

Rule on Maintenance of Official Secrets, B.E. 2544 (2001)

Translation

Whereas it is expedient to have a rule on maintenance of official secrets;

By virtue of Section 16 and Section 26 paragraph five of the Official Information Act, B.E. 2540 (1997) which contains certain provisions in relation to the restriction of rights and liberties of person in getting access to official information, in respect of which Section 58 and Section 29 of the Constitution of the Kingdom of Thailand so permit by virtue of law, the Council of Ministers has therefore a resolution to lay down the rule, as follows:

Clause 1

This Rule is called the "Rule on Maintenance of Official Secrets, B.E. 2544 (2001)".

Clause 2

This Rule shall come into force after the expiration of one hundred and twenty days as from the date of its publication in the Government Gazette.

Clause 3

All rules, regulations, resolutions of the Council of Ministers and orders insofar as they have been provided in this Rule, or are contrary to or inconsistent with, the provisions of this Rule, shall be replaced by this Rule.

Clause 4

The Prime Minister shall have charge and control of the execution of this Rule.

PART I**General Provisions****Clause 5**

In this Rule:

"Classified information" means information under Section 14 or Section 15 which shall not be disclosed by the order of, and being in possession of or controlled by, a State agency without regard to its matter which may relate to the performance of the State or the private, and that information is classified confidential, secret or top secret under this Rule with due regard to the efficiency of the performance of State agency and benefit of the State;

"Benefit of the State" means any operation of the State dealing with public and private benefit altogether without regard to its matter that may relate to security of the State in relation to domestic or international politics, State defense, economy, social, science, technology, energy and environment;

"Head of a State agency" means;

- (1) Head of a State agency which is a juristic person. In case of a State agency attached to the Ministry of Defense, it shall mean the head of a State agency under direct command of the Office of the Permanent Secretary of the Ministry of Defense, the *Royal Aide-de-Camp* Department, the Office of Supreme Commander, the Royal Thai Army, the Royal Thai Navy and the Royal Thai Air Force;
- (2) *Changwat* Governor in case of provincial administration;
- (3) Bangkok Governor, President of provincial organization, Mayor of municipality, Speaker of *Tambon* Council, President of *Tambon* organization, City Manager of Pattaya City or other positions having similar nature called otherwise, as the case may be, in case of local administration;

(4) Administrator of a State enterprise or other State agencies in case of State enterprise or other State agencies;

"Reclassification" means decrease or increase of degree of classified information, including cancellation of degree of classified information.

Clause 6

The Prime Minister shall, within at least every five years, cause to review the execution of this Rule and to amend this Rule as appropriate.

Clause 7

The head of a State agency shall have the duty to maintain classified information of its agency and may entrust this duty as necessary to his subordinate or to provincial organization if so permit by virtue of law.

The person having duty under paragraph one shall maintain classified information safely. Allowance of any other person to get access to classified information or disclosure of classified information to any other person shall be done cautiously. In necessity case, appropriate conditions in so doing may be determined with due regard to the maintenance of secrets and the efficiency of the execution of this Rule.

Clause 8

A person who may access to classified information shall be a person whose trustworthiness is found by his superintendent and the classified information that that person may access shall relate to his entrusted task only.

Clause 9

The head of a State agency may, if he thinks fit, request security organizations to trace record and behavior of his official who deals with any classified matters.

Clause 10

In relation to the work of any Committee or Commission, if that Committee or Commission has a resolution to classify any sort of its work, the secretary of that Committee or Commission shall proceed therewith. In this case, the head of a State agency that such secretary is attached shall also act in compliance with this Rule.

In the case where the secretary of any Committee or Commission is not a government official, the Chairperson of that Committee or Commission shall acting as the head of a State agency. In this case, this Rule shall apply *mutatis mutandis*.

Chapter 1

Security Organizations

Clause 11

The security organizations under this Rule are, *viz.*

- (1) the National Intelligence Agency, Office of the Prime Minister, being civil security organization;
- (2) the Armed Forces Security Center, Office of Supreme Commander, being military security organization.

Chapter 2

Degrees of Classified Information

Clause 12

There shall be three degrees of classified information, viz.

- (1) Top Secret;
- (2) Secret;
- (3) Confidential.

Clause 13

Top Secret shall be classified information which its disclosure, wholly or partly, may be detrimental to benefit of the State at highest level.

Clause 14

Secret shall be classified information which its disclosure, wholly or partly, may be detrimental to benefit of the State at high level.

Clause 15

Confidential shall be classified information which its disclosure, wholly or partly, may be detrimental to benefit of the State.

PART II

Determination of Classified Degree

Chapter 1

The Authority to Determine the Degree of Classified Information

Clause 16

The head of a State agency shall have the duty to determine any information as classified together with its degree and shall clarify his justification as to whether why that information has to be classified and to what degree. The head of a State agency may entrust this duty to his subordinate or to provincial organization if so permit by virtue of law.

Clause 17

In urgent necessity case, any concerned official shall have the power to determine any information as classified together with its degree temporarily, but he shall then report to the authority having duty to determine classified information so as to have any order in relation to that determination at once.

In the case where different degrees may be given to the same classified information, the degree to be given to that classified information shall be the highest degree that may be given thereto.

In the case where the classified information with lower degree refers to the other with higher degree, that reference shall be made in the manner that the classified information with higher degree is not disclosed.

Clause 18

The registrar shall record the justification given to the determination of classified information together with its degree in the classified information book of record. If that justification is given in very detail or any part of that justification is determined as classified information with higher degree than that of the classified information book of record, summary of that justification shall be recorded while its details or the part of that justification which is determined as classified information with higher degree than that of the classified information book of record shall be kept among the cover and the matter of that classified information.

Clause 19

The followings shall be taken into consideration for the determination of degree of classified information:

- (1) importance of its matters;
- (2) sources of information;
- (3) manners of use;
- (4) number of persons to be notified;
- (5) impact of disclosure;
- (6) responsible State agency or authority.

Clause 20

The head of a State agency may, if he thinks fit, lay down regulation determining additional requirements for the execution of this Rule. In the case where the head of a State agency is of opinion that the execution under this Rule in any matter may cause inappropriate hardship, he may establish the method for the maintenance of secret on such matter that having equal or better efficiency comparing to that of this Rule.

Chapter 2

Affix of Degree of Classified Information

Clause 21

The degree of classified information shall be affixed, by the letters that bigger than normal size, in red or other colors which can be obviously and clearly seen.

Clause 22

The degree of classified information shall be affixed as follows:

- (1) in the case where the classified information is made in form of document; the degree of classified information shall be affixed at the center of the top and bottom of each page of that document, including at the front and the back of the cover of that document if that document has cover;
- (2) in the case where the classified information is made in form of drawing or painting, photograph, map, chart, plan and their duplicates; the degree of classified information shall be affixed in the manner as prescribed in (1). If that sort of information is able to be rolled or fold, the degree of classified information shall be obviously seen when that sort of information is rolled or fold as well;
- (3) in the case where the classified information is recorded in disc, tape, film or other recording materials which are able to display or transmitted information recorded therein by any mean; the degree of classified information shall be affixed at the beginning or the end of the film or of that classified information or on that materials or their containers.

In the case where there is unable to affix the degree of classified information as aforesaid, that classified information shall be kept in the package or parcel affixed with the degree of classified information.

Chapter 3

Reclassification

Clause 23

The reclassification shall be made by the authority having duty to determine classified information of the responsible agency.

If the responsible agency deems appropriate to reclassify any classified information, it shall, after reclassification, notify any other State agency receiving that classified information in order to conduct reclassification.

The superintendent shall have the power to conduct reclassification if he thinks the determined degree is inappropriate, but he shall inform the authority who determines the inappropriate degree for acknowledgement.

In the case where there is possible to determine the period for reclassification in advance, the responsible agency shall print that reclassification period on the front cover or the first page of each classified information, near the affixed degree, so as to make known that the reclassification shall, at the beginning of that period, take effect without any confirmation.

The reclassification shall be made by crossing out the affixed degree and then affix the new degree (if any) at the nearest position, and the reclassification shall be recorded in the classified information book of record. The head of a State agency may, if he thinks fit, request the reclassification to be printed on the first page of document or the materials under Clause 22 (3), as the case may be.

Clause 24

Any classified information which shall be disclosed upon the decision of the Information Disclosure Tribunal, with or without conditions, its classified property is deemed to be revoked, provided that the case is brought to the court and the court has otherwise order or judgment.

PART III

Registration

Chapter 1

The Registrar

Clause 25

The head of a State agency shall appoint an official to be responsible for the execution in relation to classified information under responsibilities of that State agency, to be called the "Registrar of Classified Information", and he may appoint the Assistant Registrar as appropriate.

The Assistant Registrar shall act as the Registrar of Classified Information as entrusted.

Clause 26

The Registrar of Classified Information shall have the duties as follows:

- (1) to proceed the registration of classified information in compliance with this Rule;
- (2) to maintain all filled forms under this Rule and all classified information under its control in safe place;
- (3) to maintain specimen signatures of the Registrars of Classified Information of other State agencies and their Assistants that having regular contact;
- (4) to coordinate with the Controller of Trustworthy Registration under the Rule on Maintenance of National Security with a view to entrust a person to get access to classified information at any degree as appropriate with due regard to his responsibilities;
- (5) to perform any act in relation to classified information as prescribed by this Rule or as entrusted by the head of a State agency.

Clause 27

The Registrar of Classified Information shall at least prepare the classified information book of record consisting of incoming, outgoing and control record of classified information apart from ordinary book of record of a State agency.

An incoming record shall be used for the record of classified information received by a State agency.

An outgoing record shall be used for the record of classified information sent by a State agency.

A control record shall be used for the record of classified information produced by, sent from or received by a State agency and for the record of any execution in relation to that classified information.

The classified information book of record is deemed to be classified information.

The form of the incoming, outgoing and control record of classified information shall be prescribed by the Prime Minister and published in the Government Gazette.

Clause 28

The head of a State agency may, if he thinks fit, prepare the classified information book of record within its subordinate agencies and the provisions of Clause 25, Clause 26 and Clause 27 shall apply *mutatis mutandis*.

Chapter 2

Inspection

Clause 29

The head of a State agency shall appoint the Inspection Committee, consisting of the Registrar of Classified Information as the Chairperson and not less than two officials as members, to inspect the execution under this Rule and the existence of classified information as appears in the classified information book of record at least every six months. The Inspection Committee shall report the inspection result to the head of a State agency for consideration.

Clause 30

If there is a ground to suspect that a person who has not had the powers and duties in relation to the classified information knows or may have known to classified information or there is a ground to suspect that security of any classified information has been violated, the head of a State agency shall appoint the Investigation Committee at once.

The Investigation Committee under paragraph one shall not be members of the Inspection Committee under Clause 29.

PART IV

Execution

Chapter 1

Producing

Clause 31

The head of a State agency shall, at all steps of any execution in relation to classified information, limit the number of officials responsible thereto as necessary and their access to such information shall be limited as necessary.

Clause 32

As for the information under Clause 22 (1), the name of the responsible State agency, number of each and all documents, and page number and number of all pages shall be displayed at all pages of classified information. In this case, name of the responsible division may also be displayed.

As for the information under Clause 22 (3), the name of the responsible State agency and number of each set of information and number of all sets of information shall be displayed on the package or parcel of that classified information. In this case, the name of the responsible division may also be displayed.

Chapter 2 Duplication and Translation

Clause 33

In making of duplication, translation, encoding or decoding of classified information, the number of duplicated copies and ranks, names and positions of the persons responsible thereto as well as the name of a State agency which is responsible in so doing shall be recorded both in the original classified information under its possession and in the duplicated copies, translation version, encoding version or decoding version, as the case may be.

The person having duty under paragraph one may make a record in secret code.

Chapter 3 Transfer

Clause 34

In transferring of classified information between State agencies or internal transfer within a State agency, the officials who are the transferor and the transferee shall record such transfer and the Registrar of Classified Information shall record that transfer in the classified information book of record.

Chapter 4 Delivery and Acceptance

Clause 35

The classified information to be delivered within the area the same agency shall be covered by classified information cover.

The form of the classified information cover shall be prescribed by the Prime Minister and published in the Government Gazette.

Clause 36

The classified information to be delivered outside the agency shall be packed in two tiers of opaque envelopes or containers.

On the internal envelope or container, number of delivery letter, name or position of recipient and sending agency shall be displayed and the degree of that classified information shall also be affixed on the front and the back thereof.

On the external envelope or container, information to be displayed on the internal envelope or container shall be displayed without the degree of that classified information.

Degree of classified information and heading thereof shall not be specified in the reply receipt, but the number of delivery letter, date, month and year, number of total pages, and number of document shall be specified therein. Such reply receipt shall be maintained until that information is returned, declassified or destroyed.

The form of the reply receipt shall be prescribed by the Prime Minister and published in the Government Gazette.

Clause 37

The delivery of classified information outside the area of any agency, but still in the country, shall be made by messenger. The head of a State agency or his entrusted person shall have the power to grant permission in so doing. In this case, the Registrar of Classified Information shall conduct registration prior to delivery.

The messenger who delivers classified information under paragraph one may be guarded.

Clause 38

The messenger and guard shall have the duties as follows:

- (1) to maintain security and safety of classified information through out the period that information is outside the agency;
- (2) to deliver classified information to the Registrar of Classified Information. If the Registrar of Classified Information or acting Registrar is absent or unable to perform his duty that classified information shall be delivered to the specified recipient. If the specified recipient is absent or unable to perform his duty, that classified information shall be returned to be maintained at the agency which is sender and that cause shall be reported to the Registrar of Classified Information so as to record in the classified information book of record. In the case where the recipient is far from the sending agency and it is unable to return within one day, classified information shall be maintained in safe place until delivering to the Registrar of Classified Information or the specified recipient, as the case may be.

In the case where the messenger is unable to perform his duties, the guard shall act on his behalf and shall then report the Registrar of Classified Information without delay.

Clause 39

The delivery of classified information abroad shall be in compliance with the Rule of the Ministry of Foreign Affairs on Diplomatic Mail *mutatis mutandis*. In this case, the diplomat may take it himself.

Clause 40

The classified information may be delivered, domestic or abroad, through telecommunication system, registered mail with advice of delivery or other methods upon permission of the head of a State.

The delivery through telecommunication system shall be in compliance with recommendation of the security organizations.

Clause 41

In the case where a clerical official knows that the receipted information is classified, he shall forward that classified information to the Registrar of Classified Information without delay.

Clause 42

The Registrar of Classified Information shall sign in the reply receipt and return it to sender or sending agency and shall promptly record that classified information.

In the case where the recipient agency is unable to proceed further promptly, the classified information shall be maintained in safe place in accordance with the regulation on maintenance of classified information of that agency.

Clause 43

In case of delivery to specified recipient, that recipient shall report the Registrar of Classified Information so as to conduct registration of that classified information in the classified information book of record at once.

Chapter 5 Maintenance

Clause 44

The State agency shall maintain classified information in safe place and shall issue the regulation on maintenance of classified information in compliance with the recommendation of security organizations.

Chapter 6 Borrowing

Clause 45

In borrowing of any classified information, the head of a State agency or his entrusted person shall consider as to whether the borrower has the duty in relation to that information and his capability to act in compliance with this Rule.

If the borrowed information is subjected to the responsibility of another State agency, the borrowing shall be made upon permission of the responsible agency; provided that the borrower is that responsible agency.

The Registrar of Classified Information shall produce borrowing memoranda and shall record the borrowing in the classified information book of record.

The form of borrowing memoranda shall be prescribed by the Prime Minister and published in the Government Gazette.

Chapter 7 Demolition

Clause 46

In the case where the top secret information under maintenance may be at risk of disclosure which may be detrimental to benefit of the State, the head of a State agency may order to demolish that top secret information if it is necessary to do so inevitably.

The head of a State agency may have the order to demolish classified information other than the classified information as prescribed in paragraph one after sending that classified information to the National Archives for consideration and the National Archives is of opinion that that classified information is not worth for keeping.

In demolishing classified information, the head of a State agency shall appoint the Classified Information Demolition Committee consisting of the Registrar of Classified Information as Chairperson and not less than two related officials as members.

After demolition, the aforesaid Committee shall record that demolition in the classified information book of record and shall issue the demolition certificate. The demolition certificate shall be maintained for at least one year.

The Official Information Board may, if it thinks fit, propose the Prime Minister to lay down the scope of discretion of the head of a State agency or to determine that approval of someone shall be granted prior to the using of discretion of the head of a State agency.

The form of the demolition certificate shall be prescribed by the Prime Minister and published in the Government Gazette.

Chapter 8 Emergency Proceedings

Clause 47

The State agency shall prepare proceedings for moving, maintenance and demolition of classified information in emergency situation with due regard to degree of situation.

Chapter 9 Loss

Clause 48

In the case where the classified information is lost, the person who knows that loss shall report the head of a State agency he attached. In this regard, the Registrar of Classified Information shall record that loss in the classified information book of record.

Chapter 10 Disclosure

Clause 49

In the case where the head of a State agency or the official under Section 20 (1) of the Official Information Act, B.E. 2540 has the order to disclose any classified information, with any restriction or condition, that classified information shall be disclosed upon such restriction or condition.

Clause 50

If no degree of classified information is affixed on any classified information, the relevant officials may disclose that classified information; provided that he knows or ought to know that its degree is determined.

Transitory Provisions

Clause 51

As from the date this Rule comes into force, all existing classified information at any degree under the Rule on Maintenance of National Security, B.E. 2517 shall be deemed to be classified information under this Rule and the undisclosed information shall be deemed as confidential information.

The covers of classified information under the Rule on Maintenance of National Security, B.E. 2517 shall remain in use until they are out of stock.

All forms issued under the Rule on Maintenance of National Security, B.E. 2517 as existing prior to the date this Rule comes into force shall remain in use insofar as they are not contrary to or inconsistent with this Rule.

The Registrar of Classified Information and Assistant Registrar of Classified Information under the Rule on Maintenance of National Security, B.E. 2517 shall be the Registrar of Classified Information and Assistant Registrar of Classified Information under this Rule.

The messenger and guard under the Rule on Maintenance of National Security, B.E. 2517 shall be the messenger and guard under this Rule.

Clause 52

Within six months as from the date this Rule comes into force:

- (1) in case of any classified information at any degree which lasts for at least twenty years, if it is not reclassified and notified to all related State officials or State agencies for their acknowledgement, its degree is deemed to be revoked;
- (2) all State agencies shall review and reclassify all of their classified information determined within twenty years prior to the date this Rule comes into force.

If any State agency is unable to complete the aforesaid requirements within the period under paragraph one, it shall ask for extension period to the Official Information Board.

Clause 53

The civil security organization and military security organization shall provide cooperation for the provision of rule, procedure and recommendation for the execution of this Rule and shall provide training all relevant personnel as necessary with due regard to budget.

Given on the 5th February B.E. 2544

Mr. Chuan Leekpai

Prime Minister

Published in the Government Gazette Vol. 118, Special Issue 18*Ngo*, dated 23rd February 2544 (2001).

Disclaimer

This translation is intended to help Thais or foreigners to understand Thailand laws and regulations only, not to use as references, because it is only the original Thai version of legislation that carries legal effect. www.ThaiLaws.com, therefore, shall not be held responsible in any way for any damage or otherwise the user may incur as a result of or in connection with any use of this publication for any purposes. It's the responsibility of the user to obtain the correct meaning or interpretation of this publication or any part thereof from Thai version or by making a formal request to the appropriate or related authorities.