

**Act on the Establishment of and Criminal Procedure in Kwaeng Court,
B.E. 2499 (1956)**

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 24th Day of September, B.E. 2499

Being the 11th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to establish Kwaeng Court as well as a special criminal procedure in the court, in order to expeditiously adjudicate cases and conserve rights and freedom of the people;

Be it, therefore, enacted by the King, by and with the advice and consent of the House of Representative, as follows:

Section 1

This Act shall be called the "Act on the Establishment of and Criminal Procedure in Kwaeng Court, B.E. 2499 (1956)"

Section 2

This Act shall come into force after sixty days from the date of its publication in the Royal Gazette.

Section 3

Kwaeng Court shall be established, in accordance with the law on the organization of the courts, in every province. Royal Decree shall proclaim the number of Kwaeng Court in a province, the scope of its jurisdiction, and the date of its inauguration.

Any Kwaeng Court established prior to the date on which this Act comes into force shall remain in existence, and possess authority and duties as prescribed in this Act.

Royal Decree shall proclaim an alteration of the jurisdiction of a Kwaeng Court.

Section 4

The criminal procedure under the provisions of this Act shall apply to proceedings in Kwaeng Court. In case where there is no applicable provision in this Act, the laws on the organization of the courts, criminal procedure, and civil procedure shall apply, without prejudice to the law on the establishment of the court and procedure for child and juvenile cases.

Section 5

(Repealed)

Section 6

(Repealed)

Section 7

In the investigation of cases within the jurisdiction of Kwaeng Court, when an alleged offender has been arrested, the inquiry official in charge shall dispatch the alleged offender and the case files to the public prosecutor, in order that the public prosecutor may file a prosecution in Kwaeng Court within forty-eight hours commencing from the time when the alleged offender was arrested. The period shall, however, not include an ordinary period of time spent for conducting the alleged offender from the arresting place to the office of the

inquiry official, and from the station and/or from the office of the public prosecutor to the court.

In case of some necessity which renders the filing of a prosecution against the alleged offender in court within the period of time prescribed in the first paragraph impossible, the inquiry official or the public prosecutor, as the case may be, shall file, with the court, a request asking for postponement of the prosecution no longer than six days in each time. Such postponement may not, however, be requested more than three times. In considering such request, if there is also a request for detention of the alleged offender, or the alleged offender appears in court, the court shall inquire the alleged offender whether there is any objection thereto; the court may also demand the inquiry official or the public prosecutor to delineate the necessity, or may call witnesses to testify in corroboration of the request.

When the court has already given permission for postponement of prosecution three times, if the inquiry official or the public prosecutor files another request for such postponement by alleging some necessary causes, the court may give permission according to the request only in the case where the inquiry official or the public prosecutor is able to demonstrate such necessary causes and bring witnesses to testify in corroboration of the request to the satisfaction of the court. If there is also a request for detention of the alleged offender, or the alleged offender appears in court, the court shall inquire the alleged offender whether there is any objection thereto. In such case, the court may give permission for such postponement not exceeding six days each and not more than twice.

The alleged offender may appoint an attorney to present an objection, and examine the witnesses.

Section 7 bis

In case where an alleged offender has escaped from custody or detention, the period of such escape shall not be included in the period of time prescribed in Section 7.

In case where the alleged offender has been dispatched for prosecution in the courts martial or the juvenile court, if it appears later that the alleged offender is not within the power of the court martial or the juvenile court, according to the laws on the organization of the courts martial or the laws on procedure for juvenile court as the case may be, and the alleged offender is dispatched back to the inquiry official, in order to be prosecuted in Kwaeng Court, the period during which the alleged offender was under the custody or detention in accordance with the aforesaid laws shall not be included in the period of time prescribed in Section 7.

Section 8

In criminal cases within the jurisdiction of Kwaeng Court, custody of alleged offenders shall be in accordance with the law on criminal procedure. By no means, however, the administrative official or the police may retain alleged offenders in custody longer than the period of time prescribed in Section 7 paragraph one.

In case where an alleged offender is in the custody of the administrative official or the police, the inquiry official or the public prosecutor, as the case may be, shall dispatch the alleged offender to the court together with the request for postponement of prosecution, and request the court to issue a warrant of detention of the alleged offender. If the alleged offender being ill is in the condition that renders the dispatch infeasible, the inquiry official or the public prosecutor shall ask, in the request for warrant of detention, for the court permission and present evidence in corroboration thereof to the satisfaction of the court that the alleged offender cannot be dispatched to the court. In case where the court grants permission for postponement of prosecution, the court shall issue a warrant of detention of the alleged offender effective during the period of the granted postponement.

In case where the alleged offender has been dispatched for prosecution in the courts martial or the juvenile court, if it appears later that the alleged offender is not within the power of the court martial or the juvenile court, according to the laws on the organization of the courts martial or the laws on procedure for juvenile court as the case may be, and

the alleged offender is dispatched back to the inquiry official, in order to be prosecuted in Kwaeng Court, the period during which the alleged offender was under the custody or detention in accordance with the aforesaid laws shall not be included in the period of time prescribed in Section 7.

In case where an alleged offender is in the custody of the administrative officer or the police after the court has granted permission for postponement of prosecution, the inquiry official or the public prosecutor shall dispatch the alleged offender to the court at the earliest possible occasion, and request the court to issue a warrant of detention of the alleged offender. The court shall issue a warrant of detention of the alleged offender effective during the period of the granted postponement.

The request for a warrant of detention of the alleged offender may be included in the request for postponement of prosecution. If the court deems appropriate, the court may order that the alleged offender be dispatched back to the custody of the administrative official or the police. By no means, however, the court may issue a warrant of detention, or order that the alleged offender be dispatched back to the custody of the administrative official or the police, for a period longer than the period of time prescribed in the law on criminal procedure.

The provisions of this Section shall apply without prejudice to the court authority in granting provisional release.

Section 9

The public prosecutor may not file a prosecution after the expiration of the period of time prescribed in Section 7, unless the Attorney General² grants permission.

Section 10

(Repealed)

Section 11

(Repealed)

Section 12

In a criminal case within the jurisdiction of Kwaeng Court, if there is a non-prosecution order and such order is not of the Attorney General, the investigating files and the order shall be promptly presented, in Bangkok, to the Director General, the Deputy Director-General or the Assistant Director-General of the Police Department, or, in other provinces, to the Governor. Notwithstanding the provision of this Section, the public prosecutor shall still possess the authority to release or grant provisional release to the alleged offender, keep the alleged offender in custody, or request the court to detain the alleged offender, as the case may be, and may make an arrangement or order accordingly.

In case where, in Bangkok, the Director General, the Deputy Director-General or the Assistant Director-General of the Police Department, or, in other provinces, the Governor, disagrees with the order of the public prosecutor, the files together with such conflicting opinions shall be presented to the Attorney General for his decision. If the prescription period of the case is going to expire, or there is any other necessary reason for promptly filing a prosecution with the court, then the prosecution shall be promptly filed with the court according to the opinion of the Director General, the Deputy Director-General or the Assistant Director-General of the Police Department, or the Governor.

The provisions of this Section shall apply *mutatis mutandis* to the case where the public prosecutor will not appeal to the Court of Appeal or the Supreme Court, or will withdraw the prosecution or the appeal.

Section 13 – Section 18

(Repealed)

Section 19

In criminal cases within the jurisdiction of Kwaeng Court, the injured party or the public prosecutor may file a prosecution, orally or in writing. If, however, the accused requests or the court deems appropriate, the court may order that the prosecution be filed in writing.

In orally filing a prosecution, the prosecutor shall inform the court of his or her name, the name, address and nationality of the accused, the offences, the crimes alleged to have been committed by the accused, and the details of time, place and other relevant matters which are sufficient for the accused to understand the charges, as well as the Sections of the laws providing for the offences.

The accused may plead, orally or in writing.

In case of orally filing a prosecution or pleading, the court shall enter a concise record thereof for evidentiary purpose, and have the parties sign thereon.

The court shall enter a concise record of the essential part of witness testimony, and have the witness sign thereon.

Section 20

In criminal cases within the jurisdiction of Kwaeng Court, if the alleged offender pleads guilty in all charges to the inquiry official, the official shall then conduct the alleged offender to the public prosecutor in order to file a prosecution without any further investigation. Such prosecution shall be orally filed. The court shall inquire the alleged offender regarding his plea. If the alleged offender still pleads guilty, the court shall then enter the prosecution, the plea of guilty and the judgment, in the same record, and have the prosecutor and the accused sign thereon. If the alleged offender pleads not guilty, the court shall order the public prosecutor to bring the alleged offender back for further investigation.

Section 21

Kwaeng Court shall expeditiously adjudicate cases, and may orally order or render judgment, but shall enter a concise record thereof.

Section 21 bis

(Repealed)

Section 22

In criminal cases, the judgment of Kwaeng Court may not be appealed on the question of fact, provided, however, the accused may appeal on the question of fact in the following cases:

- (1) the accused is sentenced to imprisonment or confinement in lieu of imprisonment;
- (2) the accused is sentenced to imprisonment, but the court suspends the punishment;
- (3) the court convicts the accused, but suspends the determination of the punishment; or
- (4) the accused is fined more than one thousand Baht.

Section 22 bis

In cases where an appeal is prohibited under Section 22, if a judge who tried the case, signed in the judgment, or rendered a dissenting opinion in the Kwaeng Court, is of the opinion that the issue so adjudicated is a significant issue that should be considered by the Court of Appeal and grants a permission for appeal, or the Attorney General or the public prosecutor whom the Attorney General designates signs and certifies in the appeal that there is a reasonable ground for the Court of Appeal to consider, then the appeal shall be accepted for consideration.

Section 23 – Section 25

(Repealed)

Section 26

The Minister of Justice and the Minister of Interior shall be in charge of this Act, and shall be empowered to prescribe Ministerial Regulations for the implementation of this Act.

Such Ministerial Regulations shall come into force when they have been published in the Royal Gazette.

Transitional Provisions

Section 27 – Section 28

(Repealed)

Section 29

All criminal cases that are under the investigation of the inquiry official, the proceedings of the public prosecutor, or the consideration of the court, prior to the date on which the criminal procedure under this Act comes into force, shall be in accordance with the laws applicable prior to the date until the cases become final.

Countersigned by

Field-Marshal P. Pibulsonggram

Prime Minister

Remarks

The reason for the promulgation of this Act is as follows: at the present time Kwaeng Courts have not been established in every province. It is, therefore, deemed expedient to establish Kwaeng Courts in every province so as to complete adjudication expeditiously, In3 addition, there should be the special procedure for the courts to conserve the rights and freedom of the people such as in the normal case, Kwaeng Court permit to issue a warrant of arrest or search and to appoint an ordinary people to be the associate judge of Kwaeng Court, etc.

Note

1. The word "Kwaeng" in Thai usually means an administrative sub-division of a province, but, for the purpose of the Thai legal system, it is used in the sense that means a kind of court whose jurisdiction is limited to some specific kinds of cases, and narrower than that of a provincial court. According to the Law on the Organization of the Courts B.E. 2477, in sum, cases within the jurisdiction of Kwaeng Court mainly comprise

- (1) civil cases in which the value of disputed property, or the amount of claim does not exceed forty thousand Baht, and
- (2) criminal cases in which the offence alleged to have been committed by the accused may be punished by imprisonment not exceeding three years, or by fine not exceeding sixty thousand Baht, or both.

2. The Attorney General was formerly the Director-general of the Public Prosecution Department

3. Now, the appointment of a layman to be an associate judge of the Kwaeng court, and the power of the Kwaeng Court to issue warrant of arrest and a search warrant have been abolished.

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