

Emergency Decree
on Government Administration in States of Emergency, B.E. 2548

BHUMIBOL ADULYADEJ, REX;
Given on the .. Day of B.E. 2548
Being the .. Year of the Present Reign.

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

Whereas it is expedient to revise the law on government administration in states of emergency;

Whereas this Emergency Decree contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29 in conjunction with section 31, section 35, section 36, section 37, section 39, section 44, section 48 and section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

By virtue of section 218 of the Constitution of the Kingdom of Thailand, an Emergency Decree is hereby enacted, as follows:

Section 1. This Emergency Decree is called "Emergency Decree on Government Administration in States of Emergency, B.E. 2548".

Section 2. This Emergency Decree shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. The Act on Government Administration in States of Emergency, B.E. 2495 is hereby repealed.

Section 4. In this Emergency Decree:

"States of Emergency" means a situation, which affects or may affect public order or endangers the security of the State or may cause the country or any part of the country to fall into a state of acute difficulty or a situation resulting from an offence relating to terrorism under the Penal Code,

armed conflict or war, pursuant to which it is necessary to enact emergency measures to preserve the monarchy, the democratic system of government under the constitutional monarchy, national independence and territorial integrity, the interests of the nation, compliance with the law, the safety of the people, the peaceful way of life of the people, the protection of rights, liberties and public order or public interest, or the aversion or provision of remedy for damages arising from urgent and severe public calamity.

“Competent official” means person appointed by the Prime Minister to perform an act under this Emergency Decree.

Section 5. In the event of the occurrence of emergency situation, the Prime Minister deems it appropriate to mobilise administrative officials or police officers, civil officials or military officers to jointly prevent, remedy, suppress, contain the emergency situation, provide rehabilitation or assistance to the people, the Prime Minister upon the approval of the Council of Ministers is empowered to declare a state of emergency be it applicable to the whole Kingdom or in some area or locality as necessary under the circumstances. In the case where the approval of the Council of Ministers cannot be obtained in a timely manner, the Prime Minister may declare the emergency situation and subsequently shall seek the approval of the Council of Ministers within three days. If approval of the Council of Ministers is not sought within the time prescribed, or the Council of Ministers refuses approval, such Declaration of a state of emergency shall cease to be in force.

The Declaration of a state of emergency under paragraph one above shall be in force for the duration prescribed by the Prime Minister but shall not exceed three months from the date of declaration. In the case where it is necessary to extend such period, the Prime Minister upon the approval of the Council of Ministers shall have the power to declare the extension of duration of enforcement provided that each extension shall not exceed three months.

At the end of emergency situation or upon any denial of approval by the Council of Ministers or upon the lapse of the period under paragraph two above, the Prime Minister shall declare the termination of such Declaration of a state of emergency.

Section 6. There shall be established a Government Administration in States of Emergency Committee consisting of a Deputy Prime Minister assigned by the Prime Minister as a Chairperson, Minister of Defence, Minister of Interior and Minister of Justice as Vice Chairpersons, Permanent Secretary for Defense, Permanent Secretary for Foreign Affairs, Permanent Secretary for Social Development and Human Security, Permanent Secretary for Interior, Permanent Secretary for Justice, Director-General of the National Intelligence Agency, Attorney-General, Supreme Commander, Commander in Chief of the Royal Thai Army, Commander in Chief of the Royal Thai Navy, Commander in Chief of the Royal Thai Air Force, Commissioner-General of the Royal Thai Police, Director-General of the Department of Provincial Administration and Director-General of the Department of Disaster Prevention and Mitigation as members, and Secretary-General of the National Security Council as member and secretary, having the powers and duties to monitor and maintain vigilance on domestic and international situation which may give rise to emergency situation in order to advise the Prime Minister of any necessity to declare a State of Emergency under section 5 or in the case of a Serious State of Emergency under section 11 and for the implementation of appropriate measures under this Emergency Decree in order to prevent, remedy and put an end to such emergency situation.

The provisions of this section shall not prejudice the exercise powers of the Prime Minister under section 5 in the Declaration of a State of Emergency when there arises an urgent situation which may endanger the country or the people.

Section 7. In an area or locality prescribed in a Declaration of a State of Emergency under section 5, the powers and duties vested individually in a Minister of a Ministry or severally in Ministers of more than one Ministry or having charge and control of the execution of any law or is so empowered under any law, where it concerns only such powers that relate to the issuance of a permission, approval, order, command or aid in the prevention, remedy, suppression or ending an emergency situation or providing rehabilitation or assistance to the people, shall be temporarily transferred as powers and duties

under paragraph five and shall be deemed to be the superior official of the Chief Official, government officials and relevant competent officials.

Section 8. For the benefit of coordinating the exercise of functions in an appropriate manner and befitting the circumstances and well-being of the people in the area over which a State of Emergency has been declared, the Prime Minister or a person assigned by the Prime Minister may issue an order appointing a group of persons or a person as an advisor for the exercise of functions of a competent official or as an assistant to the competent official in the exercise of functions under this Emergency Decree.

A person appointed under paragraph one shall enjoy protection to the same extent as in the exercise of functions by a competent official within the scope of the appointed functions.

Section 9. In case of necessity to remedy and promptly resolve a State of Emergency situation or to prevent the worsening of such situation, the Prime Minister shall have the power to issue the following regulations:

(1) to prohibit any person from leaving a dwelling place during the prescribed period, except with the permission of a competent official or being an exempted person;

(2) to prohibit the assembly or gathering of persons at any place or any conduct which may incite or lead to an unrest;

(3) to prohibit the publication, distribution or dissemination of letters, print materials or any means of communication containing texts which may instigate fear amongst the people or is intended to distort information which causes misunderstanding of the emergency situation affecting the security of state or public order or public moral both in the area or locality where a State of Emergency had been declared or the whole Kingdom;

(4) to prohibit the use of communications routes or vehicles or prescribe conditions on the use of communications routes or vehicles;

(5) to prohibit the use of buildings or entry into or stay in any place;

of the Prime Minister in order that instructions and remedies during the situation can be carried out in an integral, expedient and efficient manner.

The transfer of all or part of powers and duties of Ministers under paragraph one as powers and duties of the Prime Minister shall be in accordance with a Notification published by the Council of Ministers.

The Prime Minister shall have the power to appoint competent officials to perform duties under this Emergency Decree and to carry out functions under laws which have been transferred to the powers and duties of the Prime Minister under paragraph one. A person so appointed as a competent official shall have the powers under such laws. In this regard, the Prime Minister may authorize any governmental agency or competent official under such law to continue to exercise their previously assigned functions, provided that the exercise of functions shall be in accordance with the rules laid down by the Prime Minister.

In a case where the Prime Minister appoints a civil servant, a police officer or a military officer holding a position not lower than Director-General, Police Commander in Chief, Commander General or the equivalent thereof as a competent official and designates such person as a Chief Official responsible in remedying the emergency situation in an area and to have charge and control over other officials and competent officials, the exercise of functions by relevant governmental agencies and officials, including competent official, shall comply with instructions of the Chief Official, except for the exercise of military functions, which must be in accordance with rules and regulations concerning the use of military force, provided that this must be consistent with guidelines stipulated by the Chief Official.

In the case of necessity, the Council of Ministers may set up an ad-hoc Special Task Force to provisionally exercise functions under this Emergency Decree until the Declaration of a State of Emergency has been terminated.

The Prime Minister may authorise a Deputy Prime Minister or one or more Ministers to exercise powers under paragraph one, paragraph three or paragraph four on his/her behalf or may entrust such persons to oversee the exercise of functions by the relevant governmental agencies, competent official under paragraph three, Chief Official under paragraph four and the agency

(6) to evacuate people out of a designated area for the safety of such civilians or to prohibit any person from entering a designated area.

Regulations under paragraph one may prescribe time limits for compliance of regulations or conditions for the exercise of functions by the competent official, or authorize a competent official to further define an area or additional details, so as not to cause any act which results in unreasonable hardship to the people.

Section 10. For the benefit of promptly resolving the problems in the State of Emergency area, the Prime Minister may authorize a competent official appointed as a Chief Official under section 7 paragraph four to exercise the powers to issue the regulations under section 9 on his/her behalf. However, upon the exercise of such powers, a report shall be submitted immediately to the Prime Minister and if the Prime Minister does not issue regulations on the same subject matter within forty-eight hours as from when the regulations were issued by the competent official, such regulations shall be cease to be in force.

Section 11. In the case where an emergency situation involves terrorism, use of force, harm to life, body or property, or there are reasonable grounds to believe that there exists act of violence which affects the security of state, the safety of life or property of the state or person, and there is a necessity to resolve the problem in an efficient and timely manner, the Prime Minister, upon the approval of the Council of Ministers, shall have the power to declare that such State of Emergency as a Serious State of Emergency, and the provisions of section 5 and section 6 paragraph two shall apply *mutatis mutandis*.

Upon a Declaration under paragraph one, in addition to powers under section 9 and section 10, the Prime Minister shall also have the following powers:

(1) to issue a notification that a competent official shall have the power of arrest and detention of a person suspected of having a role in causing the emergency situation, or being an instigator, making the propagation, a supporter of such act or concealing relevant information relating to the act which caused the State of Emergency, provided that this should be done to the

extent that is necessary to prevent such person from committing an act or participating in the commission of any act which may cause a serious situation or to engender cooperation in the termination of the serious situation;

(2) to issue a notification that a competent official shall have the power to summon any person to report to the competent official or to give an oral statement or submit any documents or evidence relevant to the emergency situation;

(3) to issue a notification that a competent official shall have the power to seize or attach arms, goods, consumer products, chemical products or any other materials in the case where there are reasonable grounds to suspect that such objects have been used or will be used to commit or support an act which causes an emergency situation;

(4) to issue a notification that a competent official shall have the power to issue a warrant for the search, removal, withdrawal or demolition of buildings, structures or obstructions as necessary for the exercise of functions in order to promptly terminate a serious situation where a delay might render the situation beyond control;

(5) to issue a notification that a competent official shall have the power to issue an order to inspect letters, books, print materials, telegraphic transmissions, telephone communications or any other means of communication as well as to cancel or suspend any contact or communication in order to prevent or terminate the serious incident provided that the rules prescribed in the law on special investigation are complied with *mutatis mutandis*;

(6) to issue a notification not to perform any act or to perform an act to the extent that is necessary for maintaining the security of the state, the safety of the country or the safety of the people;

(7) to issue a notification that a competent official shall have the power to issue an order to prohibit any person from leaving the Kingdom where there are reasonable grounds to believe that the departure from the Kingdom will affect the security of the state or the safety of the country;

(8) to issue a notification that a competent official shall have the power to instruct an alien to leave the Kingdom in the case where there are reasonable grounds to believe that such person is a supporter in causing the

emergency situation, provided that the law on immigration shall apply *mutatis mutandis*;

(9) to issue a notification that the purchase, sale, use or possession of any arms, goods, pharmaceutical products, consumer products, chemical products or any equipment which may be used for causing unrest or terrorism shall be reported to or be subject to prior permission of the competent official or comply with any conditions set by the Prime Minister;

(10) to order the use of armed force personnel in order to assist administrative officials or police officers in terminating the serious situation or controlling the situation so as to promptly secure order, provided that the performance of functions by military officers shall have identical powers and duties to the powers and duties of a competent official under this Emergency Decree, whereas the scope of the use of such powers and duties of the military shall be in accordance with the conditions and time limits prescribed by the Prime Minister but shall not exceed the powers under martial laws in the case where martial laws apply.

Upon the termination of the Serious State of Emergency under paragraph one, the Prime Minister shall issue a notification to terminate the notification under this section forthwith.

Section 12. In arresting and detaining suspected persons under section 11(1), the competent official shall apply for leave of the court of competent jurisdiction or the Criminal Court. Upon obtaining leave of the court, the competent official shall be empowered to arrest and detain the suspected persons for a period not exceeding seven days. The suspected persons shall be detained in a designated place which is not a police station, detention centre, penal institution or prisons and shall not be treated as a convict. In case where it is necessary to continue the detention in order to remedy the emergency situation, the competent official shall apply for the leave of the court to extend such detention period by seven days at a time, provided that the total period shall not exceed thirty days. Upon the expiration of such period, if the detention is still required, the competent official shall proceed under the Criminal Procedure Code.

In proceeding under paragraph one, the competent official shall file a report on the arrest and detention of such suspected persons for

submission to the court issuing the order under paragraph one. A copy of such report shall be deposited at the office of the competent official so that relatives of the suspected persons may access such reports for the entire duration of such detention.

The provisions on the procedures governing the issue of a warrant under the Criminal Procedure Code shall apply *mutatis mutandis* to the application for leave of the Court under paragraph one.

Section 13. If an object or equipment stipulated in an announcement under section 1(9) is a communication device or a part thereof, the Prime Minister may announce the implementation of such measure throughout the Kingdom or in any other areas not prescribed in a Declaration of a State of Emergency.

Section 14. A regulation, announcement and order issued under section 5, section 7, section 8, section 9, section 11 and section 15 shall also be published in the Government Gazette upon coming into force.

Section 15. A competent official or a person having identical powers and duties to a competent official under this Emergency Decree shall be a competent official under the Penal Code and shall have the powers and duties of an administrative official or police officer under the Criminal Procedure Code as prescribed by the Prime Minister.

Section 16. A regulation, announcement, order or an act under this Emergency Decree shall be subject to neither the law on administrative procedures nor the law on the establishment of Administrative Court nor Administrative Court Procedure.

Section 17. A competent official and a person having identical powers and duties as a competent official under this Emergency Decree shall not be subject to civil, criminal or disciplinary liabilities arising from the performance of functions for the termination or prevention of an illegal act, provided that such act is performed in good faith, is non-discriminatory, and is not unreasonable in the circumstances exceeding the extent of necessity, but

does not preclude the right of a victim to seek compensation from a government agency under the law on liability for wrongful act of officials.

Section 18. Any person who violates a regulation, announcement or order issued under section 9, section 10, section 11, or section 13 shall be liable to imprisonment for a term not exceeding two years or to a fine not more than forty-thousand baht, or to both.

Section 19. The Prime Minister shall have charge and control of the execution of this Emergency Decree.

Countersigned by:

Pol. Lt. Col. Thaksin Shinawatra
Prime Minister