

**DAMAGES FOR THE INJURED PERSON AND COMPENSATION AND EXPENSE FOR THE ACCUSED IN THE CRIMINAL CASE ACT, B.E. 2544 (2001)**

**Translation**

BHUMIBOL ADULYADEJ, REX.,  
Given on the 31<sup>st</sup> Day of October B.E. 2544;  
Being the 56<sup>th</sup> Year of the Present Reign.

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

Whereas it is expedient to have a law on the damages for the injured person and compensation and expense for the accused in criminal case;

This Act contains certain provisions in relation to the restriction of right and liberty of person, in respect of which Section 29 in conjunction with Section 31, Section 34, Section 37 and Section 39 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

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

**Section 1**

This Act is called the "Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act, B.E. 2544 (2001)".

**Section 2**

This Act shall come into force as from the date following its publication in the Government Gazette.\*

**Section 3**

In this Act

"Injured person" means a person whom his or her life, body or mind has been injured by the criminal offense committed by other persons whereby such person is not involved in committing such offense;

"Accused" means a person who has been sued to the Court that he or she had committed a criminal offense;

"Damages" means money, property or other benefit which the injured person is entitled to receive in order to compensate damage caused by, or due to, a criminal offense committed by other persons;

"Compensation" means money, property or other benefit which the accused is entitled to receive because he or she has been being the accused in the criminal case and has been taken into custody during trial, but the final judgment to such case stating that he or she did not commit such offense or an act done by the accused is not an offense;

"Office" means the Office of Financial Assistance for the Injured Person and the Accused in the Criminal Case;

"Committee" means the Committee Determining Damages for the Injured Person and Compensation and Expense for the Accused in the Criminal Case;

"Member" means a member of the Committee Determining Damages for the Injured Person and Compensation and Expense for the Accused in the Criminal Case;

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\*Published in the Government Gazette Vol. 118, Part 104a, page 23, dated 12<sup>th</sup> November B.E. 2544 (2001)

“Public prosecutor” means the public prosecutor under the law on public prosecutor and the military prosecutor under the law on constitution of the military court;

“Competent official” means a person appointed by the Minister for the execution of this Act;

“Minister” means the Minister having charge and control for the execution of this Act.

#### **Section 4**

The Minister of Justice and the Minister of Finance shall have charge and control for the execution of this Act and shall have power to issue the Ministerial Regulation, regulation and notification and to appoint the competent official for the execution of this Act.

Such Ministerial Regulation, rule and notification shall come into force upon their publication in the Government Gazette.

### **CHAPTER I General Provisions**

#### **Section 5**

Any request or entitlement to right or benefit under this Act shall not affect any right or benefit of the injured person or the accused under other laws.

#### **Section 6**

In the case where the injured person or the accused has died before receiving damages, compensation or expense, as the case may be, the right to request for, and receiving of, damages, compensation or expense shall devolve on their heirs in accordance with the regulation determined by the Committee.

### **CHAPTER II Committee Determining Damages for the Injured Person and Compensation and Expense for the Accused in the Criminal Case**

#### **Section 7**

There shall be a committee called the “Committee Determining Damages for the Injured Person and Compensation and Expense for the Accused in the Criminal Case”, consisting of the Permanent Secretary of the Ministry of Justice as Chairperson, 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 Ministry of Finance, a representative of the Department of Provincial Administration, a representative of the Department of Probation, a representative of the Judge Advocate General’s Department, a representative of the Department of Corrections, a representative of the Department of Labor Welfare and Protection, a representative of the Lawyers Council of Thailand, and not more than five qualified members as appointed by the Council of Ministers upon the advice of the Minister. A person of apparent experience in the field of medicine, social welfare and protection of right and liberty of people shall be appointed as a qualified member at least one from each field.

The Chairperson shall appoint the government official attached to the Ministry of Justice as secretary to the Committee and may appoint not more than two other persons as assistant secretaries to the Committee.

## **Section 8**

The Committee shall have the powers and duties as follows:

- (1) to determine damages, compensation or expenses under this Act;
- (2) to recommend the Minister related to the measure in protecting right of the injured person in the criminal case and the issuance of the Ministerial Regulation, regulation and notification for the execution of this Act;
- (3) to make written inquiry or summon any person to testify or submit relevant document or evidence or data or otherwise as necessary for its consideration;
- (4) to carry out any performance in order to serve the purpose of this Act.

The Committee may entrust the Office to carry out any duty under this Section on its behalf.

## **Section 9**

A qualified member holds office for a term of two years. A qualified member who vacates from office may be reappointed.

## **Section 10**

Apart from vacating office under Section 9, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed from the office by the Council of Ministers upon the advice of the Minister due to negligent or dishonest in the discharge of duty, disgrace behavior or incapability;
- (4) being a bankrupt;
- (5) being an incompetent or a quasi-incompetent person;
- (6) having been sentenced by a final judgment of the Court to a term of imprisonment, except for an offence committed through negligence or a petty offence.

## **Section 11**

If there is the appointment of the qualified member while the appointed qualified members remain in office, such person shall hold office for the remaining term of the appointed qualified member.

## **Section 12**

At the expiration of term of office, if the newly qualified members have not been appointed, the qualified members who vacate office shall remain in office to continue their duties until the newly qualified members have been appointed

## **Section 13**

At a meeting of the Committee, the presence of not less than one-half of the total number of the members shall constitute a quorum.

If the Chairperson is unable to attend the meeting, or is unable to perform his or her duty, the members shall select one among themselves to preside over at the meeting.

A decision shall be made by a majority of votes. In casting vote, each member shall have one vote. In case of an equality of votes, the person who presides over at the meeting shall cast an additional vote as a casting vote.

## **Section 14**

The Committee may appoint a sub-committee for the consideration or execution any matter as may be entrusted by the Committee.

The provisions of Section 13 shall be applied *mutatis mutandis* to the meeting of the sub-committee.

**CHAPTER III**  
**Office of Financial Assistance for the Injured Person**  
**and the Accused in the Criminal Case**

**Section 15**

There shall establish the Office of Financial Assistance for the Injured Person and the Accused in the Criminal Case in the Ministry of Justice having the powers and duties as follows:

- (1) to perform secretariat work for the Committee and sub-committee under this Act;
- (2) to receive the request for damages, compensation and expense and make recommendation thereon to the Committee and sub-committee;
- (3) to coordinate with other government agencies or other person so as to acquire fact or opinion on the request for damages, compensation and expense;
- (4) to keep, collect and analyze data related to the payment of damages, compensation and expense;
- (5) to perform other duties as entrusted by the Minister, the Committee or the sub-committee.

**Section 16**

If the Office is of opinion that there is necessary to enter the proceedings under this Act, the Ministry of Justice may appoint its official with not lower than bachelor degree in law to precede the case or related performance as entrusted by the Ministry of Justice. Such appointment shall be informed to the Court.

To enter the proceedings under this Section, the Court fee is gratis.

**CHAPTER IV**  
**Payment of Damages for the Injured Person in the Criminal Case**

**Section 17**

The offence which entitles the injured person to request for damages shall be the offense as prescribed in the list attached to this Act.

**Section 18**

The damages under Section 17 are as follows:

- (1) the expense as necessary for medical treatment, including expense for physical and mental rehabilitation;
- (2) the compensation for the death of the injured person not exceeding the amount as prescribed by the Ministerial Regulation;
- (3) the compensation for the lost earning during the period the injured person is unable to conduct his or her earning power as usual;
- (4) other compensations as the Committee thinks fit;

under the rule, procedure and rate as prescribed by the Ministerial Regulation.

After having considered the circumstance and gravity of the offense and injury of the injured person as well as the chance in which such injury shall be alleviated by other means, the Committee shall determine whether the damages may be granted to the injured person or not and the amount to be paid.

## **Section 19**

If it appears later that the act claimed by the injured person for damages is not the criminal offense or there is no such act, the Committee shall notify the injured person, in writing, to return the received compensation to the Ministry of Justice within thirty days as from the date of receiving such notification.

## **CHAPTER V**

### **Payment of Compensation and Expense to the Accused in the Criminal Case**

## **Section 20**

The accused who is entitled to compensation and expense under this Act shall:

- (1) be the accused prosecuted by the public prosecutor;
- (2) being in custody during trial; and
- (3) not being the person who committed the offense upon clear evidence and the charge has been withdrawn during trial or the final judgment of such case stating that the fact to the case is conclusive that the accused is not the person who committed the offense or such act is not an offense.

If, in the case where there are many accused person and any of such person has died before the final judgment has been made, the Committee has determined the compensation and expense to be paid for the accused that still alive and such circumstance related to the nature of the offense, the death accused shall entitle to the compensation and expense under this Act.

## **Section 21**

The compensation and expense under Section 20 are as follows:

- (1) the compensation in lieu of custody which shall be calculated upon the number of custody days at the same rate as prescribed for the confinement in lieu of fine under the Penal Code;
- (2) the expense which is necessary for medical treatment, including expense for physical and mental rehabilitation if the illness of the accused is the immediate effect of the proceedings;
- (3) the compensation in the case where the accused is dead and the death is the immediate effect of the proceedings. In this case, the compensation shall not exceed the amount as prescribed in the Ministerial Regulation;
- (4) the expense for the lost earning during the proceedings;
- (5) other expenses as necessary for the proceedings;

under the rule, procedure and rate as prescribed by the Ministerial Regulation; provided that otherwise prescribed by law.

In the case where there is a request to recover the lost right which is the immediate effect of the judgment, the Committee shall determine the compensation in lieu of such right as appropriate if it is not possible to recover such right as requested.

After having considered the circumstance of the case, grievance of the accused and the chance in which the accused shall be alleviated by other means, the Committee shall determine whether the damages may be granted to the accused or not and the amount to be paid.

## CHAPTER VI

### Submitting a Request, Request Consideration and Appeal

#### Section 22

The injured person, the accused or their heir who sustain injury is entitled to request for damages, compensation or expense under this Act. The request to be made in the form specified by the Office shall be submitted to the Committee via the Office within one year as from the date the committed offense has known to the injured person or the date the Court has permitted to withdraw the case upon clear evidence that the accused is not the offender or the date the final judgment which stating either the accused is not the offender or the act of the accused is not an offense has been given, as the case may be.

#### Section 23

In the case where the injured person, the accused or their heir who sustain injury is incompetent and unable to submit the request personally, the legal representative or guardian, ascendant, descendant, husband or wife or other persons appointed in writing by the injured person, the accused or their heir who sustain injury, as the case may be, may submit a request for damages, compensation or expense on behalf thereof in accordance with the regulation determined by the Committee.

#### Section 24

The rule and procedure on submitting and considering a request shall be in accordance with the regulation determined by the Committee which is approved by the Minister.

#### Section 25

If the person who makes a request does not agree with the decision of the Committee, such person is entitled to appeal to the Court of Appeal within thirty days as from the date such person has been informed the decision. The decision of the Court of Appeal shall be final.

The appellant may, in submitting the appeal under paragraph one, submit the appeal to the Office or the *Changwat* Court having jurisdiction over the domicile of the appellant in order to submit the appeal to the Court of Appeal. Such submission shall be deemed as the submission of appeal to the Court of Appeal under paragraph one.

In adjudicating the appeal under paragraph one, the Court of Appeal shall have the power to make an inquiry for additional evidence by taking evidence on its own or appointing the Court of the First Instance in so doing on it behalf as it thinks fit.

## CHAPTER VII

### Competent Official

#### Section 26

The competent official shall, in the performance of duty under this Act, have power as follows:

- (1) to take statement from any person who make a request for the fact related thereof;
- (2) to inquire in writing or summon any person to testify or send relevant document or evidence or information or other things necessary for consideration;

#### Section 27

The competent official shall, in the performance of duty under this Act, be the competent official under the Penal Code.

## **CHAPTER VIII**

### **Penalties**

#### **Section 28**

Any person who submits a request for damages, compensation or expenses with fault statement shall be liable to imprisonment for a term of not exceeding three years or to a fine of not exceeding sixty thousand Baht, or to both.

#### **Section 29**

Any person who gives or expresses fault statement or evidence related to the request for damages, compensation or expense under this Act to the Committee, sub-committee or competent official shall be liable to imprisonment for a term of not exceeding three years or to a fine of not exceeding sixty thousand Baht, or to both.

#### **Section 30**

Any person who fails to give statement or fails to send a letter in response of the inquiry, document, evidence or information or other necessary things in accordance with the order of the Committee, sub-committee or competent official without reasonable excuse shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding ten thousand Baht, or to both.

### **Transitory Provision**

#### **Section 31**

At the outset, the Ministry of Justice shall entrust any agency attached thereto to perform the powers and duties of the Office until the completion of the establishment of the Office which shall complete within one year as from the date this Act come into force.

Countersigned by

Police Lieutenant Colonel Thaksin Shinawatra

Prime Minister

**List attached to the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act, B.E. 2544**

The offense committed against the injured person which entitles the injured person to request for compensation under Section 17, viz. the offense under the Penal Code, Book II, Specific Offenses:

- Title IX            Offense relating to Sexuality, Section 276 to Section 287;
- Title X            Offense against Life and Body;
- CHAPTER 1        Offense causing Death, Section 288 to Section 294;
- CHAPTER 2        Bodily Harm, Section 295 to Section 300;
- CHAPTER 3        Abortion, Section 301 to Section 305;
- CHAPTER 4        Abandonment of Children, Sick or Aged Persons, Section 306 to Section 308.

**Disclaimer**

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