

**Regulation of the Office of the Prime Minister
On the Screening of Aliens who Enter into the Kingdom and are Unable to
Return to the Country of Origin B.E. 2562**

Presently, there are aliens who enter and reside in Thailand, whether legally or illegally under the immigration law, causing Thailand to suffer alien management problems especially with regards to those who came to Thailand and are unable to return to their country of origin since they have a reasonable ground to believe that they would suffer danger due to persecution if repatriated from the Kingdom. This issue affects the public order, national security, and international relations, and gives rise to the question concerning the legal status of such aliens in Thailand, as well as problems related to the repatriation of those aliens to the country of origin or facilitation to a third country. These problems tend to expand and exacerbate. Despite the Government's consistent effort to solve the problems, the measures did not reach the expected efficacy due to a lack of mechanism to screen these aliens. Therefore, it is necessary to establish a screening mechanism for such groups of aliens in line with the nature of Thai society and international situations in order to reach sustainable solutions for Thailand's alien management problem.

By virtue of section 11(8) of State Administration Act, B.E. 2534, the Prime Minister, with an approval of the Cabinet, hereby issues the following Regulation.

Clause 1 This Regulation shall be called the "Regulation of the Office of the Prime Minister on the Screening of Aliens who Enter into the Kingdom and are Unable to Return to the Country of Origin B.E. 2562"

Clause 2 This Regulation shall come into force 180 days from the date of its publication on the Royal Gazette.

Clause 3 Hereinafter in this Regulation:

"Alien" means any person who is not of Thai nationality, and not having origin within the Kingdom.

"Protected Person" means any alien who enters into or resides in the Kingdom and is unable or unwilling to return to his/her country of origin due to a reasonable ground that they would suffer danger due to persecution as determined by the Committee, and is granted status as a Protected Person under this Regulation.

"Person under Screening" means any alien who has been determined that he/she is eligible to submit the request to be a Protected Person, and has submitted the request to be a Protected Person under this Regulation.

"Committee" means the Protected Person Screening Committee.

"Competent Official" means any competent official under immigration law.

Clause 4 The Prime Minister shall take charge of this Regulation.

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Chapter 1

Protected Person Screening Committee

Clause 5 There shall be one Committee called the “Protected Person Screening Committee” which shall comprise of:

- (1) The Commissioner-General of the Royal Thai Police or a Deputy Commissioner-General as appointed by the Commissioner-General as the Chairperson;
- (2) The Deputy Permanent Secretary of the Ministry of Interior as appointed by the Permanent Secretary of the Ministry of Interior as the Vice Chairperson;
- (3) Delegates from the Ministry of Foreign Affairs, Ministry of Social Development and Human Security, Ministry of Interior, Ministry of Justice, Ministry of Labor, National Intelligence Agency, Office of the National Security Council, Office of the Attorney General, and the Commissioner of the Special Branch Bureau as members of the Committee;
- (4) Experts, no more than four persons, appointed by the Commissioner-General of the Royal Thai Police from their expertise and experience in human rights or other fields relevant to the duties and authorities of the Committee, who shall not be a civil worker with any position or salary, a personnel or an employee of civil service, government authorities, state enterprises, or local administrative organizations, with the exception of lecturers in public universities, as members of the Committee.

The Commissioner of the Immigration Bureau shall be a member and the secretary of the Committee. The Committee shall appoint no more than two civil workers from the Ministry of Interior, the Office of the National Security Council, Royal Thai Police, or government agencies, to be its assistant secretaries.

Clause 6 The expert members of the Committee shall possess the following qualifications and not having the following incompatibility:

- (1) Being of Thai nationality;
- (2) Not being a bankrupt person;
- (3) Not being an incompetent person or a quasi-incompetent person;
- (4) Not having been sentenced by a final judgment to imprisonment, with the exception of sentences relating to negligence or misdemeanor.

Clause 7 The expert members of the Committee shall serve a term of three years from the date of appointment and may be reappointed but shall not serve more than two terms consecutively.

In case an expert member position is vacated prior to the due term or in case of additional appointment of expert member during the tenure of the existing expert members, the newly appointed member shall replace the vacant post or become an additional expert member serving the remaining term of the previously appointed expert members.

In case an expert member position is vacated prior to the due term, the Committee shall continue its functions with the remaining members until further appointment of expert members is completed.

Upon the completion of term under paragraph one, if the succeeding expert members are yet to be appointed, the outgoing expert members whose term has lapsed shall remain on their duty until the successors assume the positions.

Clause 8 Besides the completion of the term, the expert membership shall cease upon:

- (1) Death;
- (2) Resignation;
- (3) Being disqualified or being incompatible as stipulated in Clause 6;
- (4) The Committee determines, with votes of no less than two-third of the total members of the Committee, to remove from the position.

Clause 9 The Committee shall have the following duties and authorities:

- (1) Determine criteria and conduct screening of aliens to determine Protected Person status under this Regulation, and refer the issue to be processed in accordance with relevant laws, including the appeal determination for dismissed requests to be a Protected Person.
- (2) Promote cooperation and coordination with relevant foreign governments, international organizations, and private sectors regarding the administration of Protected Persons in line with international obligations and policies adopted by cabinet resolutions;
- (3) Report the situation, problems and obstacles in implementing this Regulation, and propose recommendations of guidelines for improvement, solution and prevention of problems to the Prime Minister;
- (4) Perform other duties as designated in this Regulation, or as assigned by the Cabinet or the Prime Minister.

Clause 10 In performing duties of the Committee, the secretary shall propose issues under the duties and authorities of the Committee to the Chairperson. The Chairperson shall convene meetings as required by its urgency, in accordance with criteria specified by the Committee.

The quorum of the meeting shall consist of no less than half of the members of Committee present in the meeting.

In the Committee meeting, if the Chairperson is absent or unable to perform the duty, the Vice Chairperson shall chair the meeting. If the Vice Chairperson is absent or unable to perform the duty, the Committee members in the meeting shall appoint one member as the *ad hoc* Chairperson.

The decision of the meeting shall be made by a majority vote, with each member having one vote. In the event of a tie vote, the Chairperson of the meeting shall cast a decision vote.

Clause 11 The Committee may appoint Sub-committee(s) as appropriate in order to undertake any action assigned by the Committee.

The meeting of the Sub-committee(s) shall apply Clause 10 *mutatis mutandis*.

Clause 12 In performing duties under this Regulations, the Committee and the Sub-committee(s) may request civil service authorities, state enterprises, other government agencies, and government officials to provide any relevant information or documentation to support its consideration, or may invite any person to provide factual information, opinion, academic advice, or to provide documents or evidence to support its consideration as appropriate.

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Clause 13 The meeting attendance expenses or other expenses related to the performance of the Committee and Sub-committee(s) shall be in accordance with the Royal Decree on Committee Member Meeting Allowance or governmental regulations, on a case by case basis. Such expenses shall be disbursed from the budget of the Royal Thai Police.

Clause 14 The Immigration Bureau under the Royal Thai Police shall be the secretariat of the Committee and shall have the following duties and authorities:

- (1) Be responsible for the administrative and academic matter of the Committee and the Sub-committee(s);
- (2) Coordinate with foreign governments, international organizations, private sectors and other relevant agencies to support the operation under this Regulation;
- (3) Compile, study, research and analyze information relating to guidelines for improvement, problems and obstacles in implementing this Regulation, as well as prepare and propose recommendations on the solution and prevention of problems to the Committee;
- (4) Perform other duties as assigned by the Committee and Sub-committee(s).

Chapter 2

Screening of Protected Persons

Clause 15 While enforcing the immigration law or this Regulation, if the competent official or government official discovers an alien claiming to have a reasonable ground to be a Protected Person, the repatriation of such alien shall be deferred, except where national security is threatened.

Clause 16 The alien who claims that there is a reasonable ground to be a Protected Person shall submit the request to be Protected Person to the competent official. The submission is to comply with the form prescribed by the Committee.

Clause 17 The competent official shall determine the request to be a Protected Person within thirty days after the date that the request is received.

If it is determined that the alien is ineligible to file the request to be a Protected Person under this Regulation, the request will be dismissed, and the alien shall be notified of the determination result. The alien may appeal the determination result to the Committee within fifteen days after the date of result notification. If the appeal period has lapsed without any appeal submission in the said period, legal action shall be taken upon the alien in accordance with immigration and other relevant laws.

The appeal submission and appeal determination in paragraph one is to be processed in accordance with the prescription of the Committee. The Committee may appoint one or more Appeal Sub-committee(s), which shall comprise of no less than three members, who are qualified and not of incompatibility stipulated in Clause 6, to determine the appeal on behalf of the Committee.

The result of appeal determination by the Committee or the Appeal Sub-committee is final. If it is determined that the appellant is eligible to submit the request to be a Protected Person, action shall be taken in accordance with Clause 18.

Clause 18 If the competent official determines that an alien is eligible to submit a request to be a Protected Person, the alien shall be notified to submit an application for Protected Person status to the Committee. The submission is to comply with the form prescribed by the Committee.

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If the alien in the first paragraph fails to submit an application for Protected Person status to the Committee within sixty days after the date of notification of their eligibility, it shall be considered that the alien has abandoned the request, and the competent official shall take legal action upon the alien in accordance with immigration and other relevant laws.

Clause 19 When an alien submits an application for Protected Person status to the Committee, the competent official shall issue a document identifying the status of the alien as a Person under Screening, take the photograph and fingerprints, and gather other information as may be relevant and appropriate for the purpose of the determination to be a Protected Person. Such information shall be recorded and filed on the alien's case file, in accordance with the criteria, procedures, and forms prescribed by the Committee.

Subject to the immigration law, the competent official may permit a Person under Screening to reside at an appropriate location, provided that guarantee is made that he/she will report to the competent official to acknowledge instruction on the designated date, time and location, during the determination of the Protected Person status under this Regulation.

Clause 20 The Committee shall determine the request to be a Protected Person in accordance with criteria, procedures and conditions prescribed by the Committee with the approval of the Cabinet, taking into consideration the family unity principles, the right to receive assistance in determining the application, international obligations, and policies adopted by the cabinet resolutions.

In the determination under paragraph one, the Committee may reach one of the following decisions:

- (1) To decline the granting of Protected Person status, and notify the determination result to the Person under Screening and refer the issue to the competent official to take legal action upon the Person under Screening in accordance with immigration and other relevant laws;
- (2) To grant the Protected Person status to the Person under Screening, noting that the Committee may impose further conditions, and the competent official shall issue a document identifying the status as a Protected Person to the Person under Screening in accordance with the form prescribed by the Committee.

The decision of the Committee under paragraph two is final.

Clause 21 The Committee may revoke the status of a Person under Screening or a Protected Person who breaches the conditions prescribed by the Committee, or fails to comply with this Regulation, or refuses to cooperate with the Committee, the Sub-committee(s), or the competent official in executing this Regulation, and refer the issue to the competent official to take legal action upon the alien in accordance with immigration and other relevant laws.

The resolution of revocation of status by the Committee under paragraph one is final.

Clause 22 In determining the application to be a Protected Person under this Regulation, the Committee may appoint one or more Sub-committee(s) of no less than three members who possess knowledge and expertise related to the duties and authorities of the Committee, who are also qualified and not incompatible stipulated in Clause 6, to investigate, examine facts, assess and provide recommendations regarding the completeness and credibility of the application for Protected Person status, including recommendations on whether or not the Person under Screening should be granted the Protected Person status, to the Committee to support the consideration on the screening of the application for Protected Person status.

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Clause 23 In processing the screening of Protected Person, the Committee, the Immigration Bureau and the competent official may cooperate with relevant foreign governments, international organizations, or private sectors to support its operation.

Clause 24 In the case where the Committee made a determination that an alien is ineligible to file a request to be a Protected Person, or the Committee made a determination to decline the granting of the Protected Person status, or the Committee made a determination to revoke the status of the Person under Screening or Protected Person, the alien may resubmit another request to the Committee for reconsideration of a Protected Person status if there is information or fact as prescribed by the Committee.

Chapter 3

The Administration of Protected Persons

Clause 25 When an alien is granted Protected Person status under this Regulation, the relevant agencies shall take the following actions upon the Protected Person:

- (1) Refrain from repatriating the Protected Person to the country of origin, except where the Protected Person voluntarily wishes to leave the Kingdom or where national security is threatened;
- (2) Provide assistance of voluntary return to the country of origin when the situation which caused the inability to return has ceased or consider to provide coordinative assistance for the Protected Person to be able to travel to the intended country of residence;
- (3) Permit the Protected Person to stay in the Kingdom under special circumstances or permit to stay in the Kingdom temporarily, and to refer the issue for further processing in accordance with immigration law, provided that the result of the screening under this Regulation is to be taken into account;
- (4) Coordinate as appropriate to provide education to children under Protected Person status and healthcare in accordance with relevant laws, international obligations, cabinet resolutions, and government policies.

Clause 26 The Ministry of Foreign Affairs shall coordinate with foreign governments or international organizations to compile information regarding the administration of Protected Persons as may be required by the Committee, and notify the Committee of such information to support consideration on the administration of Protected Persons.

Clause 27 If the Ministry of Foreign Affairs, Ministry of Interior, Office of the National Security Council or the Royal Thai Police deem that the situation which caused the inability to return to the country of origin has ceased, or deem appropriate to send a particular Protected Person or group of Protected Persons to a third country, it shall coordinate with the Immigration Bureau to propose to the Committee to consider repatriation to the country of origin, or to a third country, or take any action upon such Protected Person or group of Protected Persons as the Committee deem appropriate, in accordance with international obligation and policies of related cabinet resolutions.

Clause 28 The repatriation of such Protected Person from the Kingdom shall be conducted in accordance with immigration law.

When the competent official has repatriated the Protected Person out of the Kingdom under paragraph one, the status as a Protected Person under this Regulation of such person shall cease.

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Chapter 4**Evaluation and Review**

Clause 29 The Committee shall evaluate and review the implementation of this Regulation including problems, obstacles, as well as proposed solutions, and report to the Prime Minister for consideration annually.

Chapter 5**Transitory Provision**

Clause 30 In determining the Protected Person status to the alien who entered the Kingdom and is unable to return to the country of origin before this Regulation enters into force, action shall be taken in accordance with this Regulation, taking into consideration the previous determination of the Office of the United Nations High Commissioner for Refugees.

Announced on 24 December B.E.2562

General Prayut Chan-o-cha

Prime Minister