

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

BHUMIBOL ADULYADEJ, REX;
Given on the 31st Day of October B.E. 2544;
Being the 56th 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 damages for the injured person and compensations and expenses for the accused in the criminal case;

This Act contains certain provisions in relation to the restriction of rights and liberties of a 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 the 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 Compensations and expenses for the Accused in the Criminal Case Act, B.E. 2544 (2001)”.

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:
“Injured person” means a person whose life, body or, mind has been injured due to a criminal offence committed by other persons where he or she has not been involved in the commission of such criminal offence;

* Translated by Ms. Vipatboon Klaosontorn under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Initial Version – pending review and approval by the Office of the Council of State.

“Accused” means a person who is accused before the court of having committed a criminal offence;

“Damages” means money, property or other benefits which an injured person is entitled to receive to compensate damage caused by or due to a criminal offence committed by other persons;

“Compensations” means money, property or other benefits which an accused is entitled to receive because he or she has become the accused in a criminal case and has been taken into custody during trial, and it appears that the final judgment to such case states that the accused did not commit such offence or an act done by the accused is not an offence;

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

“Committee” means the Committee on Determination of Damages for the Injured Person and Compensations and Expenses for the Accused in the Criminal Case;

“Committee member” means a member of the Committee on Determination of Damages for the Injured Person and Compensations and expenses for the Accused in the Criminal Case;

“Public prosecutor” means a public prosecutor under the law on public prosecutor or a 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 of the execution of this Act.

Section 4. The Minister of Justice and the Minister of Finance shall have charge and control of the execution of this Act and shall have the powers to issue Ministerial Regulations, Rules and Notifications and to appoint a competent official for the execution of this Act.

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

CHAPTER I

GENERAL PROVISIONS

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Section 5. Any claim and acquisition of rights and benefits under this Act shall not deprive an injured person or an accused of the rights and benefits to which they are entitled under other laws.

Section 6. In the case where an injured person or an accused has died before receiving damages, compensations or expense, as the case may be, the claim for and receipt of damages, compensations or expense shall devolve on the heir who has been injured of the injured person or the accused in accordance with the rules prescribed by the Committee.

CHAPTER II

COMMITTEE ON DETERMINATION OF DAMAGES FOR THE INJURED PERSON AND COMPENSATIONS AND EXPENSES FOR THE ACCUSED IN THE CRIMINAL CASE

Section 7. There shall be a committee called the “the Committee on Determination of Damages for the Injured Person and Compensations and expenses 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 Labour Protection and Welfare, a representative of the Lawyers Council of Thailand, and not more than five qualified members appointed by the Council of Ministers with the advice of the Minister as members. The qualified members shall be appointed from the persons having apparent experience in the field of medicine, social welfare and protection of rights and liberties of the people, at least one from each field.

The Chairperson shall appoint a government official of the Ministry of Justice as secretary and may appoint not more than two as assistant secretaries.

Section 8. The Committee shall have the following powers and duties:

(1) to determine and approve damages, compensations or expenses under this Act;

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(2) to submit opinions to the Minister with regard to the measures to protect rights of an injured person and an accused in the criminal case as well as the issuance of the Ministerial Regulations, Rules and Notifications for the execution of this Act;

(3) to issue a letter of inquiry or to summon any person to give a statement or to submit any relevant document and evidence, information or other necessary things for consideration;

(4) to perform other acts in order to fulfill the objectives prescribed in this Act.

In performing the duties under this section, the Committee may assign the Office to act on its behalf.

Section 9. A qualified member shall hold office for a term of two years. A qualified member who vacates office may be reappointed.

Section 10. In addition to vacating office on the expiration of term under section 9, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers upon the advice of the Minister due to negligence or dishonesty in the performance of duty, disgraceful behaviour, or incapability;
- (4) being bankrupt;
- (5) being an incompetent person or a quasi-incompetent person; being imprisoned due to a final judgment to a term of imprisonment except for an offence committed through negligence or a petty offence;

Section 11. In the case where there is an appointment of a qualified member while the appointed qualified members are still in office, the newly appointed person shall be in office for the unexpired term of office of the qualified members already appointed.

Section 12. In the case where a qualified member has hold office to the expiration of the term, if a new member has not yet been appointed, the member whose term of office has expired shall be in office to continue to perform his or her duties until a new qualified member has been appointed.

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Section 13. At a meeting of the Committee, the presence of not less than one-half of the members is required to constitute a quorum.

At any meeting, if the Chairperson is not present at the meeting or is unable to perform the duties, the members present shall elect one among themselves to preside over the meeting.

A resolution of the meeting shall be made by a majority of votes. In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

Section 14. The Committee may appoint a sub-committee for the consideration or execution of any matter assigned by the Committee.

Section 13 shall apply mutatis mutandis to meetings of the sub-committee.

CHAPTER III

OFFICE OF FINANCIAL ASSISTANCE FOR THE INJURED PERSON AND THE ACCUSED IN THE CRIMINAL CASE

Section 15. The Office of Financial Assistance for the Injured Person and the Accused in the Criminal Case shall be established in the Ministry of Justice and shall have the following powers and duties:

- (1) to perform secretariat work of the Committee and sub-committee under this Act;
- (2) to receive the requests for damages, compensations or expenses as well as to prepare and submit its opinions to the Committee or sub-committee;
- (3) to coordinate with other government agencies or any person in order to acquire facts or opinions on the requests for damages, compensations or expenses;
- (4) to keep, collect and analyse data regarding the payment of damages, compensations or expenses;
- (5) to perform other undertakings assigned by the Minister, Committee or sub-committee.

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Section 16. In the case where the Office is of an opinion that it is necessary to institute legal proceedings under this Act, the Ministry of Justice may appoint its government official with no lower than a bachelor's degree in Law so that he or she has an authority to take legal proceedings or perform other relevant undertakings relating to the case as assigned by the Ministry of Justice and inform the court.

In taking legal proceedings under this section, the court fees are gratis.

CHAPTER IV

PAYMENT OF DAMAGES FOR THE INJURED PERSON IN THE CRIMINAL CASE

Section 17. An offence committed against an injured person which entitles him or her to request for damages shall be the offence specified in the list annexed to this Act.

Section 18. The damages under section 17 are as follows:

- (1) the necessary expenses for medical treatment, including the expenses for physical and mental rehabilitation;
- (2) the damages in the case where an injured person has died, not exceeding the amount prescribed in the Ministerial Regulation;
- (3) the damages for the loss of earnings during the period an injured person has been unable to perform his or her occupation as usual;
- (4) the damages for other losses as the Committee deems appropriate; in accordance with the criteria, procedures and rates prescribed in the Ministerial Regulation.

The Committee shall determine whether the damages may be granted to the injured person or not and the amount thereof, by taking into consideration of the circumstance and gravity of the offence, and the condition of the injury of the injured person, including the opportunity of the injured person to receive the abatement of the injury by other means.

Section 19. If it appears later that an act claimed by an injured person as a ground to request for damages is not a criminal offence or there has been no commission of such act, the Committee shall issue a letter notifying the injured person to return the

received damages to the Ministry of Justice within thirty days from the date of receipt of the notification.

CHAPTER V
PAYMENT OF COMPENSATIONS AND EXPENSES
FOR THE ACCUSED IN THE CRIMINAL CASE

Section 20. An accused who is entitled to receive compensations and expenses under this Act must:

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

In the case where there are several accused persons, if any of them has died before the final judgment has been delivered and the Committee thinks it is appropriate to pay the compensations and expenses to other accused persons who are still alive and if the circumstance is related to the nature of the offence, the accused who has died shall also be entitled to receive the compensations and expenses under this Act.

Section 21. The determination of the compensations and expenses under section 20 shall be in accordance with the following criteria:

- (1) the compensations for being taken into custody shall be calculated from the number of custody days at the same rate as prescribed for the confinement in lien under the Criminal Code;
- (2) the necessary expenses for medical treatment, including the expenses for physical and mental rehabilitation, if the illness of an accused is a direct effect of being prosecuted;
- (3) the compensations in the case where an accused has died, and his or her death is a direct effect of being prosecuted, not exceeding the amount prescribed in the Ministerial Regulation;
- (4) the compensations for the loss of earnings while being prosecuted;

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(5) the necessary expenses for legal proceedings;

in accordance with the criteria, procedures and rates prescribed in the Ministerial Regulation unless otherwise prescribed by the law.

In the case where there is a request to obtain the right which has been lost due to a direct effect of the judgment and such right is unable to recover, the Committee shall determine the compensations for such right as deemed appropriate.

The Committee shall determine whether the compensations and expenses may be granted to the accused or not and the amount thereof, by taking into consideration of the circumstance of the case, grievance suffered by the accused and opportunity of the accused to receive other compensations by other means.

CHAPTER VI

SUBMISSION OF REQUESTS, CONSIDERATION OF REQUESTS AND APPEALS

Section 22. An injured person, accused, or his or her heir who has been injured, who is entitled to receive damages, compensations or expenses under this Act shall submit a request to the Committee at the Office in accordance with the form prescribed by the Office within one year from the date the commission of an offence was known to the injured person, or the date the Court issued an order permitting the withdrawal of the case upon clear evidence that the accused is not the person who committed the offence, or the date the final judgment was delivered that the fact to the case is conclusive that the accused is not the person who committed the offence or the act of the accused is not an offence, as the case may be.

Section 23. In the case where an injured person, accused or his or her heir who has been injured, is an incompetent person or is not able to submit a request by himself or herself a legal representative or guardian, ascendant, descendant, husband or wife, or any other person appointed in writing by the injured person, accused or his or her heir who has been injured, as the case may be, may submit the request for damages, compensations and expenses on his or her behalf in accordance with the rules prescribed by the Committee.

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Section 24. The criteria, procedure for submission of a request and consideration of a request shall be in accordance with the rules prescribed by the Committee, with the approval of the Minister.

Section 25. In the case where a person submitting a request does not agree with the decision of the Committee, such person shall have the right to appeal to the Court of Appeal within thirty days from the date of receipt of the decision. The decision of the Court of Appeal shall be final.

Regarding the submission of the appeal under paragraph one, the appellant may submit the appeal to the Office or the Changwat Court having jurisdiction over the domicile of the appellant to send it to the Court of Appeal, and such submission shall be deemed the submission of the appeal to the Court of Appeal under paragraph one.

In deciding 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 First Instance to take evidence on its behalf as deemed appropriate.

CHAPTER VII COMPETENT OFFICIALS

Section 26. In performing the duties under this Act, the competent official shall have the following powers and duties:

- (1) to take statements from a person who submits a request with regard to any fact related to the request;
- (2) to issue a letter of inquiry or to summon any person to give a statement or to submit any relevant document and evidence, information or other necessary things for consideration.

Section 27. For the execution of this Act, the competent official shall be the competent official under the Criminal Code.

CHAPTER VIII PENALTIES

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Section 28. Any person who submits a request for damages, compensations or expenses by asserting false statements shall be liable to imprisonment for a term of not exceeding three years or to a fine not exceeding sixty thousand baht, or to both.

Section 29. Any person who gives or presents false statements or evidence with regard to a request for damages, compensations or expenses 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 not exceeding sixty thousand baht, or to both.

Section 30. Any person who fails to give a statement or fails to send a letter responding a letter of inquiry, document, evidence or necessary information or things in accordance with an order of the Committee, sub-committee or competent official without reasonable grounds shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding ten thousand baht, or to both.

TRANSITORY PROVISION

Section 31. At the outset, the Ministry of Justice shall prescribe any of its agencies to perform the powers and duties of the Office until the completion of the establishment of the Office within one year from the date of entry into force of this Act.

Countersigned by:

Police Lieutenant Colonel Thaksin Shinawatra
Prime Minister

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**List annexed to the Damages for the Injured Person
and Compensations and expenses for the Accused in the Criminal Case Act B.E. 2544**

The offences committed against an injured person which entitle the injured person to request for damages under section 17 are the offences under the Criminal Code, Book II, Specific Offences:

Title IX Offence relating to Sexuality	Section 276 to Section 287;
Title X Offence against Life and Body	
Chapter I Offences against life	Section 288 to Section 294;
Chapter II Offences against Body	Section 295 to Section 300;
Chapter III Offences of Abortion	Section 301 to Section 305;
Chapter IV Offences of Abandonment of Children, Sick Persons or Aged Persons	Section 306 to Section 308.