

(Translation)

Unofficial Translation*

**DAMAGES FOR THE INJURED PERSONS AND COMPENSATION AND EXPENSES
FOR THE ACCUSED IN CRIMINAL CASES ACT B.E.2544**

BHUMIBOL ADULYADEJ, REX.

**Given on the 31st Day of October B.E. 2544;
Being the 56th Year of the Present Reign**

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to have a law governing damages for the injured persons and compensation and expenses for the accused in criminal cases.

This Act contains certain provisions relating to the limitation of individual's rights and liberties which is permitted by virtue of the provisions of laws under Section 29 together with Section 31, Section 34, Section 37 and Section 38 of the Constitution of the Kingdom of Thailand.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the Parliament, as follows:

Section 1 This Act shall be called the "Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544".

Section 2¹ This Act shall come into force as from the date following the date of its publication in the Government Gazette.

Section 3 In this Act:

"Injured Person" means a person whose life, body or mind has been injured due to a criminal offence committed by others; whereby, he or she has not been involved in the commission of such criminal offence.

"The Accused" means a person who is sued to the Court of having committed a criminal offence.

"Damages" means money, property or any other benefits which an injured person is entitled to receive for indemnification of damage caused by or resulted from a criminal offence committed by others.

¹ The Government Gazette, Volume 118 Section 104 (A) Page 23 dated 12th November 2015.

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“Compensation” means money, property or any other benefits which the accused is entitled to receive because he or she has become the accused in a criminal case and has been taken into custody during trial, and it appears that the final judgment to such case states that the accused did not commit such offence or an act done by the accused is not an offence.

“Office” means the Office of Financial Assistance for the injured persons and the Accused in Criminal Cases.

“Committee” means the Committee for Consideration of Damages for the injured persons and Compensation and Expenses for the Accused in Criminal Cases.

“Director” means a member of the Committee for Consideration of Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases.

“Public Prosecutor” means a public prosecutor under the law governing public prosecutor or a military prosecutor under the law governing the constitution of the military court.

“Competent Authority” means a person appointed by the Minister for the execution of this Act.

“Minister” means the Minister taking charge under this Act.

Section 4 The Minister of Justice and the Minister of Finance shall take charge and control of the execution of this Act and shall have powers to issue Ministerial Regulations, rules and announcements and to appoint a competent authority for the execution of this Act.

Such Ministerial Regulations, rules and announcements shall come into force upon the publication in the Government Gazette.

CHAPTER 1 GENERAL PROVISIONS

Section 5 Any claim or acquisition of rights or benefits under this Act shall not deprive the eligibilities or benefits of an injured person or an accused under other laws.

Section 6 In case, an injured person or an accused died before receiving damages, compensation or expense, as the case may be, the rights of claim and receipt of damages, compensation or expense shall devolve on the injured heir of the injured person or the accused, thus, in accordance with the rules prescribed by the Committee.

Section 6/1² In a legal case where a complaint is lodged to the Inquiry Official under the Criminal Procedure Code, the Inquiry Official shall notify the injured person or his or her injured heir who has lodged such complaint of the entitlements to receive damages under this Act.

² Section 6/1 has been added by the “Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act (No.2) B.E. 2559”.

In a legal case where the public prosecutor is the prosecutor; and the Court has issued its order to approve the withdrawal of the charge; or the Court has adjudged to dismiss the case and the accused is under custody, the competent authority who is obliged to acquit the accused in such legal case shall notify the accused of his or her entitlements to receive compensation and expense in the event that the Court has issued its order to approve the withdrawal of the charge or the Court has issued its final decision that the accused did not commit such offence or an act done by the accused is not an offence under this Act.

When the notification under Paragraph 1 or Paragraph 2 has been given, the Inquiry Official or the competent authority who is obliged to acquit the accused in such legal case shall record details of such notification in the case files or records of the accused under his or her responsibility, as the case may be.

CHAPTER 2

COMMITTEE FOR CONSIDERATION OF DAMAGES FOR THE INJURED PERSONS AND COMPENSATION AND EXPENSES FOR THE ACCUSED IN CRIMINAL CASES

Section 7³ There shall be established a committee called the “Committee for Consideration of Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases”, consisting of the Permanent Secretary for Justice as the Chairperson, a representative of the Ministry of Finance, a representative of the Ministry of Social Development and Human Security, a representative of the Department of Provincial Administration, a representative of the Rights and Liberties Protection Department, a representative of the Judge Advocate General’s Department, a representative of the Department of Corrections, a representative of the Royal Thai Police, a representative of the Office of the Judiciary, a representative of the Office of the Attorney-General, a representative of the Lawyers Council of Thailand as “Ex-Officio” Members, and no more than five other specialists appointed by the Cabinet with the advice of the Minister as members and shall have manifest experiences in the field of medicines, social administration and protection of people’s rights and liberties, at least one from each field.

The Director of the Office of Financial Assistance for the Injured persons and the Accused in Criminal Cases, the Rights and Liberties Protection Department, shall act as the Secretary; and the Chairperson shall appoint no more than two government officials of the Office of Financial Assistance for the Injured persons and the Accused in Criminal Cases as the Assistant Secretaries.

Section 8 The Committee shall have its powers and duties, as follows:

(1) Consider and approve amounts of damages, compensation or expenses under this Act

³ Section 7 has been added by the “Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act (No.2) B.E. 2559”.

(2) Propose opinions to the Minister relating to measures of protection of rights of the injured persons and the accused in criminal cases as well as issuance of Ministerial Regulations, rules and announcement for the execution of this Act

(3) Issue a letter of inquiry or a summon to any person to testify or to submit the related documents and evidences, data or other necessary things for consideration

(4) Take any other actions to achieve the objectives prescribed in this Act

For the purpose of performance of duties under this Section, the Committee may assign the Office to act on its behalf.

Section 9 A specialist shall be in office for a term of two years; and a specialist who has vacated the office may be reappointed.

Section 10 In addition to vacating the office at the end of the term under Section 9, a specialist must vacate the office upon:

(1) Death

(2) Resignation

(3) Dismissal by the Cabinet with the advice of the Minister due to dereliction of duties, malfeasance, infamous conduct or defective competency

(4) Bankruptcy

(5) Incompetence or quasi-incompetence

(6) Having been sentenced by a final judgment to imprisonment, except for offences committed by negligence or petty offences

Section 11 In case of appointment of a specialist during the term in office of the appointed specialists, the newly appointed person shall be in office for the remaining term in office of such appointed specialist.

Section 12 In case, a new specialist has not yet been appointed upon the expiry of the term in office of the appointed specialist, the specialist who has vacated the office shall continue performing his or her duties until a new specialist has been appointed.

Section 13 At a meeting of the Committee, at least half of the total number of members shall attend the meeting to constitute a quorum.

At any meeting, in case, the Chairperson is not present at the meeting or is unable to perform his or her duties, members attending the meeting shall elect one of them to preside over the meeting.

A resolution of the meeting shall be passed by majority votes of meeting participants. In the casting of votes, one director shall have one vote. In case of a tie, the Chairperson of the meeting shall have an additional vote as the casting vote.

Section 14 The Committee may appoint a subcommittee for consideration or taking any action as assigned by the Committee.

In a meeting of the subcommittee, the provisions contained in Section 13 shall apply mutatis mutandis.

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Section 14/1⁴ The Committee may appoint one or several Subcommittee(s) for Consideration of Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases as may be suitable; whereas, each subcommittee shall consist of 5-9 members; provided that components, qualifications and term in office thereof shall be in accordance with the rules prescribed by the Committee; and a subcommittee shall have its powers and duties, as follows:

(1) Consider and approve damages, compensation or expenses under this Act; provided that the criteria, methods and conditions of consideration thereof shall be in accordance with the regulations prescribed by the Committee.

(2) Issue a letter of inquiry or a summon to any person to testify or to submit the related documents and evidences, data or other necessary things for consideration

(3) Take any other actions as assigned by the Committee

The provisions contained in Section 17, Section 18, Section 19, Section 20 and Section 21 shall also apply to the consideration and actions of the Subcommittee under Paragraph 1.

In a meeting of the subcommittee under Paragraph 1, the provisions contained in Section 13 shall apply mutatis mutandis.

CHAPTER 3

OFFICE OF FINANCIAL ASSISTANCE FOR THE INJURED PERSONS AND THE ACCUSED IN CRIMINAL CASES

Section 15 The Office of Financial Assistance for the injured persons and the Accused in Criminal Cases shall be established under the attentive supervision of the Ministry of Justice and shall have its powers and duties, as follows:

(1) Perform general administrative works of the Committee and subcommittee(s) under this Act

(2) Receive application for damages, compensation or expenses and submit opinions to the Committee or subcommittee(s)

(3) Coordinate with other government agencies or any person in order to receive facts or opinions on the application for receipt of damages, compensation or expenses

(4) Keep, collect and analyze the data regarding the payment of damages, compensation or expenses

(5) Take actions as assigned by the Minister, the Committee or subcommittee(s)

Section 16 In case, the Office has deemed it necessary to institute legal actions under this Act, the Ministry of Justice may appoint its government official who holds at least a bachelor's degree in laws with powers to institute legal actions or to take any actions relating to the legal cases as assigned by the Ministry of Justice; provided that such appointment shall be notified to the Court.

Any legal actions under this Section shall be exempted with the Court's fees.

⁴ Section 14/1 has been added by the "Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act (No.2) B.E. 2559".

CHAPTER 4

PAYMENT OF DAMAGES TO THE INJURED PERSONS IN CRIMINAL CASES

Section 17 An offence committed against an injured person which entitles him or her to claim for damages must be an offence as per the list specified and appended to this Act.

Section 18 The damages under Section 17 include:

- (1) Necessary medical expenses, including expenses for physical and psychiatric rehabilitation
- (2) Damages in case of death of an injured person, for not exceeding an amount prescribed in the Ministerial Regulations
- (3) Damages for the loss of earning during the period when an injured person has been unable to perform his or her regular works
- (4) Damages for other losses as deemed appropriate by the Committee.

Thus, in accordance with the criteria, methods and rates prescribed in the Ministerial Regulations.

The Committee may, or may not, fix an amount of damages to be granted to the injured person by taking account of circumstances and gravity of the commission of offence and the condition of damage suffered by the injured person, including the injured person's opportunity to receive other injunctive reliefs.

Section 19 In case, it appears afterwards that an action claimed by an injured person as a reason for receiving such damages is not a criminal offence or that there is no commission of such action, the Committee shall notify the injured person, in writing, to return the received damages to the Ministry of Justice within thirty days as from the date of receiving such notification.

CHAPTER 5

PAYMENT OF COMPENSATION AND EXPENSES TO THE ACCUSED IN CRIMINAL CASES

Section 20 An accused entitled to receive compensation and expenses under this Act shall be:

- (1) The accused instituted with a legal action by the public prosecutor
- (2) Taken into custody during the trial; and
- (3) In case, it appears afterwards with clear evidences that the accused has not committed the offence and the charge has been withdrawn during the trial; or it appears under the final judgment of such legal case; and the matter of fact is admissible and conclusive that the accused did not commit such offence or an act done by the accused is not an offence.

In case, there are several accused; and any of them has died before the final judgment shall be issued and the Committee deems it expedient to pay compensation and expenses to other accused who are still alive; and in case, the circumstance is related to the nature of the offence, the accused who has died shall also be entitled to receive compensation and expenses under this Act.

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Section 21 The compensation and expenses under Section 20 shall be determined in accordance with the criteria, as follows:

- (1) Custodial compensation shall be calculated from the number of custody days at the rate prescribed for confinement in lieu of fines under the Criminal Code.
- (2) Necessary medical expenses, including expenses for physical and psychiatric rehabilitation, in case, the illness of the accused is directly resulted from the prosecution.
- (3) Compensation in case of death of the accused directly resulted from the prosecution, for not exceeding an amount prescribed in the Ministerial Regulations.
- (4) Damages for the loss of earning during the period of prosecution.
- (5) Necessary expenses for prosecution.

Thus, in accordance with the criteria, methods and rates prescribed in the Ministerial Regulations, unless otherwise prescribed by laws.

In case, an application for regaining the lost entitlements directly resulted from the judgment and such entitlements may not be recovered, the Committee shall determine the compensation for such entitlements as it may think fit.

The Committee may, or may not, fix an amount of compensation and expenses to be granted to the accused by taking account of circumstances, troubles suffered by the accused and opportunity of the accused to receive indemnification by other means.

CHAPTER 6

SUBMISSION AND CONSIDERATION OF APPLICATION AND APPEAL

Section 22⁵ The injured person, the accused or his or her injured heir who is entitled to receive damages, compensation or expenses under this Act shall submit an application to the Committee or subcommittee(s) under Section 14/1 as per the Form prescribed by the Office within one year as from the date when the commission of an offence was known to the injured person, or the date when the Court issued an order to approve the withdrawal of charges when there is a clear evidence that the accused did not commit such offence or the date when the final judgment was issued that the matter of fact is admissible and conclusive that the accused did not commit such offence or an act done by the accused is not an offence, as the case may be.

The injured person, the accused or his or her heir shall submit an application under Paragraph 1 to other agencies as prescribed and announced by the Committee and it shall be regarded that such application has been submitted to the Committee or subcommittee(s) under Section 14/1, as the case may be.

Section 23 In case, the injured person, the accused or his or her injured heir is an incompetent person or is unable to submit an application in person, then, a legal representative or custodian, ascendant, descendant, husband or wife or any other person appointed in writing by the

⁵ Section 22 has been amended by the “Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act (No.2) B.E. 2559”.

injured person, the accused or his or her injured heir, as the case may be, may submit an application for damages, compensation or expenses on his or her behalf, thus, in accordance with the rules prescribed by the Committee.

Section 24 The criteria and method of submission and consideration of an application shall be in accordance with the rules prescribed by the Committee, with the Minister's approval.

Section 25⁶ In case, the applicant disagrees with the decision of the subcommittee under Section 14/1, he or she shall be entitled to appeal the decision to the Committee within thirty days as from the date of receiving the notification of the decision; provided that the criteria and method of submission and consideration of an appeal shall be in accordance with the rules prescribed by the Committee.

In case, the applicant disagrees with the Committee's decision under Paragraph 1 or under Section 8(1), the applicant shall be entitled to appeal the decision to the Court of Appeal within thirty days as from the date of receiving the notification of the decision; and the decision of the Court of Appeal shall be final.

Regarding the lodging of an appeal under Paragraph 2, the appellant may lodge an appeal to the Office or to the Provincial Court which has its jurisdiction over the domicile of the appellant in order to submit it to the Court of Appeal; and it shall be regarded that such appeal has been lodged to the Court of Appeal under Paragraph 2.

Regarding the decision of the appeal under Paragraph 2, the Court of Appeal shall have its power to make an inquiry for additional evidence by taking evidence in person or assigning the Court of First Instance to take evidence on its behalf as it may think fit.

CHAPTER 7 COMPETENT AUTHORITY

Section 26 Regarding the performance of duties under this Act, the Competent Authority shall have powers, as follows:

- (1) Interrogate the applicant relating to matters of facts as per the application
- (2) Issue a letter of inquiry or a summons to any person to testify or to submit the related documents and evidences, data or other things as deemed necessary.

Section 27 For the execution of this Act, the Competent Authority shall be the official under the Criminal Code.

CHAPTER 8 PENALTIES

⁶ Section 25 has been amended by the "Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act (No.2) B.E. 2559".

Section 28 Any person who has submitted an application for damages, compensation or expenses with false statements shall be imprisoned for not exceeding three years or fined for not exceeding sixty thousand Baht or both.

Section 29 Any person who has given false statements or has produced false evidences relating to the application for damages, compensation or expenses under this Act to the Committee, subcommittees or the Competent Authority, shall be imprisoned for not exceeding three years or fined for not exceeding sixty thousand Baht or both.

Section 30 Any person who fails to give a statement or failing to respond, in writing, to a letter of inquiry, documents, evidences or data or other necessary things as per orders of the Committee, subcommittees or the Competent Authority without any proper reason, shall be imprisoned for not exceeding six months or fined for not exceeding ten thousand Baht or both.

TRANSITORY PROVISIONS

Section 31 At the outset, the Ministry of Justice shall assign any of its agencies to perform the powers and duties of the Office until completion of the establishment of the Office within one year from the date of entry into force of this Act.

Counter-Signature:

Police Lieutenant Colonel Thaksin Shinawatra

Prime Minister

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**LIST APPENDED TO THE DAMAGES FOR THE INJURED PERSONS AND
COMPENSATION AND EXPENSES FOR THE ACCUSED IN CRIMINAL CASES ACT
B.E.2544⁷**

Offences committed against an injured person which entitle him or her to claim for damages under Section 17 must be offences under the Criminal Code, Part 2, as follows:

Title VI Offences Relating to the Public Security, Section 224, Section 238

Title IX Offences Relating to Sexuality, Section 276 to Section 287

Title X Offences against Life and Body:

Chapter 1: Offences against Life, Section 288 to Section 294

Chapter 2: Offences against Body, Section 295 to Section 300

Chapter 3: Offences of Abortion, Section 301 to Section 305

Chapter 4: Offences of Abandonment of Children, Sick or Aged Persons,
Section 306 to Section 308

Title XI Offences against Liberty and Reputation:

Chapter 1: Offences against Liberty, Section 309, Section 310,
Section 311, Section 311 (*bis*), Section 313

Title XII Offences against Property:

Chapter 1: Offences of Theft and Snatching, Section 336

Chapter 2: Offences of Extortion, Blackmail, Robbery and Gang-Robbery,
Section 337, Section 339, Section 339 (*bis*),

⁷ List Appended to the “Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544 Amended by the “Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act (No.2) B.E. 2559”.

Section 340, Section 340 (*bis*)

Chapter 8: Offences of Trespass, Section 365

Office of Justice Affairs

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Note:- Reason for promulgation of this Act: Whereas, the provisions contained in Section 245 and Section 246 of the Constitution of the Kingdom of Thailand have certified the entitlements to receive assistance from the State of the injured persons resulted from the commission of criminal offences of others; whereas, such injured persons were not involved with the commission of such offences and had no opportunity to receive other injunctive reliefs and such provisions thereof have also certified the entitlements to receive compensation in the event that a person has become an accused in criminal cases and has been taken into custody during trial. In case, it appears that, as per the final judgment of such legal case, the matter of fact is admissible and conclusive that the accused did not commit such offence or an act done by the accused is not an offence; therefore, for certification of such entitlements in accordance with the provisions contained in the Constitution of the Kingdom of Thailand, it is necessary to enact this Act.

Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act (No.2) B.E. 2559⁸

Section 2 This Act shall come into force when a period of sixty days as from the date following the date of its publication in the Government Gazette has been elapsed.

Section 9 During the period when no specialist is appointed under the “Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” Amended by this Act, the Committee for Consideration of Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases shall, for the time being, consist of the Chairperson and “Ex-Officio” Members until specialists have been appointed.

Section 10 All applications submitted prior to the date of entry into force of this Act and still under consideration shall be regarded as applications under the “Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” Amended by this Act and shall be carried on under the “Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” Amended by this Act.

Section 11 All rules or announcements issued in accordance with the “Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” and enforced prior to the date of entry into force of this Act shall still be enforced insofar as they are not contrary to or inconsistent with the provisions contained in the “Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” Amended by this Act until rules or announcements issued in accordance with the “Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” Amended by this Act have come into force.

⁸ The Government Gazette, Volume 133 Section 74 (A) Page 1 dated 22nd August 2016.

The issuance of rules or announcements under Paragraph 1 shall be complete within thirty days as from the date of entry into force of the “Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” Amended by this Act. In case, it is unable to do so, the Minister shall report the reason of such failure to the Cabinet for acknowledgment.

Section 12 The Minister of Justice and the Minister of Finance shall take charge under this Act.

Note:- Reason for promulgation of this Act: Whereas, the “Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544” has been enforced for a long time, it is deemed expedient to amend it by adding the provisions relating to the notification of entitlements to receive damages or compensation and expenses under this Act to an injured person or his or her injured heir or to an accused that the Court has issued its order to approve the withdrawal of the charge or the Court has issued a final judgment that the accused did not commit such offence or an act done by the accused is not an offence, and by revising the components of the Committee for Consideration of Damages for the Injured persons and Compensation and Expenses for the Accused in Criminal Cases and increasing the powers and duties of the Committee to appoint Subcommittee for Consideration of Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases, as may be suitable and to prescribe powers and duties and operations of the Subcommittee, including the exercise of rights to appeal the decision of such Subcommittee, as well as prescribing the method of submission of an application to receive damages, compensation or expenses and revising the List Appended to this Act so that the payment of damages to the injured persons and compensation and expenses to the accused in criminal cases may be made rapidly, extensively and more effectively; therefore, it is necessary to enact this Act.

Revised by: Nusara
23rd August 2016

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