narcotic cases, against any judgement or order of the Court of First Instance and by this Act.

Section 15 Under the provision of Section 16, an Appeal against any judgement or order of the Court of First Instance in the case of the offence relating narcotics, shall be filed with the Court of First Instance within one month from the date of judgement or order has been read or has been regarded as having been read to the party lodging the Appeal.

If the Court of First Instance issues an order accepting the Appeal or if the motion against the order refusing to accept on Appeal of the Court of First Instance, and then the Court of First Instance shall forthwith send up the Appeal or

the motion to the Appeal Court together with the file for trial and giving judgement or order without delay.

Section 16 In the case of the Court of First Instance gives the judgement inflicting punishment of death and imprisonment for life, where no appeal has been lodge against such judgement. The Court of First Instance must send to Appeal Court any file and the judgement according to Section 245 of the Criminal Procedure Code.

Section 17 In the case where the plaintiff prosecutes the accused any number of the several distinct and different offence and any offence is the offence relating narcotics. If there is the Appeal in the offence relating narcotics together with other offence, the Appeal shall be filed with the Appeal Court and the Appeal Court shall have the power for trial and giving judgement other offence which does not the offence relating narcotics.

Section 18 The Appeal Court shall try and adjudicate judgement or order without delay and under the provisions of Section 16 and Section 19. The judgement and order of the Appeal Court shall be final only the commission of the offence relating narcotics.

The judgement or order of the Appeal Court in the commission of other offence which does not the offence relating narcotics, the Party may dika appeal under the provision of Dika Appeal by the Criminal Procedure Code.

Section 19 In case where the Appeal Court has given the judgement and order in case of the offence relating narcotics under Section 18 paragraph one the Party may file a motion together with Dika Appeal with the Supreme Court of Justice within one month from the date of judgement or order of such Court has been read or has been regarded as having been read to the party permitting to lodge the Dika Appeal, for consideration accepting such Dika Appeal.

Where there is a motion mentioned in paragraph one, the Supreme Court of Justice may decide to accept the Dika Appeal on question of any matter and is of opinion that the matter if sufficient importance to justify.

In the case where the Supreme Court of Justice issues on order refusing the Dika Appeal to justify, shall be final from the date of judgement or order of the Appeal Court has been read.

The rules and the procedures of submission a motion, including adjudication and permission or refusing permission an order to Dika Appeal under paragraph

one, shall be prescribed by the Regulation of the General Meeting of the Supreme Court of justice. Provided the said Regulation shall be at least prescribed limitation of time for ordering to refuse the permission which does not contradict against the practices under Section 262 of the Criminal Procedure Code.

Such Regulation mentioned according to paragraph four, shall come into force upon its publication in the Government Gazette.

Section 20 The Appeal or Dika Appeal in the Military Court shall be executed under the law governing the Military Court.

Chapter V

Sanction of the Fine Punishment

Section 21 In the case where the Court may sentence to the fine punishment, the Public Prosecutor applies for a writ of execution appointing the executing officer under the Legal Execution Department for seizure or attachment the properties of a person inflicted with the punishment in lieu of the fine.

The execution under paragraph one, shall be governed by the provision of the Civil Procedure Code *mutatis mutandis*. The Office of the Narcotic Control Board shall have the power for examination property and is deemed to be a judgement creditor.

By provision in this Section, shall not affect by which the Court have an order of detention to a person inflicted with the punishment in lieu of the fine under the Penal Code

Chapter VI

Prescription

Section 22 In the case of the offence relating narcotics and punishable with death or imprisonment for life. If the offender is not prosecuted and brought to the Court within thirty years from the date of the commission of the offence, the prosecution shall be precluded by prescription.

If the offender has been prosecuted and brought to the Court, but the offender is insane, and the Court gives order suspending the trial or escapes till the specified period has expired reckoning from the date of giving order suspending the

trial or the date of escape, it shall be demand that prosecution be likewise precluded by proscription.

Section 23 In the case of the offence relating narcotic, if any person convicted by the final judgement to death or imprisonment for life and yet undergone the punishment or has not completely undergone the punishment on account of having made on escape, and such person is not brought to undergo the punishment within thirty years from the day of the date of the final judgement, or the date on which the offender has made the escape, as the case may be, the execution of punishment shall be precluded by prescription and the punishment shall not be inflicted upon such person.

Transitory Provision

Section 24 All the cases of the offence relating narcotics which is staying in the trial of any Court before this Act comes into force the said Court shall entitle to further trial and adjudication and the law at the time before this Act cones into force shall be applied until the case shall be final

Countersigned by
Mr. Khosit Panpiamrat
Deputy Prime Minister

Certified correct translation
Mr. Wutthipong Panichsuay
Legal Officer, Senior Professional Level
Office of the narcotics Control Board