

## **The Special Case Investigation Act, B.E. 2547 (2004)**

As amended by the Special Case Investigation Act (No.2), B.E. 2551 (2008)

**Translation**

BHUMIBOL ADULYADEJ, REX

Given on the 13th day of January B.E. 2547

Being the 59th year of the Present Reign

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

Whereas it is deemed expedient to enact the law on special case investigation;

This Act contains certain provisions relating to restriction of rights and liberties of persons, which, under Section 29 in conjunction with Sections 31, 34, 35, 36, 37, 48, 58, 237 and 238 of the Constitution of the Kingdom of Thailand, allow to do so by virtue of the provisions of law;

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

### **Section 1**

This Act is called the "Special Case Investigation Act, B.E. 2547 (2004)".

### **Section 2**

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

### **Section 3**

In this Act:

"Special Case" means criminal cases provided in Section 21.

"Special Case Inquiry Official" means the Director-General, Deputy Director-General and person appointed to have power and duties to conduct investigation and inquiry of special cases provided in this Act.

"Special Case Officer" means person appointed to assist special case inquiry official in the investigation and inquiry of special cases provided in this Act.

"Director-General" means the Director-General of the Department of Special Investigation.

"Deputy Director-General" means Deputy Director-General of the Department of Special Investigation.

"Minister" means the Minister taking charge and control of the execution of this Act.

### **Section 4**

The Minister of Justice shall take charge and control of the execution of this Act and shall have power to issue Ministerial Regulations and Rules for implementing this Act.

Such Ministerial Regulations and Rules shall come into force upon their publication in the Government Gazette.

## **Chapter 1**

### **Board of Special Case**

### **Section 5**

There shall be a Board of Special Case referred to in abbreviation as the "BSC".

It shall consist of the Prime Minister acting as Chairman; the Minister of Justice as Vice Chairman; Permanent Secretary of the Ministry of Justice, Permanent Secretary of the Ministry of Finance, Permanent Secretary of the Ministry of Interior, Permanent Secretary of the Ministry of Commerce; the Attorney-General, Commissioner General of the Royal Thai Police, Secretary-General of the Office of the Council of State, Judge Advocate General, Governor of the Bank of Thailand, President of the Law Society and nine expert members appointed by the Cabinet, where at among whom shall be person having expertise and knowledge in each field of economics, banking and finance, information technology or law, acting as members.

The Director-General shall act as member and secretary and shall appoint no more than two officers from the Department of Special Investigation as assistant secretary.

## **Section 6**

Expert members shall have the qualifications and shall not be under any of the prohibitions as follows:

- (1) having Thai nationality by birth;
- (2) being not less than thirty-five years of age;
- (3) not being a bankrupt, incompetent or quasi-incompetent person;
- (4) not being a member of the House of Representatives, a senator, a political official, member of local council, local administrator, committee member or person holding position responsible for administration of a political party, advisor or officer of any political party;
- (5) not being ordered to suspend his/her government service or to be temporarily dismissed from his/her government service;
- (6) not having been dismissed, removed or ordered to vacate office in government, State Agency or State enterprise due to his/her in disciplinary action;
- (7) not having been imprisoned by a final judgment of the court to a term of imprisonment, except for an offence committed by negligence or petty offence;
- (8) not being judged or ordered by the court for having assets seized and turned to the state due to a reason of unusual wealth or an unusual increase of their assets;
- (9) not being prohibited by the Constitution of the Kingdom of Thailand to hold any office; and
- (10) never having been removed by the Senate's resolution from a position under the Constitution of the Kingdom of Thailand where the five-year period of removal, starting from the day the Senate adopts the resolution, has not expired.

## **Section 7**

The expert members shall hold office for a term of two years. Vacating member may be re-appointed but shall not hold office in excess of three terms.

If an expert member vacates his/her office by rotation but no new expert member has been appointed, the vacating member shall then retain office until a new member is appointed.

*(Amended by Section 3 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

## **Section 8**

Other than by rotation, the expert member shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being imprisoned by a final judgment to a term of imprisonment;
- (4) lack of qualifications or having prohibited characteristics under Section 6; and
- (5) dismissal by the Cabinet due to misconduct, negligence or dishonest conduct in his/her duty or inefficiency.

## **Section 9**

If an expert member vacates office before an expiration of his/her term, a new member shall be appointed within thirty days. Unless the period of the vacating member's office remains less than ninety days, an expert member may not be appointed.

An expert member so appointed shall hold office for the remaining term of the members still retaining office.

During the period when no expert member is appointed to fill the vacancy, the remaining members may continue performing their duties.

## **Section 10**

The BSC shall have the following powers and duties:

- (1) to advise the Cabinet regarding the issuance of the Ministerial Regulations to determine special cases according to Section 21, paragraph one (1);
- (2) to determine details of offence under Section 21, paragraph one (1);
- (3) to adopt resolutions regarding other criminal cases according to Section 21, paragraph one (2);
- (4) to determine requirements or rules which are provided to be the BSC's power or duty;
- (5) to monitor and assess results of compliance with this Act;
- (6) to approve a Special Case Investigation curriculum; and
- (7) to perform other duties according to this Act or those designated by the law to be the BSC's power and duties.

Nature of offence under paragraph one (2), resolutions under paragraph one (3) and regulations or rules under paragraph one (4) shall be published in the Government Gazette.

## **Section 11**

The meetings of the BSC will be regulated *mutatis mutandis*, by the provisions regarding the Board having power to conduct administrative procedures according to the laws governing public administration practices.

## **Section 12**

The BSC shall have power to appoint a sub-committee to consider or perform its duties determined by the BSC where Section 11 shall apply *mutatis mutandis*.

## **Section 13**

The BSC members and members of the sub-committee shall receive remunerations at the rates specified by the Cabinets.

## **Chapter 2**

### **Special Case Inquiry Official and Special Case Officer**

## **Section 14**

The Department of Special Investigation shall have Special Case Inquiry Official and Special Case Officer performing duties in relation to special cases as provided herein.

## **Section 15**

The Special Case Inquiry Official shall be an ordinary civil servant and shall possess qualifications according to the law governing civil servant regulations.

Aside from qualifications mentioned in paragraph one; the Special Case Inquiry Official shall also have either one of the following special qualifications:

- (1) being or having been a government official for no less than five years in a position of Special Case Officer at a level required by the Civil Service Sub-Commission of the Department of Special Investigation;
- (2) graduating with a bachelor's degree in law and having experience proven useful for the performance hereunder after graduating for no less than three years, and holding a position which is not lower than Level 6 of an ordinary civil servant or other equivalent position in any state agency as required by the rules of the Civil Service Sub-Commission of the Department of Special Investigation;
- (3) graduating with a master's degree in law or the barrister at law according to the curriculum of the Institute of Legal Education of the Thai Bar Association and having experience proven useful for the performance hereunder for no less than five years after graduation according to the rules required by the Civil Service Sub-Commission of Department of Special Investigation;
- (4) graduating with a doctor of philosophy (Ph.D.) in law and having experience proven useful for the performance hereunder for a period of no less than three years after graduation according to the rules specified by the Civil Service Sub-Commission of Department of Special Investigation; and
- (5) graduating with a bachelor's degree in any field and having experience proven useful for performance hereunder for no less than ten years after graduation according to the rules specified by the Civil Service Sub-Commission of Department of Special Investigation.

#### **Section 16**

The Special Case Officer shall be ordinary civil servant and shall possess qualifications according to the law governing civil servant regulations.

Aside from qualifications stated in paragraph one, the Special Case Officer shall also have either of the following qualifications:

- (1) graduating with a bachelor's degree, a master's degree or a doctor of philosophy (Ph.D.) in law;
- (2) graduating with a bachelor's degree in law and the barrister at law according to the curriculum of the Institute of Legal Education of the Thai Bar Association;
- (3) graduating with a bachelor's degree in law and at least one other degree proven useful for the performance hereunder according to the rules required by the Director-General; and
- (4) graduating with a bachelor's degree in any field and having experience proven useful for the performance hereunder after graduation for no less than two years according to the rules specified by the Director-General.

#### **Section 17**

In case it is necessary for the interest of the government in the Special Case Investigation to have experienced and competent personnel to conduct investigation of Special Cases, or in the domain where there is a personnel shortage, the BSC may adopt a resolution exempting all or part of special qualifications stated in paragraph two of Section 15 or Section 16, as the case may be, when assigning and appointing any person in a particular case.

#### **Section 18**

An ordinary civil servant assigned and appointed as a Special Case Inquiry Official shall possess qualifications as stated in Section 15 and shall pass a knowledge and capability assessment according to the rules specified by the Civil Service Sub-Commission, of the Department of Special Investigation; or he/she shall be the person as stated in Section 17, as the case may be, where the person must finish his/her Special Case Investigation course organized by the Department of Special Investigation.

The appointment of any person as a Special Case Inquiry Official pursuant to paragraph one shall be published in the Government Gazette.

### **Section 19**

Subject to Section 17, an ordinary civil servant assigned and appointed as a Special Case Officer shall possess qualifications as stated in Section 16 and pass a knowledge and capability assessment according to the rules specified by the Civil Service Sub-Commission, of the Department of Special Investigation.

The Special Case Officer appointed under paragraph one must attend a training course based on a curriculum organized by the Department of Special investigation before performing his/her duty.

### **Section 20**

The positions of Special Case Inquiry Official and Special Case Officer shall be the positions with special status according to the law governing civil servant regulations. In providing additional remuneration for the position with special status, it shall take into consideration its duty, quality of work and integrity, by comparing with remunerations given to other personnel in the justice system. This, however, shall be in line with the regulations of the Ministry of Justice upon the approval of the Ministry of Finance.

## **Chapter 3**

### **Special Case Investigation and Inquiry**

#### **Section 21**

Special Cases required to be investigated and examined according to this Act are the following criminal cases:

- (1) Criminal cases according to the laws provided in the Annex attached hereto and in the ministerial regulations as recommended by the BSC where such criminal cases shall have any of the following natures:
  - (a) It is a complex criminal case that requires special inquiry, investigation and special collection of evidence.
  - (b) It is a criminal case which has or might have a serious effect upon public order and moral, national security, international relations or the country's economy or finance.
  - (c) It is a criminal case which is a serious transnational crime or committed by an organized criminal group.
  - (d) It is a criminal case in which influential person being a principal, instigator or supporter.
  - (e) It is a criminal case in which the Administrative Official or Senior Police Officer, who is neither the Special Case Inquiry Official nor Special Case Officer, is the suspect as there is reasonable evidence of crime committed, or being the alleged culprit, or being the accused.

This, however, shall be in line with details of the offence provided by the BSC.

- (2) Criminal cases other than those stated in (1) where the BSC resolves by no less than two-thirds votes of its existing Board members.

In a case of a single offence against various legal provisions and a particular provision is handled by a Special Case Inquiry Official according to this Act, or in a case of several related or continuous offences and a particular offence is handled by the Special Case Inquiry Official according hereto, such Special Case Inquiry Official shall have the power to investigate offences against such other provisions or other matters and such cases shall be considered as a Special Case.

Any case in which the investigation has already been completed by a Special Case Inquiry Official shall be considered as a Special Case Investigation according hereto.

This provision shall also apply to a person who becomes a principal, instigator or supporter of an offence.

In the case where there is dispute or doubt over whether a crime is a special case provided in paragraph one (1) or not, the BSC shall be the arbiter.

*(Amended by Section 4, Section 5, Section 6 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

### **Section 21/1**

In the case where the offender who commits a crime which is a special case under this Act, is a state official who is not the person under Section 66 of the Organic Act on Counter Corruption, B.E. 2542 (1999) but falls within the powers and duties of the National Counter Corruption Commission, the Special Case Inquiry Official shall refer the matter to the National Counter Corruption Commission within thirty days as from the date when a complaint or denunciation is lodged.

While the matter is being considered by the National Counter Corruption Commission, if the National Counter Corruption Commission has not passed any resolution, the Special Case Inquiry Official shall, in the meantime, have the power to conduct investigation.

If the National Counter Corruption Commission adopts a resolution accepting the special case in paragraph one to be conducted in accordance with the Organic Act on Counter Corruption, the Special Case Inquiry Official shall submit the investigation file and evidence obtained from the investigations in paragraph two to the National Counter Corruption Commission. For this purpose, the National Counter Corruption Commission may deem that the investigation file of the Special Case Inquiry Official forms a part of the fact inquiry.

If the National Counter Corruption Commission considers it fit to refer the matter to the Special Case Inquiry Official for proceeding, the Special Case Inquiry Official shall proceed in accordance with the law.

*(Added by Section 7 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

### **Section 22**

For the benefit of coordination to prevent and suppress crime in relation to Special Cases, the BSC shall have the power to issue regulations on special case duty performance between government agencies as follows.

- (1) Practices between agencies concerning acceptance of complaint or accusation, proceedings in relation to summons and criminal warrant, arrest, restraint, detention, search, or temporary release, investigation, inquiry, fining, transferring of special cases and other proceedings in relation to criminal cases between government agencies which have the authority to prevent and suppress criminal cases;
- (2) Scope of responsibilities of Administrative Officials or Police Officials, other government officials, Special Case Inquiry Officials and Special Case Officers to inquire and investigate Special Cases in order to suit the duties of each agency. Regarding the specialization, impact of the commission of crime and efficiency of crime prevention and suppression of criminal offences, related agencies may be required to form joint operations.
- (3) Exchange of information relating to the prevention and suppression of Special Cases; and
- (4) Support from government agencies and government officials to perform duties relating to the investigation and inquiry of Special Cases.

After regulations under paragraph one are in force, government agencies shall have a duty to comply with such regulations. Such regulations determine the duty of state officials who are Administrative Officials, or Police Officials, or Inquiry Officials, and how that they shall perform their duties according to the Criminal Procedure Code. It shall be considered that an action by such officials in related matters shall be an action of a person having the power and duty to investigate and inquire according to the Criminal Procedure Code.

While there is no regulation under paragraph one, for any Special Case, an action conducted by any government official to comply with the Criminal Procedure Code relating to an investigation and inquiry of a Special Case in that matter shall be according to agreement between the Department of Special Investigation and other agencies, unless a BSC resolution is passed otherwise.

In the case where the Inquiry Official under the Criminal Procedure Code has conducted an inquiry in a criminal case which later becomes a special case, following the submission of the investigation file of the case by the Inquiry Official to the Special Case Inquiry Official in accordance with practices in paragraph one (1), the investigation file thus submitted shall be deemed as a part of the special case investigation file.

*(Amended by Section 8 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

### **Section 22/1**

In performing tasks to prevent and suppress the crimes related to special case, the Department of Special Investigation may request state agencies or other state officials to provide assistance or, support, or engage in joint operation as appropriate.

For the benefit of the efficient execution of this act, the state agencies or state officials in paragraph one shall provide assistance or support, or engage in joint operation where circumstances warrant, and be entitled to receive reimbursement for the expense or other remuneration as required to provide such service.

*(Added by Section 9 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

### **Section 23**

When performing his/her duty in relation to Special Case, the Special Case Inquiry Official shall have power to investigate Special Case and act as an Administrative Official, Police Official or Inquiry Official according to the Criminal Procedure Code, as the case may be.

The Special Case Officer shall have a duty to assist the Special Case Inquiry Official when performing duty in relation to Special Case to the extent assigned by the Special Case Inquiry Official only. When performing such duty, the Special Case Officer shall become an Administrative Official or a Police Official or an Inquiry Official according to the Criminal Procedure Code.

If necessary, the Director-General may order a civil servant or an employee of the Department of Special Investigation who is not a Special Case Inquiry Official or a Special Case Officer to perform a duty as an assistant to the Special Case Inquiry Official or the Special Case Officer to perform any task relating to the investigation in a Special Case.

When performing a special assignment as designated under paragraph three, such person shall be the Official according to the Penal Code and shall also have the same duties and power as the Special Case Officer, limiting however to that particular assignment only.

Rules and procedures of assignment and performance of duty under this Section shall be according to the regulations provided by the BSC.

### **Section 23/1**

If there is a reasonable cause to suspect that that criminal case is a special case as stated in Section 21 paragraph one (1), the Special Case Inquiry Official shall have the power to investigate that case.

If the Director-General considers it fit to propose to the BSC to adopt a resolution accepting a criminal case as a special case as stated in Section 21 paragraph one (2), the Director-General may order the Special Case Inquiry Official to seek preliminary evidence

for submitting to the BSC. For this purpose, the Special Case Inquiry Official shall have the power to investigate the case according to regulations provided by the BSC.

*(Added by Section 10 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

#### **Section 24**

To perform his/her duty hereunder, the Special Case Inquiry Official shall have the following power:

- (1) To enter any dwelling place or a premise to search when there is a reasonable ground for suspecting that a person suspected of committing a Special Case offence is hiding there or possessing properties which is considered an offence or acquired by committing an offence, or which has been used or will be used in committing an offence of a Special Case, or which may be used as evidence, while there is also a reasonable ground to believe that by reason of the delay in obtaining a warrant of search, the person shall escape or the property may be relocated, hidden, destroyed or transformed from its original condition;
- (2) To search any person or conveyance with a reasonable ground for suspecting that it contains a property the possession of which is considered an offence, or which is acquired by committing offence, or which is used or will be used in committing a Special Case offence or may be used as evidence;
- (3) To issue a letter of inquiry or summon any financial institution, government agency, organization or state agency or state enterprise to dispatch competent officials to provide statement, submit clarification in writing or send relevant accounts, documents or evidences for examination or clarification;
- (4) To issue a letter of inquiry or summons any person to provide statement, submit clarification in writing or list of documents or any evidence for examination or supplement the consideration; and
- (5) To seize or attach properties found or submitted in (1), (2), (3) and (4).

When exercising the power under paragraph one, the Special Case Inquiry Official shall comply with the rules provided by the BSC.

Limiting to an exercise of power under paragraph one, not only must the Special Case Inquiry Official search according to the procedures stated in the Criminal Procedure Code, but he/she must also express his/ her innocence prior to the search as well as report reason and result of the search in writing to his/her superior. He/She shall submit a report of reasonable doubt and a reason to believe that the place shall be searched in writing to the possessor of a searched dwelling places or premise.

However, if no one is there, the Special Case Inquiry Official shall submit the copy of such record to the possessor as soon as possible. If the search takes place during night time after sunset, the Special Case Inquiry Official who leads the search must be a civil servant with ranking from Level 7 and above.

A Special Case Inquiry Official who leads the search shall submit a copy of the record of reasonable doubt and reason to believe under paragraph three as well as a copy of search record and a record of properties being seized or attached to the provincial court having jurisdiction over the searched area or the Criminal Court in Bangkok within 48 hours after the search ends as evidence.

The Special Case Inquiry Official of any level shall have all or part of the power and duty as provided in paragraph one, or must get permission by any person before acting as provided by the Director-General where an ID document will be given to the Special Case Inquiry Official who has been granted such permission. The Special Case Inquiry Official must present such document to relevant persons on every occasion.

#### **Section 25**

In case where there is a reasonable ground to believe that any other document or information sent by post, telegram, telephone, facsimile, computer, communication device or equipment or any information technology media has been or may be used to commit a



Special Case offence, the Special Case Inquiry Official approved by the Director-General in writing may submit an ex parte application to the Chief Judge of the Criminal Court asking for his/her order to permit the Special Case Inquiry Official to obtain such information.

When granting permission under paragraph one, the Chief Judge of the Criminal Court shall consider the effect on individual rights or any other right in conjunction with the following reasons and necessities:

- (1) There is a reasonable ground to believe that an offence of a Special Case is or will be committed;
- (2) There is a reasonable ground to believe that an access to the information will result in getting the information of a Special Case offence; and
- (3) There is no more appropriate or efficient methods.

The Chief Judge of the Criminal Court may grant permission under paragraph one for a period of no more than 90 days each time with any condition. For the purpose of this Section, any person related to the information stated in the media under such order is required to cooperate. After the permission, if it appears that the fact or a necessity is not as provided, or if there is any change in circumstances, the Chief Judge of the Criminal Court may change such permission order as appropriate.

After the Special Case Inquiry Official has executed according to the permission, he/she shall report that action to the Chief Judge of the Criminal Court for acknowledgement.

Only information acquired under paragraph one which is related to a Special Case offence as permitted under paragraph one shall be kept and used as evidence in the proceedings of such special case only. Other information shall be destroyed according to rules provided by BSC.

#### **Section 26**

No person shall disclose information obtained from an operation under Section 25, unless it is the information with regard to a Special Case offence permitted under Section 25, and it is a performance under one's duty or power or under the law or the court's order.

#### **Section 27**

If it is necessary and to benefit the compliance with this Act, the Director-General or person designated thereby shall have a power to have anyone prepare a document or evidence or falsify his/her identity in an organization or a group of people for the benefit of the investigation, which however shall be according to the regulations provided by the Director-General.

When preparing such document or evidence or when falsifying his/her identity in a particular organization or a group of persons for the purpose of the investigation as stated in paragraph one, this action shall be considered legitimate.

#### **Section 28**

A Special Case Inquiry Official shall have a power to keep an exhibit or assign others to do so. In case the exhibit is not proper for keeping, or if keeping it involves a burden to the state, the Director-General shall have a power to order that the exhibit be auctioned or used for the government's interest after deducting any expenses. This however shall be according to the regulations provided by the Ministry of Justice.

#### **Section 29**

For the purpose of performing its duties hereunder, the Department of Special Investigation shall be exempted from being governed by the laws on firearm, ammunition, explosive, firework and firearm imitation as well as the law governing control of military weaponry in the same manner as accorded to military and police forces under such laws. However, the possession and use of firearm, ammunition, explosive, firework, firearm imitation and military weaponry shall be according to the regulations provided by the Ministry of Justice.

### **Section 30**

For an investigation and inquiry of any Special Case which needs a special specific expertise, the Director-General may appoint a person having such qualification as a Special Case consultant.

The Special Case consultant shall receive remuneration as stated in the regulations of the Ministry of Justice upon the approval of the Ministry of Finance.

### **Section 31**

Expenses used for investigation of Special Case as well as advancing disbursement shall be according to the regulations of the Ministry of Justice upon the approval of the Ministry of Finance.

### **Section 32**

For the efficiency of the suppression of Special Case offences, the BSC may approve Public Prosecutor or Military Prosecutor to inquire or participate in a Special Case or any type of the case, as the case may be, in order to give advice and examine evidence start from the beginning of an investigation process, as the case may be, unless such Special Case investigation has a particular characteristics as provided in Section 21, paragraph one (1) (c) or (d), where a Prosecutor or a Military prosecutor is required to conduct a joint investigation with the Special Case Inquiry Official in every case, as the case may be. However, such joint investigation or joint operation shall be in line with the rules and procedures as provided by the BSC.

### **Section 33**

In case of the necessity for the benefit of an investigation and inquiry of Special Case in particular, the Minister may propose to the Prime Minister, as head of the government, to issue an order according to the laws governing public administration regulations, to appoint governmental officials in other agencies to work at the Department of Special Investigation to assist an investigation and inquiry of such Special Case.

Governmental official under paragraph one shall become Special Case Inquiry Official or Special Case Officer to investigate and inquire a Special Case as appointed to.

### **Section 34**

In case of a Public prosecutor or a Military prosecutor, as the case may be, orders not to prosecute a case already investigated by Special Case Inquiry Official, it shall be the power and duty of the Director-General or those in other positions as provided in the Ministerial Regulation to prepare a dissenting opinion according to Section 145 of the Criminal Procedure Code or other laws in relation to the Criminal Procedure Code.

## **Chapter 4**

### **Committee of Special Case Inquiry Official**

### **Section 35**

There shall be a Committee of Special Case Inquiry Official referred to in abbreviation as the "CSIO", which consists of:

- (1) The Civil Service Commission representative, the Office of the Attorney-General representative, the Royal Thai Police representative and a representative from the Judge Advocate General's Department;
- (2) One Dean of Faculty of Law or equivalent of all state universities who is selected among the deans; and one Dean of Faculty of Law or equivalent of all private universities who is selected among the deans;
- (3) Three Special Case Inquiry Officials with ranking at Level 8 and above elected among the Special Case Inquiry Officials; and
- (4) Three civil servants from the Ministry of Justice with ranking at Level 9 and above who are not those Department of Investigation's officials and are appointed by the Permanent Secretary of the Ministry of Justice.

Members under paragraph one shall elect one member among themselves to become chairman and propose to the Minister for appointment.

The Director-General shall appoint one government officials in the Department of Special Investigation Department with ranking at Level 8 and above as secretary to the meeting.

The criteria and procedures to choose members of the Committee under paragraph one (3) shall be according to the regulations provided by the Ministry of Justice.

### **Section 36**

Members under Section 35, paragraph one (2), (3) and (4) shall hold office for two years each time. They may be reappointed but shall not hold office in excess of three terms.

Other than by rotation, members under paragraph one shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) leaving his/her deanship or government service in the Ministry of Justice; and
- (4) being dismissed by a resolution of Committee of Special Case Inquiry Official which resolves by no less than three-fourths of its total members due to his/her misconduct and inappropriate behavior while being member of the CSIO.

In the case where a dean vacates their office at the expiration of their term, the members shall perform their duties until the expiration of the term.

Section 7, paragraph two, Section 8 and Section 11 shall apply *mutatis mutandis*.

*(Amended by Section 11 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

### **Section 37**

Where Superior of a Special Case Inquiry Official issues any of the following orders:

- (1) transferring the Special Case Inquiry Official to other positions for other reason than promotion or annual removal, or if it is a case of disciplinary action, or in the case that the Special Case Inquiry Official becomes an accused in a criminal case after the court has accepted the charge;
- (2) not granting an annual salary increase to the Special Case Inquiry Official; and
- (3) subjecting the Special Case Inquiry Official to a disciplinary action, then, the superior shall submit opinions together with reasons to the CSIO to consider whether or not such order is legitimate and appropriate.

The CSIO shall provide its opinion within 15 days from the date an opinion was received from the superior.

If the CSIO's opinion is contradicts with the superior's, the superior may issue an order according to opinions, but shall also present the CSIO's disagreement in that order.

### **Section 38**

At the end of a fiscal year, the CSIO shall summarize results of the operation and special remarks to the Minister. The Department of Special Investigation shall help preparing the CSIO report.

## **Chapter 5 Penalties**

### **Section 39**

Any person who violates Section 26 shall be subjected to imprisonment from three to five years or a fine from sixty thousands up to one hundred thousand Baht, or both.

Should an offence under paragraph one be committed by Special Case Inquiry Officials, Special Case Officers, Public Prosecutors or Military Prosecutors who join the investigation or who join the operation under Section 32, or by persons who jointly perform duty

according to Section 22/1, or Section 25, the offender shall be subjected to three times of the punishment provided in paragraph one.

*(Amended by Section 12 of the Special Case Investigation Act (No.2), B.E. 2551 (2008))*

#### **Section 40**

Any person who performs his/her duty according to Section 27 but acts beyond the purpose of investigation under this Act to seek illegitimate interests for himself/herself or others shall not be protected by Section 27, paragraph two. Should such offence be a criminal case, he/she shall be subjected to two times of the punishment provided for such offence.

#### **Section 41**

Any person not facilitating or giving statement or failing to submit account, document or evidence to Special Case Inquiry Official according to Section 24, paragraph one (3) or (4), as the case may be, shall be subject to no more than one year's imprisonment, or a fine of no more than twenty thousands Baht or both.

### **Transitory Provisions**

#### **Section 42**

Prior to or within one year from the effective date hereof, Section 15, paragraph two, Section 16, paragraph two, Section 18 and Section 19 shall not apply to an assignment and appointment of Special Case Inquiry Official or Special Case Officer, as the case may be. The assignment and appointment shall be according to the law governing civil servant regulations.

The persons assigned and appointed as Director-General, Deputy Director-General, Special Case Inquiry Official and Special Case Officer pursuant to paragraph one shall be considered as the Director-General, Deputy Director-General, Special Case Inquiry Official and Special Case Officer under this Act.

#### **Section 43**

At the initial period, when no expert members are appointed, the BSC which consists of *ex officio* members shall carry out this Act but no more than one hundred and eighty days from the date this Act has come into force.

#### **Section 44**

Those Special Cases that are in process and have not reached the final judgment within the date this Act has come into force, the Inquiry Official who has the power according that criminal offence shall remain in charge of these cases until the final judgment has been reached, except that the BSC reaches consensus to entrust power to Special Case Inquiry Official.

Countersigned by

Pol. Lt. Col. Thaksin Shinawatra

Prime Minister

Published in the Government Gazette Vol. 121, Part 8 Gor. on the 19th Day of January of B.E.2547 (B.E. =Buddhist Era, B.E.2547 is equivalent to A.D.2004)

The Special Case Investigation Act B.E. 2547 (2004) amended by The Special Case Investigation Act (No.2) B.E. 2551 (2008), published in the Government Gazette Vol. 125, Part 36 Gor, on the 20th Day of February B.E.2551

**Laws Provided in the Annex Attached to the Special Case Investigation Act,  
B.E. 2547 (2004)**

1. Law on Loan Amounting to Public Cheating and Fraud
2. Competition Act
3. Commercial Banking Act
4. Law on the Finance Business Securities Business and Credit Foncier Business
5. Chain Loan Control Act
6. Foreign Exchange Control Act
7. Law on Government Procurement Fraud
8. Act for the Protection of Layout-Designs of Integrated Circuits
9. Consumer Protection Act
10. Trademark Act
11. Currency Act
12. Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act
13. Interest on Loan by the Financial Institution Act
14. Bank of Thailand Act
15. Public Company Act
16. Anti Money Laundering Act
17. The Industrial Product Standard Act
18. Copyright Act
19. Board of Investment Commission Act
20. Enhancement and Conservation of National Environmental Quality Act
21. Patent Act
22. Security and Exchange Commission Act
23. Revenue Code
24. Customs Law
25. Excise Law
26. Liquor Act
27. Tobacco Act
28. Foreign Business Act
29. Casualty Insurance Act
30. Life Insurance Act
31. Law on Agricultural Futures Trading
32. Computer Crime Act
33. Land Law
34. Forest Law
35. National Park Act
36. National Reserved Forest Act
37. Wildlife Preservation and Protection Act

No. 23 - No.27 as added by the Ministerial Regulation on Additional Special Case Determination in accordance with the Special Case Investigation Act B.E. 2547

No. 23 - No.37 as added by the Ministerial Regulation on Additional Special Case Determination in accordance with the Special Case Investigation Act (No.2), B.E. 2551

**Note:** The promulgation of the Special Case Investigation Act, B.E.2547 (2004) is based on the reason that there are additional powers and duties bestowed upon the Ministry of Justice in which the Department of Special Investigation (DSI) is established to take responsibility for coping with those criminal cases that are designated to be under the authority of the DSI, and it is imperative to have specific experts to conduct investigation and interrogation of such cases and to prescribe the power and duty of such authorities. Aiming for efficiency in prevention and suppression of such criminal cases, it is proper to provide Special Case Inquiry Officials, Special Case Officers and special methods to investigate and interrogate such cases. In order to be able to perform such specific duties needed to enact this Act.

**Note:** The promulgation of the Special Case Investigation Act (No.2), B.E.2551 (2008) is based on the reason that there are some provisions of the Special Case Investigation Act, B.E. 2547 (2004) that are unable to be enforced properly and efficiently in proceeding special cases, and are impediments to the work performed under the authority of the DSI. Thus, it is imperative to amend the Special Case Investigation Act, B.E. 2547 (2004) to be able to work promptly and efficiently and it is needed to enact the Special Case Investigation Act (No.2), B.E.2551 (2008).

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