

PREVENTION AND SUPPRESSION OF PROSTITUTION ACT,
B.E. 2539 (1996)¹

BHUMIBOL ADULYADEJ, REX;
Given on the 14th Day of October B.E. 2539;
Being the 51st 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 the prohibition of prostitution;
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 "Prevention and Suppression of Prostitution Act, B.E. 2539 (1996)".

Section 2. This Act shall come into force sixty days after the date of its publication in the Government Gazette.

Section 3. The Prohibition of Prostitution Act, B.E. 2503 (1960) shall be repealed.

Section 4. In this Act,
"prostitution" means the acceptance of sexual intercourse or any other act, or the commission of any other act in order to gratify the sexual desire of another person in a promiscuous manner in return for money or any other benefit, irrespective of whether the

¹ Translated by Ms. Mattanee Kaewpanya under contract for the Office of the Council of State of Thailand's Law for ASEAN project.- Initial version- pending review and approval.

person who accepts the act and the person who commits the act are of the same sex or not;

"prostitution establishment" means a place established for prostitution or in which prostitution is allowed, and shall also include a place used for soliciting or procuring another person for prostitution;

"Preliminary Admittance Centre" means a place established by government authorities or a place established under this Act by a foundation, association or any other institution for the temporary admission of persons who will receive protection and occupational development in order for the procedure for the appropriate protection and occupational development to be considered for each of them;

"Protection and Occupational Development Centre" means a place established by government authorities or a place established under this Act by a foundation, association or other institution in order to render welfare protection and occupational training to persons receiving the protection and occupational development under this Act;

"protection and occupational development" means psychological rehabilitation, therapy, training and occupational development as well as development of quality of life;

"member" means a member of the Protection and Occupational Development Committee or a member of the *Changwat* Protection and Occupational Development Committee, as the case may be;

"competent official" means a person appointed by the Minister for the execution of this Act;

"Director-General" means the Director-General of the Department of Public Welfare;

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

Section 5. Any person who, for the purpose of prostitution, solicits, induces, introduces herself or himself to, follows or implores a person in a street or a public place, or commit such acts in any other place, in an open and shameful manner or causes nuisance to the public, shall be liable to a fine not exceeding one thousand baht.

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Section 6. Any person who assembles in a prostitution establishment for the benefit of prostituting himself or herself or another person shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand baht or to both.

If the offence under paragraph one is committed while being forced or being under such power which cannot be avoided or resisted, the offender is not guilty.

Section 7. Any person who advertises or agrees to advertise, induces or introduces by means of documents, printed materials, or distribute by any means to the public in a manner indicative of importunity or solicitation for the prostitution of himself, herself or another person shall be liable to imprisonment for a term of six months to two years or to a fine of ten thousand baht to forty thousand baht or to both.

Section 8. Any person who, in order to gratify his or her sexual desire or that of another person, has sexual intercourse with or acts in any other ways against a person over fifteen but not over eighteen years of age in a prostitution establishment, with or without his or her consent, shall be liable to imprisonment for a term of one to three years and to a fine of twenty thousand to sixty thousand baht.

If the offence under paragraph one is committed against a child not over fifteen years of age, the offender shall be liable to imprisonment for a term of two to six years and to a fine of forty thousand to one hundred and twenty thousand baht.

If the act under paragraph one is committed in relation to one's own spouse, and not to gratify the sexual desire of another person, the offender is not guilty.

Section 9. Any person who procures, seduces or takes any person to commit prostitution, even with his or her consent and irrespective of whether the various acts which constitute such an offence are committed within or outside the Kingdom, shall be liable to imprisonment for a term of one to ten years and to a fine of twenty thousand to two hundred thousand baht.

If the offence under paragraph one is committed against a person over fifteen but not over eighteen years of age, the offender shall be liable to imprisonment for a term

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of five to fifteen years and to a fine of one hundred thousand to three hundred thousand baht.

If the offence under paragraph one is committed in relation to a child not over fifteen years of age, the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand baht.

If the offence under paragraph one, two or three is committed by means of fraud, deceit, threat, violence, undue influence or coercion against one's will in any manner, the offender shall be liable to a penalty amounting to one-third heavier than that provided in paragraph one, two or three, as the case may be.

Any person who, for the purpose of prostitution, admits a person known to him or her as having been procured, seduced or taken under paragraph one, two, three or four, or supports the commission of such offence shall be liable to the penalty provided in paragraph one, two, three or four, as the case may be.

Section 10. Any person who, being a father, mother or parent of a person not over eighteen years of age, knows of the commission of the offence under paragraph two, three or four of section 9 against the person under his or her parental control and connives in such commission shall be liable to imprisonment for a term of four to twenty years and to a fine of eighty thousand to four hundred thousand baht.

Section 11. Any person who is the owner, supervisor or manager of a prostitution business or a prostitution establishment, or is the controller of prostitutes in a prostitution establishment shall be liable to imprisonment for a term of three to fifteen years and to a fine of sixty thousand to three hundred thousand baht.

If the prostitution business or establishment under paragraph one has a person over fifteen but not over eighteen years of age for prostitution, the offender shall be liable to imprisonment for a term of five to fifteen years and to a fine of one hundred thousand to three hundred thousand baht.

If the prostitution business or establishment under paragraph one has a child not over fifteen years of age for prostitution, the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand baht.

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Section 12. Any person who detains or confines another person, or by any other means, deprives such person of the liberty of the person's body or causes bodily harm to or threatens in any manner whatsoever to commit violence against another person in order to coerce such other person to engage in prostitution shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand baht.

If the commission of the offence under paragraph one results in:

- (1) grievous bodily harm to the victim, the offender shall be liable to imprisonment for life;
- (2) death of the victim, the offender shall be liable to the death penalty or to imprisonment for life.

Any person who supports the commission of the offence under paragraph one or two shall be liable to the penalty provided in paragraph one or two, as the case may be.

If the offender or supporter of the offence under paragraph one is an administrative official or a police officer or a competent official or an official of a Primary Admittance Centre or an official of a Protection and Occupational Development Centre under this Act, such person shall be liable to imprisonment for a term of fifteen to twenty years and to a fine of three hundred thousand to four hundred thousand baht.

Section 13. If the father, mother or parent of the offender under section 5, section 6, or section 7 connives in the prostitution of the person under his or her parental control, the public prosecutor shall, at the request of the Protection and Occupational Development Committee, apply to the Court for the revocation of parental power of the father, mother or parent and for the appointment of a guardian in place of the father, mother or parent of such person.

In a case where the Court is to appoint a guardian under paragraph one and the Court is of the opinion that no appropriate person can be found as guardian of the offender, the Court may appoint, as guardian, the Director of the Primary Admittance Centre or the Director of the Protection and Occupational Development Centre in the territorial jurisdiction of which the offender is subjected.

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The provisions of the Civil and Commercial Code relating to the appointment of guardian shall apply *mutatis mutandis* to the appointment of guardian under this section.

Section 14. There shall be a Protection and Occupational Development Committee or the PODC in brief, consisting of the Permanent Secretary of the Ministry of Labour and Social Welfare as Chairman, the Director-General of the Department of Public Welfare, the Director-General of the Department of Local Administration, the Director-General of the Department of Employment, the Director-General of the Community Development Department, the Director-General of the Department of Non-formal Education, the Director-General of the Department of Communicable Disease Control, the Director-General of the Royal Thai Police Department, the Director-General of the Department of Skill Development, the Director-General of the Department of General Education, the Director-General of the Department of Vocational Education, the Secretary-General of the National Primary Education Commission, the Secretary-General of the National Youth Bureau, or the Deputy Directors-General or Deputy Secretaries-General entrusted by the aforesaid Directors-General or Secretaries-General, a representative of the Central Juvenile and Family Court, a representative of the National Commission on Women's Affairs and no more than seven qualified persons appointed by the Minister as members, and the Director of the Office of the Protection and Occupational Development Committee shall be member and secretary, and the Chairman shall appoint no more than two assistant secretaries.

The qualified members appointed by the Minister under paragraph one must possess knowledge and experience in the prevention and resolution of prostitution problems, and at least five of them shall be appointed from qualified persons who work in non-governmental organisations who are involved in the prevention and resolution of prostitution problems.

Section 15. The PODC shall have the following powers and duties:

- (1) to prescribe policies with regard to the protection and occupational development, including the development of the quality of life, of prostitutes;
- (2) to jointly co-ordinate plans, projects, working systems and to prescribe actions plans together with Government agencies and the private sector involved in the prevention and suppression of prostitution;

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(3) to submit to the Minister, for further submission to the Council of Ministers, opinions on the improvement of the performance of official duties or plans of relevant Government agencies in relation to the prevention and suppression of prostitution;

(4) to submit to the Minister recommendations on the appointment of competent officials and on the establishment of Primary Admittance Centres or the Protection and Occupational Development Centres by government authorities;

(5) to submit to the Minister recommendations on the allocation of budget to support the operation of protection and occupational development;

(6) to submit to the Minister recommendations on the prescription of criteria, procedure and conditions for the implementation of section 26;

(7) to submit to the Minister recommendations on the issuance of regulations, rules or orders relating to the operation of Primary Admittance Centres and Protection and Occupational Development Centres;

(8) to issue regulations relating to the admission and care of the persons kept under custody in accordance with section 32;

(9) to issue regulations relating to the criteria and procedures for the transfer of persons to Primary Admittance Centres and the Protection and Occupational Development Centres as well as the determination of the term of protection and occupational development in the Protection and Occupational Development Centres;

(10) to carry out other acts for the execution of this Act.

Section 16. There shall be a *Changwat's* Protection and Occupational Development Committee (or the *Changwat* PODC in brief), consisting of the Governor or Vice Governor entrusted by the Governor as Chairman, Deputy Governor or representative, *Changwat's* Employment Officer or representative, *Changwat's* Chief Police Officer or representative, *Changwat's* Development Officer or representative, *Changwat's* Chief Educational Officer or representative, *Changwat's* General-Education Officer or representative, Director of the *Changwat's* Primary Education Office or representative, Director of the *Changwat's* Non-formal Education Centre or representative, *Changwat's* Public Health Officer or representative, *Changwat's* Labour and Social Welfare Officer or representative, *Changwat's* Public Prosecutor or representative, and no more than seven qualified persons

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appointed by the Governor as members, and the *Changwat's* Public Welfare Officer shall be member and secretary.

The qualified members appointed by the Governor under paragraph one must possess knowledge and experience in the prevention and resolution of prostitution problems, and at least five of them shall be appointed from qualified persons who work in private entities who are involved in the prevention and resolution of prostitution problems.

Section 17. A *Changwat's* PODC shall have the following powers and duties:

(1) to be a centre for co-ordination between the Government and the private sector in connection with information, resources and operations in respect of the prevention and suppression of prostitution of the *Changwat*;

(2) to promote and support the operation of both the Government sector and of the private sector in respect of the prevention and suppression of prostitution in the area of the *Changwat*;

(3) to submit recommendations to the PODC for amendment to or issuance of rules, regulations and orders relating to the prevention and suppression of prostitution in the *Changwat*;

(4) to perform any other act as entrusted by the PODC.

Section 18. A qualified member shall hold office for a term of three years. A qualified member who vacates office may be re-appointed but for no more than two consecutive terms.

Section 19. In addition to vacating office at the end of his or her term under section 18, a qualified member vacates office upon:

(1) death;

(2) resignation;

(3) removal from office by the Minister or the Governor who has the power to appoint qualified members, as the case may be;

(4) being an incompetent or quasi-incompetent person; or

(5) imprisonment pursuant to a final judgment, except for an offence committed through negligence or a petty offence.

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Section 20. In the case where a qualified member vacates office before the end of his or her term and another person is appointed to replace the qualified member, the appointee shall hold office for the remaining term of the qualified member whom the appointee has replaced.

In the case where an additional qualified member is appointed during the term of qualified members already appointed, the appointee shall hold office for the remaining term of the qualified members already appointed.

Section 21. In the case where new qualified members have not yet been appointed after the end of term for the existing qualified members, the qualified members whose term expires shall continue to perform their duties until the new qualified members are appointed.

Section 22. At a meeting of the PODC or the *Changwat* PODC, no less than one-third of the total number of members is required to be present in order to constitute a quorum. If the Chairperson is not present or is unable to perform his or her duties, the members present shall elect one member among themselves to preside over the meeting.

A decision of the meeting shall be carried by a majority of votes. Each member shall have one vote. In case of the numbers of votes being equal, the Chairperson shall have an additional vote as a deciding vote. A member whose personal interest is vested in any matter shall not have the right to vote on that matter.

Section 23. The PODC or the *Changwat* PODC may appoint a sub-committee for the consideration and execution of any matter as entrusted by the PODC or the *Changwat* PODC, and section 22 shall apply *mutatis mutandis* to a meeting of the sub-committee.

Section 24. For the execution of duties under this Act, the PODC or the *Changwat* PODC or the sub-committee entrusted by the PODC or the *Changwat* PODC shall have the power to issue a written order to require any person to give statements or produce any document or object for consideration as deemed necessary.

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Section 25. The Office of the Protection and Occupational Development Committee shall be established under the Department of Public Welfare of the Ministry of Labour and Social Welfare. The Office shall have the following powers and duties:

- (1) to be responsible for administrative work of the PODC;
- (2) to co-ordinate and co-operate with Government agencies, State agencies and members of the private sector involved in the protection, occupational development and the prevention and suppression of prostitution;
- (3) to provide for training and occupational development;
- (4) to promote occupations and provide employment to persons having received the training and occupational development under (3);
- (5) to compile the results of analysis, research, operations, follow-up and assessment with regard to the implementation of the protection and occupational development policies and plans of relevant Government agencies, State agencies and private agencies, and report them to the PODC;
- (6) to perform such act as required by a resolution of the PODC or as assigned by the PODC.

Section 26. A foundation, association or any other institution prescribed in the Ministerial Regulation, that wishes to establish a Primary Admittance Centre or a Protection and Occupational Development Centre under this Act, shall submit an application to the Director-General.

The application for and the issuance of a licence shall be in accordance with the criteria, procedure and conditions prescribed in Ministerial Regulation.

Section 27. Upon the Director-General issuing a licence to establish a Primary Admittance Centre or a Protection and Occupational Development Centre, the procedure in accordance with section 28 shall be carried out.

In a case where the Director-General rejects an application for a licence, the applicant is entitled to submit an appeal in writing to the Minister within thirty days from the date of the receipt of the letter notifying the rejection thereof.

The decision of the Minister shall be final.

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Section 28. The Director-General shall, by publication in the Government Gazette, determine the area within the territorial jurisdiction of the Primary Admittance Centre or the Protection and Occupational Development Centre which has been established.

In a case where there is reasonable cause, the Director-General may, by publication in the Government Gazette, alter the area within the territorial jurisdiction of a Primary Admittance Centre or a Protection and Occupational Development Centre.

Section 29. When it appears that a foundation, association or any other institution licensed under section 26 violates or does not comply with the laws, or the rules and regulations as prescribed by the Government, the Director-General shall have the power to give such foundation, association or other institution a written order requiring the cessation of an act or the improvement, correction or compliance with any matter as notified, within a specified period.

In the case where the foundation, association or any other institution, without reasonable cause, fails to comply with the order or where its compliance has not been completed within the specified period under paragraph one, the Director-General shall have the power to order the competent official to take action in its place in compliance with such order; and such foundation, association or other institution shall be responsible for the expenses incurred therefrom.

The expenses under paragraph two shall include such necessary and appropriate expenses as prescribed by the Director-General.

If the competent official is of the opinion that the action under paragraph two cannot be taken or that, even if such action had been taken, the foundation, association or other institution would still have been unable to continue its operations or that its continuous operation may cause danger to persons receiving welfare protection and occupational development in the said Primary Admittance Centre or the Protection and Occupational Development Centre, the competent official shall submit a recommendation to the Minister for his or her consideration for the revocation of the licence.

When the violation of or failure to comply with the laws or the rules and regulations prescribed by the Government is a serious offence that the Director-General is of an opinion that a preliminary order under paragraph one or two is inappropriate, the Director-General shall have the power to revoke the licence.

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Section 30. The foundation, association or any other institution licensed under section 26 which was revoked under section 29 is entitled to submit an appeal in writing to the Minister against the order revoking the licence within fifteen days from the date of receipt of the notification of the order revoking the licence, and, pending the decision of the Minister, may continue its operations.

The decision of the Minister shall be final.

Section 31. In a case where the Minister makes a final decision to revoke the licence issued under section 26, the competent official shall, with the approval of the Director-General, transfer the persons receiving the protection and occupational development to another Primary Admittance Centre or Protection and Occupational Development Centre.

In a case where there is a transfer of the persons receiving the protection and occupational development to another Primary Admittance Centre or Protection and Occupational Development Centre established by a foundation, association or other institution, the consent of such Primary Admittance Centre or Protection and Occupational Development Centre must also be obtained.

Section 32. In a case where the alleged offender or the accused needs to be kept in custody while being interrogated by an interrogating officer, with respect to the offence under section 5 or section 6, such custody may be done in accordance with the law on criminal procedure of *Kwaeng* Court; provided that such alleged offender or accused is kept in a separate custody from other alleged offenders or accused, or a request may be made to the Department of Public Welfare to be the caretaker of the person in custody, in accordance with the regulations prescribed by the PODC.

Section 33. In a case where the offender under section 5 or section 6 is not over eighteen years of age and it does not appear that he or she is alleged to have committed or is subject to criminal proceedings for any other offence punishable by imprisonment, or is sentenced to imprisonment, the interrogating officer shall, in a case where the offence has been settled by a fine, notify the Department of Public Welfare in order to transfer such person to receive care in the Primary Admittance Centre of competent territorial jurisdiction.

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In a case under paragraph one, if the offender is over eighteen years of age and wishes to receive protection and occupational development in a Protection and Occupational Development Centre, the interrogating officer shall notify the Department of Public Welfare in order to transfer such person to receive care in the Primary Admittance Centre of competent territorial jurisdiction.

Section 34. In a case where the offender under sections 5, 6 or 7 is not over eighteen years of age, and the Court, having considered his or her record, conduct, intellect, education and training, health, mental condition, occupation and environment, is of the opinion that a sentence is inappropriate and should be replaced by the commission of the offender to protection and occupational development, the Department of Public Welfare shall admit the offender in order to transfer such person to receive care in a Primary Admittance Centre of competent territorial jurisdiction within fifteen days from the date of the judgment.

In a case under paragraph one, if the offender is over eighteen years of age and wishes to receive protection and occupational development in a Protection and Occupational Development Centre and the Court deems it appropriate, the Department of Public Welfare shall admit the offender in order to transfer such person to receive care in a Primary Admittance Centre of competent territorial jurisdiction within fifteen days from the date of the judgment.

In a case where the Court passes a judgment sentencing the offender under paragraph one and deems it appropriate also to commit him or her to protection and occupational development, the Department of Public Welfare shall admit the offender in order to transfer such person to care in a Primary Admittance Centre of competent territorial jurisdiction within fifteen days from the date of the judgment; and the offender shall be in custody of the Primary Admittance Centre and the Protection and Occupational Development Centre.

The period in which the offender under paragraph three has been kept in custody shall not be included in the term for which the offender is taken into the care of the Primary Admittance Centre and the term for which the offender receives protection and occupational development in the Protection and Occupational Development Centre.

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The criteria and procedure for the admittance of the offender from Court, in order to transfer such person to receive care in a Primary Admittance Centre of competent territorial jurisdiction, shall be in accordance with the regulations prescribed by the Director-General with the approval of the PODC.

Section 35. The Primary Admittance Centre shall consider personality, education and training background as well as the cause of the commission of the offence, and shall conduct an aptitude test and then consider the transfer of the person under its care, in accordance with section 33 or section 34, to an appropriate Protection and Occupational Development Centre in order to receive protection and occupational development within such period as specified by the regulations prescribed by the PODC but not exceeding six months from the date of the admission of that person.

Subject to paragraph three of section 34, when the Primary Admittance Centre is of the opinion that the transfer of the offender to protection and occupational development is not yet necessary, it may decide, in accordance with the regulations prescribed by the PODC, not to transfer such a person to the Protection and Occupational Development Centre.

Section 36. Criteria and procedure for the transfer of persons to receive care in a Primary Admittance Centre under sections 33 and 34 and to protection and occupational development in a Protection and Occupational Development Centre under section 35 shall be in accordance with the regulations prescribed by the PODC.

Section 37. A person receiving protection and occupational development must stay to receive such protection and occupational development in the Protection and Occupational Development Centre in accordance with the regulations prescribed by the PODC for a term of no more than two years from the date of admission by the Protection and Occupational Development Centre.

Section 38. While being taken care of in a Primary Admittance Centre or being received protection and occupational development in a Protection and Occupational Development Centre, if any person runs away from the former or the latter, the official of the Primary Admittance Centre or the Protection and Occupational Development Centre shall have the power to pursue such person in order to return him or her to the former or

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the latter, as the case may be. For this purpose, the Primary Admittance Centre or the Protection and Occupational Development Centre may request assistance from the police.

When any person receives the protection and occupational development in accordance with the scheduled period of time, the official of the Primary Admittance Centre or the Protection and Occupational Development Centre shall send such person back to his or her residence or domicile, unless the PODC considers it appropriate to proceed otherwise.

Section 39. The competent official shall have the following powers and duties:

(1) to enter service establishments under the law on entertainment establishments, during the day and at night, for in order to inspect the commission of the offences under this Act;

(2) to take persons, deceived or forced to engage in prostitution, who agree to be taken to receive protection and occupational development, to the interrogating officer in order to proceed further to find the offender; in this regard, the provisions of section 33 shall apply *mutatis mutandis* to the transfer of prostitutes to receive care in a Primary Admittance Centre.

Section 40. Members, members of the sub-committee and competent officials under this Act shall be officers under the Penal Code.

Section 41. Any person who fails to facilitate the competent official performing an act pursuant to section 39 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand baht or to both.

Section 42. Pending the establishment of the Office of the Protection and Occupational Development Committee, the Department of Public Welfare shall have the powers and duties under section 25.

Section 43. The Welfare Centres established under the Prohibition of Prostitution Act, B.E. 2503 (1960) shall be the Protection and Occupational Development Centres under this Act.

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The persons receiving the welfare under the Suppression of Prostitution Act, B.E. 2503 (1960), who still receive such welfare on the date this Act comes into force shall continue to receive protection and occupational development until the end of such period specified by the Director-General.

Section 44. All the notifications, regulations, rules or orders issued under the Prohibition of Prostitution Act, B.E. 2503 (1960) shall continue to be in force insofar as they are not contrary to or inconsistent with this Act until notifications, regulations, rules or orders are issued under this Act.

Section 45. The Minister of Labour and Social Welfare shall have the responsibility for and control over the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulations and Notifications for the execution of this Act.

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

Countersigned by

Banharn Silapa-Archa
Prime Minister

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