

Draft Internal Security Act, June 2007

(unofficial translation, 5 July 2007)

Note: This is the full draft of the Act on Internal Security of... (year) which the Cabinet approved in principle on 19 June and submitted to the Council of State for scrutiny prior to further consideration by the National Legislative Assembly

The principle for having an Act on Internal Security

Rationale: At present there are security problems caused by various people or groups of people. These problems are violent, and may quickly expand to a point they have broad and complex impact that may affect the independence and integrity of the realm, give rise to disorder within country, and threaten the peace and contentment of the people. In order to protect against such threats and to resolve them promptly and completely, it is appropriate to designate a principal agency with responsibility for internal security, including integrating and coordinating actions among all government offices, and promoting participation by people in preserving security and strengthening their own localities. It is necessary to enact this law in order to guard against threats which may arise in times of normalcy, and to lay down measures and mechanisms for use at times when a security threat has arisen in any area in order to regulate the use of power for the specific purpose according to the level of seriousness of the situation, so that the situation may be resolved efficiently and with unity.

As it is appropriate to have a law on internal security to maintain public safety and the security of the nation-state and people.

Section 1. This law is called the Act on Internal Security of ... (year)

Section 2. This Act comes into force on the day following its announcement in the Government Gazette.

Section 3. In this Act

‘the maintenance of internal security’ means

(1) procedures to ensure that people have a normal way of life, take pride in being Thai, have love and concern for the Thai culture and realm, uphold independence and the democratic system with the king as head of state, and that people and all organizations have unity, strength, and readiness to confront threats to state security that are expected to arise in both normal and abnormal circumstances;

(2) preventive and suppressive procedures to control situations arising from actions threatening internal security, and to restore normalcy

‘action threatening internal security’ means

any action with intent to cause destruction, loss of life, injury, or damage to the property of the people or the state, including espionage, sabotage, terrorism, transnational crime, subversion, propaganda, provocation, or incitement to use violence with the intention to create disorder for the lives of people, or undermine the security of the state.

‘government agency’ means an office of government, state enterprise, public organization, local government body, or other agency under the supervision of the state

‘government official’ means a government servant or employee of a government agency

‘competent officer’ means a person that the director of internal security appoints to carry out duties under this Act

Section 4. The maintenance of internal security requires unity of operations among government agencies, staged procedures to overcome problems according to the severity of the situation in each area in an appropriate manner, and systems to monitor the use of power and evaluate the results of operations in order to maintain the happiness of the people and society, and the security of the country.

Section 5. The prime minister shall take care of the execution of this Act.

Chapter 1. The Internal Security Operations Committee

Section 6. There shall be an Internal Security Operations Committee consisting of the prime minister as chairman, the minister of defence and minister of the interior as vice chairmen, the permanent secretary of defence, the permanent secretary of interior, the permanent secretary of justice, the permanent secretary of foreign affairs, the permanent secretary of finance, the permanent secretary of social development and human security, the secretary of the National Security Council, the director of the National Intelligence Agency, the attorney general, the supreme commander, the commander-in-chief of the army, the commander-in-chief of the navy, the commander-in-chief of the air force, the commissioner general of police as members, and the chief of staff of the army as member and secretary.

Section 7. The Internal Security Operations Committee shall have powers and duties as follows:

(1) to set the direction of operations in accordance with policies and strategies for internal security as assigned by the National Security Council, Cabinet, or prime minister;

(2) to assess the situation and propose to the Cabinet measures and operating procedures relating to the maintenance of internal security;

- (3) to prescribe methods to monitor and evaluate operations of the Internal Security Operations Command according to the master plan and operational plan for the maintenance of internal security;
- (4) to oversee the preparation of an annual report of the Internal Security Operations Command for submission to the Cabinet;
- (5) to issue regulations for operations under this Act;
- (6) to appoint Regional Internal Security Operations Committees;
- (7) to appoint a person or group of persons as advisers in the conduct of work by competent officers, or as assistants to competent officers in the conduct of duty under this Act;
- (8) to appoint subcommittees or working groups to undertake duties as assigned;
- (9) to undertake other actions which law places within the powers and duties of the committee.

Section 8. To aid the operations of the committee, subcommittees, or working groups, the director of internal security may request any government agency, person, or juristic person to submit documents and information, or provide explanation of facts for consideration according to necessity.

Chapter 2. The Internal Security Operations Command

Section 9. There shall be an Internal Security Operations Command, known in short as ISOC, established as an agency under the Prime Minister's Office and reporting directly to the prime minister, with the commander-in-chief of the army as the director of internal security with power and responsibility to command government officials to implement the work of the Internal Security Operations Command, and to approve a master plan and operational plan for internal security.

Section 10. The Internal Security Operations Command shall have a role as the central organization for the direction and coordination of policy and strategy for internal security, and for the restoration of normalcy in times of national emergency.

The internal division of work within the Internal Security Operations Command shall be arranged by ministerial regulations.

Section 11. The Internal Security Operations Command shall have the duty to draw up plans, to direct, coordinate, and supervise operations according to the policy and strategy for internal security, and to resolve problems relating to internal security as assigned by the National Security Council, Cabinet, or prime minister.

Section 12. The Internal Security Operations Command shall have powers and

responsibilities as follows:

- (1) to monitor and evaluate threats to internal security in order to help formulate practical solutions;
- (2) to direct, coordinate, oversee, and support actions of related government agencies to set up security procedures in areas throughout the country, both on land and sea, to ensure lasting security;
- (3) to strengthen loyalty to the monarchy, to create love and unity among the people of the nation by uniting the power of the masses, and to promote people's participation in the prevention and solution of various problems which affect internal security, peace and order in areas within the regions of the country;
- (4) to undertake any other actions as assigned by the National Security Council, Cabinet, or prime minister.

Section 13. There shall be an Internal Security Operations Command Secretariat, known for short as ISOCS, established as an office within the Internal Security Operations Command, to serve as the executive office for preparing execution plans, coordinating and supervising operations within the competence of the Internal Security Operations Command, with a secretary of the Internal Security Operations Command, known for short as SISOC, as head of the directorate responsible for overseeing the operations of the Internal Security Operations Command Secretariat. The chief of the army general staff shall be the secretary of the Internal Security Operations Command.

Section 14. The director of internal security shall have power to undertake juristic acts, conduct lawsuits, and perform any actions in connection with lawsuits which are related to the duty of the Internal Security Operations Command, acting in the name of the Office of the Undersecretary of the Prime Minister's Office.

Chapter 3. Regional Internal Security Operations Committees

Section 15. There shall be Regional Internal Security Operations Committees in the regional armies with the regional army commander as chairman and members consisting of representatives of the attorney general's office or other agencies as the regional army commander sees fit, not exceeding fifteen members in total.

Section 16. Regional Internal Security Operations Committees shall have powers and duties as follows:

- (1) to make operational plans concerning the maintenance of internal security at the regional level;
- (2) to monitor and evaluate the operations of the Internal Security Operations Command in the region;
- (3) to study proposals and determine upon procedures to resolve situations which affect

- security in an area, and submit them to the Internal Security Operations Committee;
- (4) to set out directions to promote and develop people's participation in maintaining internal security at the regional level;
 - (5) to appoint internal security operations committees in the provinces and in Bangkok;
 - (6) to appoint a person or group of persons as advisers in the conduct of work by competent officers, or as assistants to competent officers in the conduct of duty;
 - (7) to appoint subcommittees or working groups to carry out duties as assigned;
 - (8) to undertake other actions as assigned by Internal Security Operations Command.

Section 17. There shall be a Regional Internal Security Operations Command, known for short as RISOC, established in each regional army, reporting directly to the Internal Security Operations Command, with the regional army commander as director of regional security, known for short as DRISOC, with responsibility for the government work of the Regional Internal Security Operations Committee, and with power and responsibility to command government officials in operations of the Regional Internal Security Operations Command, together with power and duty to study, analyze, research, recommend and submit reports on results of operations, to make operational plans for the maintenance of internal security within the area of responsibility, and to undertake other actions as assigned by the director of internal security.

Chapter 4. Provincial Internal Security Operations Committees

Section 18. There shall be a Provincial Internal Security Operations Committee in each province with the provincial governor as chairman, and with members comprising representatives of civilian government agencies, police, army, local government bodies, the attorney general's office, and up to three expert members recommended by the provincial governor for appointment by the regional director of internal security, total not exceeding 15 persons.

Section 19. Provincial Internal Security Operations Committees shall have powers and duties as follows:

- (1) to make operational plans concerning the maintenance of internal security at the provincial level;
- (2) to monitor and evaluate the operations of the Internal Security Operations Command in the province;
- (3) to study proposals and determine upon procedures to resolve situations which affect security in an area, and submit them to the Regional Internal Security Operations Committee;
- (4) to set out directions to promote and develop people's participation in maintaining internal security at the provincial level;

(5) to propose the name of a person or group of persons as advisers in the conduct of work by competent officers, or as assistants to competent officers in the conduct of their duty, for appointment by the regional director of internal security;

(6) to appoint subcommittees or working groups to carry out duties as assigned;

(7) to undertake other actions as assigned by the Regional Internal Security Operations Committee.

Chapter 5. Bangkok Internal Security Operations Committee

Section 21. There shall be a Bangkok Internal Security Operations Committee in the Greater Bangkok area with the governor of Bangkok as chairman, and with members comprising representatives of civilian government agencies, police, army, local government bodies, the attorney general's office, and up to three expert members recommended by the governor of Bangkok for appointment by the regional director of internal security for region 1, total not exceeding 15 persons.

Section 22. The Bangkok Internal Security Operations Committees shall have powers and duties as follows:

(1) to make operational plans concerning the maintenance of internal security in the Greater Bangkok area;

(2) to monitor and evaluate the operations of the Internal Security Operations Command in the Greater Bangkok area;

(3) to study proposals and determine upon procedures to resolve situations which affect security in an area, and submit them to the Regional Internal Security Operations Committee of region 1;

(4) to set out directions to promote and develop people's participation in maintaining internal security in the Greater Bangkok area;

(5) to propose the name of a person or group of persons as advisers in the conduct of work by competent officers, or as assistants to competent officers in the conduct of their duty, for appointment by the regional director of internal security of region 1;

(6) to appoint subcommittees or working groups to carry out duties as assigned;

(7) to undertake other actions as assigned by the Regional Internal Security Operations Committee of region 1.

Chapter 6. Resolving situations which threaten internal security

Section 24. When an action threatening internal security arises, the Internal Security Operations Command shall have the duty to maintain internal security and shall have powers to command government agencies specifically in connection with prevention,

suppression, and eradication of actions threatening internal security, for the relief and assistance of the people.

The director of internal security shall have power to appoint persons as competent officers to carry out duties of maintaining internal security, and may issue orders to appoint a person or group or persons as advisers in the conduct of work by competent officers or as assistants to competent officers in the conduct of their duty to maintain internal security.

The director of internal security may assign the regional director of security, or the provincial director of internal security, or the Bangkok director of internal security to execute the powers under paragraph 2 on his behalf, and be considered the commander of the relevant competent officers.

Government agencies, government officials, and people in the area shall provide help, support, and perform any action when called upon by competent officers.

Section 25. In the event of urgent necessity to combat action threatening internal security, or to prevent a situation becoming worse, the director of internal security may issue orders as follows:

(1) to prohibit any person taking a weapon, as defined in ministerial regulations, outside a dwelling place;

(2) to prohibit the use of communication routes or vehicles, or to impose conditions on the use of communication routes or vehicles;

(3) to prohibit meetings, gatherings, staging of entertainments, or publicity when there are grounds for suspicion of incitement to any action which contravenes the law;

(4) to prohibit any person from leaving a dwelling place within a designated period, unless that person has permission from a competent officer or is a person who has been granted exemption;

(5) to require any person to hand over a weapon, as defined in ministerial regulations, for temporary safekeeping according to necessity, with the procedures for the handover and safekeeping of the aforesaid weapon to be governed by appropriate rules;

(6) to require business owners or managers or those responsible for a business or illegal activity that has employees or other persons involved in the business or activity, to keep a history and to provide information on comings and goings and dismissals, and to report on the behavior of the aforesaid persons to competent officers;

(7) to issue an order that the sale, purchase, use, or possession of weapons, articles, pharmaceuticals, consumer goods, chemicals, or any other equipment that might be used in action threatening internal security, must be reported or must receive permission from a competent officer or must comply with conditions laid down by the director of internal security;

(8) to issue an order for the use of military force to assist civilian officials or police to resolve a serious incident or to bring a situation under control and rapidly restore peace. In the conduct of such duty, military officers shall have the same powers and duties as

competent officers under this Act, and shall exercise their powers as adequate for the conditions and within a time period prescribed by the director of internal security, but not exceeding what is provided under martial law.

An order under paragraph 1 shall specify the duration of the order or conditions governing the action of competent officers, or may assign competent officers to define the area and additional details, so as not to inconvenience people more than is appropriate to resolve the situation.

When an action threatening internal security has ended, the director of internal security shall promptly cancel orders under this section.

Section 26. For efficiency in the conduct of duty under this Act, the director of internal security shall issue a notification that competent officers have powers as follows:

(1) to arrest and detain a person under suspicion of being involved in actions threatening internal security, or of being employed for such, or of publicizing or supporting such action, or of concealing information about actions threatening internal security, to the extent necessary to prevent that person taking any action or participating in any action which will threaten internal security, or to create participation in bringing an end to such action;

(2) to conduct suppressive operations against a person or group of persons or organization which give rise to actions threatening internal security;

(3) to issue a letter of inquiry or summons to any person to report to a competent officer, or appear to give testimony, submit documents or any evidence, when there is reason for suspicion of action threatening internal security;

(4) to investigate any person, vehicle, dwelling place, edifice or location as necessary when there is suitable reason for suspicion that there is property kept there which is illegal or which came from an illegal action or which has been used or will be used in an action threatening internal security.

(5) to enter any dwelling place or location to investigate in case of suspicion there is a person who will cause action threatening internal security in hiding, or there is property kept there which is illegal or which came from an illegal action or which has been used or will be used in such action or which may be used as evidence to bring charges against any wrongdoer, when there is reason to believe that without quick action that person will escape, or that property will be moved, concealed, destroyed or changed from its former condition.

(6) to seize or confiscate property, documents, or evidence related to action threatening internal security.

In inquiries under (4) or (5), a civilian government official from grade 3 upwards, or military officer ranked from second lieutenant, ensign, or second lieutenant (air force) upwards, or police officer ranked from police sub-lieutenant upwards, shall head the investigation. If unfinished the inquiry may be carried out at night or outside the normal operating time of that location, as necessary in order to terminate an action threatening internal security, or to prevent such an action taking place.

In inquiries under (4) or (5), the competent officer shall demonstrate he is clean before starting the search, make a report on the result of the search, submit a written report to the commanding officer, and submit a written report to the person in charge of the dwelling place or location searched. If there is nobody in charge of the location at the time of the search, the competent officer shall send a copy of the report to the person in charge as quickly as possible.

In inquiries under (4), the competent officer must not do anything to exert duress, and must act in accordance with the Code of Criminal Investigation.

In inquiries under (5), the competent officer shall apply to the court of competent jurisdiction or to the criminal court to request permission to proceed, except when there is sufficient reason to believe that, unless action is taken urgently, a document or evidence connected with wrongdoing will be moved, concealed, destroyed, or changed from its former condition. A competent officer may seize or confiscate documents or any related evidence without warrant, but must proceed in accordance with procedures for search in the Code of Criminal Investigation, and may not proceed at night, except when this is the normal working time of the location. The conduct of army officers shall conform to laws, regulations and orders on the use of military force.

Section 27. In the arrest and detention of a suspect under clause 26(1), the competent officer must apply to the court of competent jurisdiction or the criminal court to request permission to proceed. When permission is received from the court, the competent officer shall arrest and detain the suspect for no longer than 7 days. Persons must be detained in a designated location which is not a police station, detention centre, penal institution or jail, and not be treated as criminals. In the event it is necessary to detain further to aid the resolution of an action threatening internal security, the competent officer shall apply to the court to extend the period of detention for a further 7 days, but not longer than 30 days in total. At the end of that time, any further detention must proceed according to the Code of Criminal Procedure.

In proceedings under paragraph 1, the competent officer shall make a report on the arrest and detention of such persons to the court which gave permission under paragraph 1, and deposit a copy of this report in the office of the competent officer, so that relatives of the person may request to see the aforesaid report throughout the period the person is detained.

The application to the court for permission under paragraph 1 will follow the provisions on the issue of a warrant under the Code of Criminal Procedure *mutatis mutandis* (with necessary changes).

Section 28. Regulations, notifications, and orders issued under sections 25, 26, and 27 shall be announced in the Government Gazette on coming into force.

Section 29. When an action threatening internal security has a tendency to become more violent, or when an action threatening internal security arises from terrorist violence or international terrorism, the director of internal security shall report the situation to the prime minister and the prime minister shall immediately assign the duty of resolving the

situation to relevant government agencies.

Section 30. To aid the gathering of information or the prevention of actions threatening internal security, the regional director of internal security, provincial director of internal security, or Bangkok director of internal security shall have power to appoint competent officers to attend an interrogation, or to call for a record of the interrogation of a criminal case.

In proceedings under paragraph 1, if the case is under the jurisdiction of the Department of Special Investigation, the director of internal security shall have power to appoint competent officers to attend an interrogation, or to call for a record of the interrogation of a criminal case.

Section 31. In the event of an action threatening internal security, if the investigating officer believes that the accused committed the aforesaid crime by mistake or out of ignorance, or if there is cause not to proceed with the case against any accused, the investigating officer shall submit records about that accused along with his opinion to the director of internal security.

If the director of internal security concurs with the opinion of the investigating officer not to proceed with the case against the accused, the director of internal security shall prescribe conditions that, in lieu of being charged, the aforesaid accused shall undergo training at a designated place for a period not exceeding 6 months, and may after the training have to report to a competent officer from time to time as specified, but for a period not exceeding one year.

The conditions imposed on an accused in lieu of being charged under paragraph 2 can only be carried out after the accused has agreed to comply with the conditions. Once the accused complies completely with all conditions, the accused cannot be charged again for the same offence.

Section 32. The maintenance of internal security shall use measures with minimum effect on the rights and freedoms of the individuals involved, with due regard to the protection and maintenance of the rights, freedoms, peace and order of the general population.

Section 33. The use of power by competent officers under this Act shall not nullify the power of the military under martial law or under rules, regulations and orders already announced.

Section 34. In the event that the behaviour of a government official is a threat to internal security, the director of internal security, regional director of internal security, provincial director of internal security, or Bangkok director of internal security, with the approval of the director of internal security, shall exclude the aforesaid government official from a designated area and prohibit the official from entering and carrying out duty for a designated time period or under prescribed conditions. The Internal Security Operations Command shall inform the government office to which the official is attached, with reasons.

A government official who is ordered excluded from an area under paragraph 1 shall report to the government agency to which he is attached. That government agency shall then issue an order dismissing the aforesaid official from his post, or excluding him from carrying out his duty in the area under paragraph 1.

Section 35. On the appearance of any action affecting internal security, or a criminal action which may be related or linked to action threatening internal security, competent officers shall inform the relevant government agencies or government officials to prevent and suppress the aforesaid action.

Section 36. Regulations, notifications, orders and actions under this Act are not subject to the law on administrative procedures, or the law on the establishment of the Administrative Court and procedure for administrative cases.

Section 37. A competent officer or person with the same powers and duties as a competent officer under this Act is not subject to civil, criminal, or disciplinary liability arising from the conduct of duty for the resolution or prevention of illegal actions, provided that the conduct is honest, not discriminatory, not beyond what is appropriate to the situation, and not beyond what is necessary; but with no abrogation of the rights of any person who suffers loss to petition for compensation from government according to the law on liability of officials for wrongful acts.

Section 38. The conduct of competent officers in suppression under this Act is a duty to protect the nation, religion and king, and is necessary for the security of the nation. In the event of injury, death, disability, or loss of body parts, apart from benefits already provided under law, there shall be benefits according to regulations, notifications, and orders of the Internal Security Operations Command with approval of the Ministry of Finance.

Chapter 7. Penalties

Section 39. Any person who violates a regulation, notification, or order issued under sections 25, 26, or 27, or obstructs the conduct of competent officers under sections 26 or 27, is liable to imprisonment not exceeding 2 years, or a fine not exceeding 40,000 baht, or both.