

**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**

Currently there are aliens who enter and reside in Thailand, whether legally or illegally under the Immigration Laws, which caused Thailand 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 face harm from persecution upon departure from the Kingdom. This problematic situation affects the public order, national security, and international relations. It also causes problems relating to the legal status of aliens in Thailand, and problems related to the deportation of those aliens to the country of origin or facilitation to a third country. These problems tend to expand and exacerbate. Although the government has consistently been attempting to solve the problems, it has never reached its expected efficacy due to the lack of a mechanism to screen these aliens. Therefore, it is necessary to establish an alien screening mechanism for this group of aliens that is in line with the state of Thai society and international circumstances which will lead to the sustainable solution of Thailand's alien management problem.

By virtue of section 11(8) of National Government Organization Act, B.E. 2534, the Prime Minister, with an approval of the Cabinet, has issued these regulations.

**Clause 1** This Regulations 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 announcement in the Government Gazette.

**Clause 3** Hereinafter in this Regulation:

“Alien” means any ordinary person who is not of Thai nationality, and does not have a habitual residence in the Kingdom.

“Person under Protection” means an alien who enters into or resides in the Kingdom and is unable or unwilling to return to his/her country of origin since they have a reasonable ground to believe that they would face harm from persecution as determined by the Committee, and is granted status as a Person under Protection under this Regulation.

“Person pending Status Screening” means an alien who is determined that he/she is eligible to submit a request to be a Person under Protection under this Regulation.

“Committee” means the Committee on the Screening of Persons under Protection.

“Competent Official” means any officer according to the Immigration Law.

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

**Section 1**

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**Committee on the Screening of Persons under Protection**

**Clause 5** There shall be one Committee called the “Committee on the Screening of Persons under Protection” which consists of:

- (1) The Commissioner-General of the Royal Thai Police or the Deputy Commissioner-General of the Royal Thai Police 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 Deputy Chairperson;
- (3) The delegate(s) from the Ministry of Foreign Affairs, the delegate(s) from the Ministry of Social Development and Human Security, the delegate(s) from the Ministry of Interior, the delegate(s) from the Ministry of Justice, the delegate(s) from the Ministry of Labor, the delegate(s) from the National Intelligence Agency, the delegate(s) from the Office of the National Security Council, the delegate(s) from The Office of the Attorney General, and the Commissioner of the Special Branch Bureau as members of the Committee;
- (4) Experts, not 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 authority of the Committee, who shall not be a government officer holding any position or receiving a regular salary, an officer or an employee of public sectors, government agencies, state enterprises, or local administrative organizations, with the exception of professors in a public university, as members of the Committee.

The Commissioner of the Immigration Bureau shall be a member and the secretary of the Committee, and the Committee shall appoint officers from the Ministry of Interior, the Office of the National Security Council, Royal Thai Police, or other public sectors, not more than two persons, to be its vice secretary.

**Clause 6** The expert members of the Committee shall have the following qualifications and not of the following incompatibility:

- (1) Being of Thai nationality;
- (2) Not being a bankrupt;
- (3) Not being an incompetent person or a quasi-incapable 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 the term of three years from the appointing date and may be reappointed but shall not serve more than two terms consecutively.

In case an expert member ceases his/her post prior to the due term or in case there is an additional appointment of expert members while the expert members who have been appointed remain on their duty, the newly appointed member shall replace the vacant post or become an additional expert member serving the remaining term similar to the previously appointed expert members.

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In case an expert member is terminated prior to the due term, the Committee which consists of the remaining members shall take charge until the successor is appointed.

When the term as stipulated in paragraph one is completed, if the succeeding expert members are not appointed, the former expert members whose term has lapsed shall remain on their duty until the successors take up the appointment.

**Clause 8** Besides the completion of the term, the expert membership terminates upon:

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

**Clause 9** The Committee shall have following duties and authority:

- (1) Set rules, and screen aliens to determine status as Persons under Protection under this Regulation, and forward the case to be processed in accordance with relevant laws, including the appeal determination for the admissibility of the request to be a person under protection.
- (2) Support the cooperation and coordination with foreign governments, international organizations, and relevant private sectors regarding the administration of Persons under Protection in line with international obligations and policies in accordance with cabinet resolutions;
- (3) Report the situation, problems and obstacles regarding operations under this Regulation, including the recommendation of guidelines for improvement, solution and prevention of problems to the Prime Minister;
- (4) Perform other duties as designated in this Regulation, or assigned by the cabinet or the Prime Minister.

**Clause 10** In performing duties of the Committee, the secretary shall make a proposal pertaining to the duties and authority of the Committee to the Chairperson. The Chairperson shall call for a meeting as required by its urgency and the rules laid down by the Committee.

The quorum of the meeting shall have at minimum half of the member of Committee present in the meeting.

In the Committee meeting, if the Chairperson is absent or unable to perform the duty, the Deputy Chairperson shall chair the meeting. If the Deputy 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 decided on the basis of the majority votes. Each member has one vote.

In an event of an even vote count, the chair of the meeting shall cast a decision vote.

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**Clause 11** The Committee shall appoint Sub-committee(s) as appropriate for any assigned mission.

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

**Clause 12** In performing duties as prescribed in this Regulations, the Committee and the Sub-committee(s) may request public sectors, public enterprises, other government agencies, and public officials to provide explanation of any relevant information or documents to support the determination or may invite any person to provide facts, opinions, academic advice, or send documents or evidence support the determination as appropriate.

**Clause 13** The meeting attendance fee or other expenses related to the execution of the Committee and Sub-committee(s) shall comply with Royal Decree on Attendance Fee of the Committee or official regulations, on a case by case basis. In this regard, it 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 authority:

- (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 administration of this Regulations;
- (3) Collect, study, research and analyze information relating to ways to improve, problems and obstacles of the administration of this Regulations, as well as prepare a recommendation on the solution and prevention of problems to be presented to the Committee;
- (4) Perform other duties as assigned by the Committee and Sub-committee(s).

## Section 2

### Screening of Persons under Protection

**Clause 15** While enforcing the Immigration Law or this Regulation, if the competent official or government official finds an alien claiming to have a reasonable ground to be a Person under Protection, the deportation of the alien shall be delayed, with the exception of where national security is threatened.

**Clause 16** The alien who claims that there is a reasonable ground to be a Person under Protection must submit the request to the competent official. The submission is to comply with the format set by the Committee.

**Clause 17** The competent official must complete the determination of the request to be a Person under Protection within thirty days after the date that the request is received.

In the case where it is determined the alien is ineligible to submit the request to be a Person under Protection under this Regulation, the request will be declared inadmissible, and the alien will

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be notified of the determination result. The alien may appeal the determination to the Committee within fifteen days after the alien is notified of the determination result. When the appeal deadline is met, and there is no appeal submission in the said period, legal action shall be taken upon the alien according to the Immigration and other relevant laws.

The appeal submission and appeal determination in paragraph one is to be processed according to the Committee. The Committee may appoint an Appeal Sub-committee(s), which comprises of no fewer than three members, who are qualified and not of incompatibility stipulated in Clause 6, to determine the appeal instead of the Committee.

The determination of appeal by the Committee or Appeal Sub-committee is considered final. If it is determined that the appellant is eligible to submit the request to be a Person under Protection [the competent official] shall proceed under Clause 18.

**Clause 18** In case where the Sub-committee(s) determines that an alien is eligible to submit a request to be a Person under Protection, the alien shall be notified to submit the request to be a Person under Protection to the Committee. The submission is to comply with the format set by the Committee.

In case where the alien in the first paragraph does not submit a request to be a Person under Protection to the Committee within sixty days after he/she is notified, it is considered that the alien abandons the request, and the competent official shall take legal action upon the alien according to the Immigration and other relevant laws.

**Clause 19** When an alien submits the request to be a Person under Protection under this Regulation to the Committee, the competent official shall issue a document identifying the status of the alien as a Person pending Status Screening, collect the photograph and fingerprints [of such person], and gather other information deemed relevant and appropriate for the purpose of the determination to be a Person under Protection. The data shall be recorded and filed on the alien registration folder according to the rules, procedures, and form as instructed by the Committee.

With the enforcement of the Immigration Law, the competent official may allow a Person pending Status Screening to reside wherever deemed appropriate. While waiting for the determination of the application to be a Person under Protection, the applicant shall provide a guarantee that he/she will report to the competent official to acknowledge instruction on the designated date, time and location.

**Clause 20** The Committee shall determine the request to be a Person under Protection according to the rules, procedures and conditions laid down by the Committee with the approval of the cabinet, taking into consideration the family unity principles, the right to receive assistance in determining the request, international obligations, and policies in accordance with the cabinet resolutions.

In the determination mentioned in paragraph one, the Committee may reach one of the following conclusions:

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- (1) To not grant the status of Person under Protection, by notifying the determination result to the Person pending Status Screening, and forwarding [the case/ the person] to the competent official to take legal action on the Person pending Status Screening according to the Immigration Law and other relevant laws;
- (2) To grant the status of a Person under Protection to the Person pending Status Screening, in addition to which the Committee may impose additional conditions, and the competent official shall issue a document identifying the status as a Person under Protection to the Person pending Status Screening as instructed by the Committee.

The decision of the Committee according to paragraph two is final.

**Clause 21** If a person pending status screening or a Person under Protection breaches the conditions prescribed by the Committee, or does not comply with this Regulation, or does not cooperate with the Committee, the Sub-committee(s), or the competent official in executing this Regulation, the Committee may approve a resolution to revoke the status of the Person pending Status Screening or the Person under Protection, and forward [the case/ the person] to the competent official to take legal action against the alien according to the Immigration Law or other relevant laws.

A resolution by the Committee in paragraph one is final.

**Clause 22** In determining the screening of the request to be a Person under Protection by this Regulation, the Committee may appoint a Sub-committee or Sub-committees which consist of no fewer than three members who possess knowledge and expertise related to the duties and authority of the Committee. The members must be qualified and not of incompatibility as stipulated in Clause 6. The members are to investigate, verify facts, conduct assessments and provide a recommendation, regarding the completeness and credibility of the request and whether or not the Person pending Status Screening shall be granted the status as a Person under Protection, to the Committee to be taken into consideration for the screening of the request to be a Person under Protection.

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

**Clause 24** In the case where the Committee made a determination that an alien is not eligible to submit a request to be a Person under Protection, or the Committee made a determination not to grant the Person under Protection status to an alien, or the Committee made a determination to revoke the status of the Person pending Status Screening or Person under Protection, the alien may resubmit the request for a status determination of a Person under Protection status if there appears to be information or facts as set forth in the Rules created by the Committee.

### Section 3

#### The Administration of Persons under Protection

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**Clause 25** When an alien is granted Person under Protection status, the relevant agencies shall take the following actions for the Person under Protection:

- (1) Refrain from deporting the Person under Protection to the country of origin, with the exception that the person under protection voluntarily wishes to leave the Kingdom or where national security is threatened;
- (2) Provide assistance of voluntary repatriation to the country of origin when the situation which causes the inability to return has ceased to exist or consider to provide coordinative assistance for the person under protection to be able to travel to another country;
- (3) Permit the Person under Protection to stay in the Kingdom under special circumstances or permit to stay in the Kingdom temporarily, and to process in conformity with the Immigration Law. The result of the screening by this Regulation is to be taken into consideration;
- (4) Coordinate as appropriate to provide education to children under protection and healthcare in conformity with the laws, international obligations, cabinet resolutions, and relevant government policies.

**Clause 26** The Ministry of Foreign Affairs shall coordinate with foreign governments or international organizations to compile information regarding the administration of Persons under Protection as prescribed by the Committee, and notify the Committee to consider the administration of Persons under Protection.

**Clause 27** If the Ministry of Foreign Affairs, the Ministry of Interior, the Office of the National Security Council or the Royal Thai Police deem that the situation which causes the inability to return to the country of origin has ceased to exist, or deem appropriate to send a particular alien or a group [of aliens] 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 sending to a third country, or executing certain measures to the Person under Protection or the group of Persons under Protection as deemed appropriate by the Committee, in accordance with international obligation and policies of related cabinet resolutions.

**Clause 28** The process in which a Person under Protection departs the Kingdom shall be conducted according to the Immigration Law.

When the competent official has sent a Person under Protection out of the Kingdom as prescribed in paragraph one, the status as a Person under Protection of the alien ceases.

#### Section 4

##### Review and Assessment

**Clause 29** The Committee shall review and reassess the implementation of this Regulations including problems, obstacles and guidance for improvement, and report to the Prime Minister for consideration annually.

#### Section 5

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**Transitory Provision**

**Clause 30** In determining the status to be a Person under Protection to the alien who entered the Kingdom and is unable to return to the country of origin before this Regulation enters into force, it is to be processed as per 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

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