

NARCOTICS CONTROL ACT.

B.E. 2519 (1976)¹

BHUMIBOL ADULYADEJ, REX.

Given on the 16th day of November B.E. 2519;

Being the 57th 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 narcotics control;

This Act contains provisions relating to the restriction of rights and liberties of the people which section 29 together with section 31 section 35 section 37 section 48 section 50 section 237 and section 238 of the Constitution of the Kingdom of Thailand allow to be done by virtue of provisions of law;

Section 1 This Act is called the "Narcotics Control Act, B.E. 2519".

Section 2 This Act shall come into force as from the day following the date of its publication in the Government Gazette.²

Section 3 In this Act, ³"narcotics" means narcotics under the law on narcotics, psychotropic substances under the law on psychotropic substances and volatile substances under the law on controlling the use of volatile substances; ⁴"laws relating to narcotics" means the law on narcotics, law on psychotropic substances, law on controlling the use of volatile substances

¹ As amended by the Narcotics Act (No.4) B.E.2543, published in the Government Gazette Vol. 117, Part 111A, dated 29th November B.E.2543, (No.5) B.E.2545, published in the Government Gazette, Vol. 119 Part 96A, dated 30 September B.E.2545

² Published in the Government Gazette Vol.96, Part 63, dated 27th April B.E.2522 (1979)

³ Repealed by section 3 of the narcotics Act (No.2) B.E.2528 (1985), published in the Government Gazette Vol.102, Part 154, dated 24 October B.E.2528 (1985)

⁴ Repealed and Replaced by section 4 of the Narcotics Act (No.2) B.E.2528 (1985)

and law on measures for the suppression of offenders in an offence relating to narcotics;⁵

"offence relating to narcotics" means the offence under the laws relating to narcotics;

"Board" means the Narcotics Control Board;

"member" means a member of the Board, and includes the Chairman thereof;

"Secretary-General" means the Secretary-General of the Narcotics Control Board;

"Minister" means the Minister having charge and control of the execution of this Act;

"competent official" means the person appointed by the Secretary-General for the execution of this Act.

Section 4 This Act shall not affect the powers and duties of any Government agency or competent official of any Government agency under the laws relating to narcotics.

In the case where there is a problem in connection with the execution of the powers and duties of the Board, or competent official, and of the Government agency or official having the powers in connection with narcotics, the Board shall make the decision and lay down the Rules on the performance of official affairs and the coordination thereof. ⁶Section 5 There shall be the "Narcotics Control Board" called "NCB" in brief, consisting of the Prime Minister as Chairman, Minister hold portfolio of office of the Prime Minister who entrusted by the Prime Minister, Minister of Defense, Minister of Interior, Minister of Justice, Minister of Public Health, Minister of Education, Attorney-General, Royal Thai Police Commissioner, Director General of the Department of Custom as members, and not more than six qualified members appointed by the Cabinet-Council as qualification ex-officio members and the Secretary-General as member and secretary.

The qualification ex-officio members that appointed by the Cabinet-Council under paragraph one shall consider the person to appoint from the Private sectors who shall be have the

⁵ see the Notification of the Ministry of Public Health No.135 (B.E.2539) specifying names and categories of narcotics according to Narcotics Act B.E.2522 (1979) amended by Narcotics Act No.150 (B.E.2541), No.154 (B.E.2542), No.158 (B.E.2542) and No.170 (B.E.2544)

⁶ Repealed and Replaced by section 3 of the Narcotics Act (No.3) B.E.2530 (1987), published in the Government Gazette Vol.104, Part 269, dated 28th December B.E.2530 (1987)

obvious outcome of work which relating to the prevention and resolution of the narcotics obstruction problem, not more than two persons.

Section 6 A member appointed by the Cabinet-Council shall hold office for a term of two years, and a member who vacates office may be re-appointed.

Section 7 A member appointed by the Cabinet-Council vacates office before the end of term upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Cabinet-Council
- (4) being an incompetent or quasi-incompetent person:
- (5) being imprisoned by a final judgment to a term of imprisonment.

When a member vacates office before the end of term, the Cabinet-Council may appoint any other person to replace him.

The member who is appointed to fill the vacancy or as additional member shall hold office for the remaining term of other members.

Section 8 At a meeting of the Board, if the Chairman does not attend or is not present, the members present shall elect one among themselves to preside over the meeting.

Section 9 At each meeting, the presence of not less than one-half of the total number of members of the Board is required to constitute a quorum.

The decision shall be made by a majority of votes. Each member shall have one vote. In case of an equality of votes, the Chairman shall have an additional vote as a casting vote.

⁷Section 10 The Board may appoint an advisory committee or a sub-committee for consideration or execution of any matter as acts for the Board.

In the performance of duties under paragraph one, the members of an advisory committee or members of a sub-committee shall be an official under the Penal Code

⁷ Added by section 4 of the Narcotics Act (No.3) B.E.2530 (1987)

⁸Section 11 There shall be the "Office of the Narcotics Control Board" called "O.N.C.B." in brief, which is the Government agency in the Ministry of Justice⁹ having the following powers and duties:

- (1) to execute as in the status of the performance body of the Board under the powers and duties that is required;
- (2) to coordinate the policy, plan, budget and the performance of narcotics control with other agencies where relating to, that all this due to Government and Private Sectors;
- (3) to support the data, information, affair that including to develop the personal of the agency where relating to, that all this due to Government and Private Sectors which within country and international;
- (4) to performance on the public relation to against narcotics;
- (5) to coordinate the cooperation with international and the international organizations in the matters of narcotics control;
- (6) to coordinate, examine that including follow-up and evaluate the effective of the narcotics control of which the related agency;
- (7) to performance other government services which entrusted by the Board.

¹⁰Section 12 There shall be the Secretary- General of the Narcotics Control Board, having the duties to generally to superior the performance of the office affairs of the Office of the Narcotics Control Board, who directed to the Ministry of Justice, and shall be the superior official of the Office of the Narcotics Control Board. And there shall be Deputy Secretary-General to assist the Secretary- General in the performance of official duties.

Section 13 The Board shall have the powers and duties as follows:

- (1) to prepare work plans and measures for preventing and suppressing the offenders under the laws relating to narcotics;
- (2) to control the investigation, inquiry and prosecution of offences under the laws relating to narcotics;
- (3) to prepare and implement projects as well as to instruct the Government agencies concerned to disseminate knowledge in narcotics;

⁸ Added by section 3 of the Narcotics Act (No.5) B.E.2530 (2002)

⁹ Added by section 4 of the Narcotics Act (No.3) B.E.2530 (1987)

¹⁰ Repealed and Replaced by section 4 of the Narcotics Act (No.5) B.E.2545 (2002)

(4) to control, expedite and co-ordinate the performance of duties of the Government agencies having the powers and duties in respect of the execution of the laws relating to narcotics;

(5) to submit recommendations to the Cabinet-Council in order that there may be the improvement in the performance of official affairs or in the work plans or projects of the Government agencies having the powers and duties in respect of the execution of the laws relating to narcotics;

(6) to co-ordinate and supervise the treatment and healing of narcotic addicts;

(7) to consider and approve the appointment of competent officials for the execution of this Act.

¹¹(8) to submit recommendations to the Cabinet-Council in order to prescribe controlling measure for prevention and suppression of narcotics offences taking place in the business place and prescribe and kind of business place to be the certain place under control of such controlling measure.

¹²(9) to perform other duties as designated by this Act to be the authorities and responsibilities of the Board.

¹³(10) to submit commendations relating to the providing the virtue merit or removing or discipline punishment to an official, a local officer, a state enterprise officer, or an officer of Government agency who entrusted by, to performance the duties relating to resolution of narcotics problems or concerned with the commission of offence relating to narcotics, including to request the Government agency which is the superior of such official or officer to accelerate the execution which related to that;

(11) to consider and execution for providing the budget to the agency of the Government or Private Sectors where relating to narcotics control, including to supervise and follow-up the budget payment of such agencies;

(12) to support the agency of the Government or Private Sectors, including people in which participation of the narcotics control.

Section 13 bis The Prime Minister under the approval of the Cabinet-Council has the power to issue the notifications on designating measure for prevention and suppression of any

¹¹ Repealed and Replaced by section 4 of the Narcotics Act (No.5) B.E.2545 (2002)

¹² Added by section 5 of the Narcotics Act (No.5) B.E.2545 (2002)

¹³ Added by section 5 of the Narcotics Act (No.5) B.E.2545 (2002)

narcotics offence in the business place and prescribe any kind of business places to be under controlled of such measure, as published in the Government Gazette.

Section 13 tri In case of the competent official found out that there is any offence relating to Section 13 bis committed in the business place, if the proprietor or overseer of the business places could not clarify or prove to the Board that he or she has no advisable exercise as might be expected in such circumstances. The Board has the power to order the temporary closure of the business places or suspension of business license within the period of not exceeding fifteen days in each time from the day of proprietor or overseer have informed the order.

In case of the business places where were ordered to be closed or suspended of business license are the places under control of other legislations, the Secretary General has to inform the mentioned order to that concerned agencies which taking control of such business and then such concerned agency has to perform in accordance with the order.

The temporary closure or suspension of business license and the procedure of such notification to the proprietor or the overseer as mentioned in the paragraph one as well as the proceeding of notice to other concerned agency as mentioned in the paragraph two shall be in accordance with the rule regulation and condition as prescribed by the Minister.

Section 14 For the execution to control the commission of offence relating to narcotics, the member, Secretary-General, Deputy Secretary-General and competent official shall have the following powers:

(1) to enter any dwelling place or premises to search when there is a reasonable ground to suspect that there is person who had a reasonable ground to suspect that committed the offence relating to narcotics is hidden or there is property which possesses to be an offence or acquired through the commission of an offence or used or intended to use in the commission of the offence relating to narcotics or which may be used as the evidence, together with a reasonable ground to believe that because of more delayed to got the search warrant, such person shall escaped or such property shall removed, hidden, destroyed or transformed in original;

(2) to search any person or conveyance which there is a reasonable ground to suspect that

there are narcotics unlawful hidden;

(3) to arrest any person who committed the offence relating to narcotics;

(4) to seize or attach narcotics which there are unlawful possessed or any property which used or intended to use in the commission of the offence relating to narcotics or may be used as the evidence;

(5) to search under the provisions of the Criminal Procedure Code;

(6) to make an inquiry of the alleged offender in the offence relating to narcotics;

(7) to issue a letter of inquiry to or summon any person or the official of any Government agency to give statement or to submit any account, document or material for examination or supplement the consideration.

The powers execution under paragraph one (1), the competent official who searched shall performance according to the rules prescribed by the Board, and produce an innocent before enter to search, report on the reason and the result of searching in letter to the superior who is topper, and record the reasonable ground to suspect and reasonable ground to believe that established the capable to enter for search in the letter, given its to the possessor of dwelling place or place where searched. But if have no possessor at such place, the competent official who searched shall consign with a copy of such letter immediately as could be done. And if should be the searching in the night time after sunset, the competent official who is the chief of the searching shall be a civil servant that hold the position up-to from level of seven, or police officer that hold the position up-to from the inspector or likewise, or defense official that hold the position up-to from the commander of a company or likewise.

A competent official of any position and any level who is to have all or part of such powers and duties as referred to in paragraph one, or shall have the approval of any person before performance, shall be prescribed by the Secretary- General with the approval of the Board by means of executing an instrument of authorization and delivering it to each official who has been so authorized.

The competent official who has been so authorized under paragraph one shall produce the instrument of authorization to the person concerned each time.

In the execution under this section, the member, the Secretary- General, Deputy Secretary- General and competent official shall be an official under the Penal Code.

The Secretary-General shall prepare the report of the result of the performance under section 14 to submit the Cabinet-Council for to report the result of annual performance, whereby its shall report of fact, obstruction problem, amount of the performance and the detail of the result of performance achievement, for the Cabinet-Council to submit such report together with the Cabinet-Council opinions to the Assembly of Representative and the Assembly of Senate.

Section 14 bis In case of having necessity or with a reasonable ground to believe that any person or any group of persons consumed narcotics in any dwelling place or any other place or in the vehicle, the member, the Secretary-General, the Deputy Secretary General or the competent official under this Act shall have the power to examine or order the suspected person to be examined or to be tested whether such person or a group of persons have some narcotics substances within their bodies or not.

The procedure of examination or testing as mentioned in the paragraph one shall be in accordance with the rules, procedures and conditions notified by the Board and published in the Government Gazette.

Section 14 tri In the performance of duties of the competent official under section 14 or section 14 bis, if the competent official requested any person to assist that performance of duties, such person shall have the powers to assist that performance of the competent official.

Section 14 fourth In the case where there is a reasonable ground to believe that any document or information which transmit by any post, telegraph, telephone, fax telephone, computer, tool or instrument in the communication, electronic communication or communication by information technology was used or may be used for the purpose of the commission offence relating to narcotics. The competent official who have approved in letter of the Secretary- General shall submit unilateral application to Chief Justice of the Criminal Court for having an issue to permit the competent official of obtained such information.

The permission under paragraph one, Chief Justice of the Criminal Court shall consider to the affect of individual rights or any right together with the following reason and necessary:

(1)there is a reasonable ground to believe that there is committed for or will be committed offence relating to narcotics;

(2) there is a reasonable ground to believe that its will receive the information relating to the commission of offence relating to narcotics from the accessing of such information;

(3) may not used other procedure that have more suitability and effective.

The permission under paragraph one, the Chief Justice of the Criminal Court shall order to permit not more than ninety days in each time, by whether required conditions or not. And the person who concerned with that information in the communication instrumental under such order shall give the cooperation to the execution accordance with this section. In after having the permission order, if its appear the fact that the reason and necessary is not in accordance with the prescribed, or the circumstance was changed, the Chief of Justice of the Criminal Court may change such permission order in appropriate.

When the competent official have executed according to the permission, its shall report that the execution to the Chief Justice of the Criminal Court to acknowledge.

All of information which obtained under paragraph one shall keep and usage only for the investigation and to be used as evidence in the case prosecution, all this is due to the rules prescribed by the Board.

Section 15 For the purpose of the execution of section 14, the member, the Secretary-General, the Deputy Secretary- General and the competent official who have been authorized under section 14 (3) shall be deemed to have the same powers and duties as the inquiry official under the Criminal Procedure Code for the entire Kingdom, and shall have the power to keep the person arrested in custody under section 14 (3) for inquiry for a period of not more than three days. Upon the lapse of such period or before it has elapsed as they may think fit, they shall send the arrested person to the inquiry official under the Criminal Procedure Code for further proceedings; provided that, the keeping of the said arrested person in custody shall not be considered as that of the inquiry official under the Criminal Procedure Code.

Section 15 bis The proprietor or the overseer of the business place who violated this Act or did not perform his or her responsibility in accordance with Section 13 bis shall be liable to a fine of ten thousand bath to fifty thousand bath.

Section 16 Any person who obstructs, or fails to render facilities, or refuses to give statements or to submit any account, document or material to the member, the Secretary-

General, the Deputy Secretary- General or the competent official who performs an Act in pursuance of section 14 shall be liable to imprisonment for a term not exceeding six months or to a fine of not exceeding ten thousand Baht.

If such action under paragraph one is committed against person who assists the competent official under section 14 tri, the offender shall be liable to punishment as provided in paragraph one.

If the commission under paragraph one is occurred to the person who assisted the performance of duties of the competent official under section 14 tri, the person who committed that shall be liable likewise the paragraph one.

Section 16/1 Any person who knew or obtained which the information that derived under section 14 fourth, committed by any means to provided other person knew or may be knew such information shall be liable to imprisonment for a term of not exceeding five years or a fine of not exceeding one hundred thousand Baht, except that is the disclosure in the performance of duties or under the law.

If the commission under paragraph one is committed by member, Secretary- General, Deputy Secretary- General and competent official, such person shall be liable to treble penalty imposed for offence that referred in paragraph one.

Section 17 The member, the Secretary- General, the Deputy Secretary- General or any competent official who commits an offence under the laws relating to narcotics shall be liable to treble penalty imposed for such offence.

Section 17 bis Any offence under this Act which shall be inflicted only a fine punishment, the Board or the persons who have been assigned has power to inflict a fine punishment.

Section 18 The Minister of Justice shall have charge and control of the execution of this Act and shall have the power to issue rules or regulations for the execution of this Act.

Countersigned by

Pol. Col. Taksin Chinavatr

Prime Minister

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Legal Affairs Division

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* As amended by the Narcotics Act (No.2) B.E.2528 (1985), (No.3) B.E.2530 (1987), (No.4) B.E.2543 (2000)

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