

Appendix I: Witness Protection Act BE 2546 (2003) of Thailand

[UNOFFICIAL TRANSLATION]

Witness Protection Act, B.E. 2546

Bhumibhol Adulyadej, Rex.

Given on the 13th day of June B.E. 2546 (2003)

Being the 58th year of the Present Reign

His Majesty King Bhumibhol Adulyadej is graciously pleased to proclaim that:

Whereas it is deemed expedient to have the law governing witness protection,

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the parliament, as follows:

Section 1 This Act shall be called the "Witness Protection Act, B.E. 2546".

Section 2 This Act shall come into force after one hundred and eighty days from the date of its promulgation in the Government Gazette.

Section 3 In this Act:

"Witness" means a person who commits himself/herself to be present at, or testify, or give evidence to a competent official for investigation, a criminal interrogation, a court for criminal proceedings, and includes an expert but not a defendant who himself/herself is a witness.

"Security" means security in life, body, health, liberty, honour, property or any lawful rights of the witness before or at the time of or upon becoming a witness.

"Minister" means the Minister who is in charge of execution of this Act.

Section 4 Any claim or acquisition of rights or benefits under this Act shall not limit the rights or benefits of a witness under any other law.

Section 5 The Prime Minister, Ministers of Defence, Interior, and Justice shall be in charge of enforcement of this Act and, in relation to their respective Ministries, shall have the power to appoint competent officials and issue Ministerial Regulations and notifications for the purposes of the implementation of this Act.

Upon the appointment of competent officials, the scope of powers, duties and limitations thereon for the purpose of carrying out duties may also be prescribed.

Ministerial Regulations and notifications shall come into force upon their publication in the Government Gazette.

Part 1 General Provisions

Section 6 In a case where a witness loses his/her security, a competent official from criminal investigation, interrogation, prosecution or the Witness Protection Bureau as the case may be shall design for the witness protection measures as deemed appropriate or as requested by the witness or other concerned party. Where necessary the said person may request a police officer or other official for protection and this must be subject to the witness's consent.

The notification, procedures, and their termination to be adopted by the police officer or relevant official in first paragraph of this section must comply with the regulations of the Commissioner-General of Police or heads of relevant government agencies as the case may be.

Protection measures may include arrangements for a safe place for the witness; change of name/family name, domicile, identification, and information that would reveal the identity of the witness as appropriate, and the personal status of the witness and nature of the criminal case.

Section 7 In a case where a witness's husband, wife, progenitor, descendant, or person with a close relationship to the witness is affected by the person becoming a witness and would lose security, [he or she] may request the competent official to design or arrange for measures as deemed appropriate, taking into account the consent of the said person.

Part 2 Special Protection Measures

Section 8 A witness in the following [types of] cases may be eligible to the privilege of special protection measures:

- (1) A case under the law on narcotic drugs, money laundering law, anti-corruption law, or customs law;
- (2) A case related to national security under the Penal Code;
- (3) A sexual offence under the Penal Code relating to the luring of a person for the sexual gratification of another;
- (4) A criminal offence in the nature of organised crime under the Penal Code, including any crime committed by a criminal group with a well-established and complicated network;
- (5) A case punishable with at least ten years of imprisonment;
- (6) A case that the Witness Protection Bureau deems appropriate to arrange for protection.

Section 9 Whenever there are explicit circumstances or suspicion that a witness has lost his/her security, the witness or other concerned party, a competent investigation official, competent interrogation official or competent criminal case prosecution official shall apply

to the Minister of Justice or his appointed official to arrange for special protection measures, subject to the witness's consent.

In considering an application under the previous paragraph, the Minister of Justice and his appointed officials shall act in a speedy manner. Where circumstances affect the witness's security, the arrangement of special protection measures must be completed.

The submission of an application under paragraph 1 and action under paragraph 2 must be in line with the principles, procedures, and conditions stipulated in the Ministerial Regulations.

Section 10 The Witness Protection Bureau shall arrange for one or more of the following special protection measures:

- (1) A new place of accommodation;
- (2) Daily living expenses for the witness or his/her dependants not exceeding 1 year, with extensions as necessary for 3 months each time, not exceeding 2 years;
- (3) Coordination with the relevant agencies in order to change the first name, family name and information that may contribute to knowledge of the personal identity of the witness, including arrangements for a return to original status;
- (4) Action to help the witness have his/her own career, and training, education and other means of proper living for his/her life;
- (5) Assistance or action on behalf of a witness for his/her lawful rights;
- (6) Arrangements for a bodyguard service for a necessary period of time;
- (7) Other actions to assist and support a witness with his/her security as appropriate.

In acting under the prior paragraph, the officials of the relevant agencies must keep confidentiality; it is not lawful to disclose [this information] except with the authorisation of the Minister of Justice.

Section 11 In a case where the witness's husband, wife, progenitor, descendant or a person with a close relationship to the witness loses their security, with the witness's request, special protection measures may be arranged for him or her.

Section 12 The Minister of Justice or appointed official may order termination of the special protection measures under the following circumstances:

- (1) The witness's request;
- (2) The witness has failed to comply with the provisions of the Ministerial Regulations or Rules on special protection measures for witnesses;
- (3) The circumstances have changed and there is no more need for special protection measures;

(4) The witness irrationally refuses to give evidence or testify;

(5) The Court delivers a judgment against the witness to punish the witness for falsely testifying.

Part 3

Witness Protection Bureau and Prosecution

Section 13 The Witness Protection Bureau shall be established under the administration of the Ministry of Justice. The Bureau shall deal with general or specific measures and proper practices. These include coordination and arrangement to obtain results among public agencies, and private organisations, where relevant, and to make protection measures effective under this Act.

Section 14 Where necessary the Ministry of Justice may arrange for an official who also holds a law degree to be empowered to bring civil action against parties under this Act and notify the Court of the matter.

Part 4

Compensation and Payment of a Witness

Section 15 In a case where any right was impaired [in relation to the] life, body, health, liberty, honour, property, or other rights of a witness, his/her husband, wife, progenitor, descendant or a person with a close relationship to the witness caused by his becoming a witness, he/she is entitled to compensation as appropriate.

Compensation under paragraph 1 will be established under the regulations of the Ministry of Justice, with the consent of the Ministry of Finance.

In a case where a person mentioned in paragraph 1 has refused to be protected under the provisions of sections 6, 7, 9, or 11 as the case maybe, the said person is not entitled to any necessary and appropriate compensation.

Section 16 An injured person under Section 15 or his/her heir may submit to the Witness Protection Bureau a claim for [his/her] lawful rights incurred within 1 year upon the date that it is known that the unlawful act was committed.

The guiding regulations, procedure, and considerations will comply with the regulations of the Ministry of Justice.

Section 17 When the witness has already given evidence or testified to a competent official for investigation, interrogation, or at the Court, he/she is eligible for necessary and appropriate compensation. The details are laid down in the relevant Ministerial Rules established by the Minister of Justice and with the consent of the Minister of Finance, except in a case where the witness does not come or refuses to give evidence or testify.

Section 18 Expenses incurred for the protection of the witness himself/herself, his/her husband, wife, progenitor, descendant, or a person with a close relationship to the witness

shall be bound by the relevant regulations designed by the Minister of Justice with consent of the Minister of Finance.

Section 19 If the facts in a case reveal that without reasonable grounds the witness failed to be present, testify or give evidence, or a judgment is delivered against a witness for false testimony or perjury, in this circumstance he/she must return the compensation received under sections 15 or 17, or the cost of witness protection under section 18 as the case may be, within 30 days from the date ordered by the Witness Protection Bureau against him or her.

The payment and return of amount payable to other agencies also follows the provision of the prior paragraph.

Part 5 Appeals

Section 20 Where a person disagrees with an order under sections 6, 7, 9, 10, 11, 12, 16, 17 or 19 which was not from the Court, he/she may submit an appeal to a Court of First Instance, but not a district court or military court, which has jurisdiction over the case within 30 days from the date he/she acknowledged or should have acknowledged the said order.

An appeal under the first paragraph of this section shall leave that party free from court fees.

An appeal under section 19 suspends prosecution of the order of the Witness Protection Bureau.

Proceedings under sections 6, 7, 9, 10, or 12 must be confidential and only parties directly related to the case may be admitted or acknowledged where the Court sees it as appropriate.

The order must be delivered by the Court within 50 days from the date of submission. Only under unavoidable circumstances can the Court extend the period, with the cause given in writing in the notification.

Part 6 Penalties

Section 21 A person who discloses information on the housing, place, name, family name, domicile, photograph, or other kinds of information to identify a witness [or his/her] husband, wife, progenitor, descendant, or a person with a close relationship to the witness where protection measures were arranged under sections 6, 7, 10 or 11 with the likelihood of losing security shall be punished with a term of imprisonment not exceeding 1 year or fine not exceeding 20,000 Baht or both.

Whoever acts under paragraph 1 thereby causing bodily or mental injury shall be punished with a term of imprisonment not exceeding 2 years or a fine not exceeding 40,000 Baht or both.

Whoever acts under paragraph 1 thereby causing death shall be punished with a term of imprisonment not exceeding 7 years or fine not exceeding 140,000 Baht or both.

Section 22 Whoever acts under section 21 with intent to cause the person under the said section to lose his or her security shall be punished 1/2 heavier than the punishment under that section.

Section 23 Whoever acts to harm a person because the said injured person has become a witness in a case and himself/herself, his/her husband, wife, progenitor, descendant, or a related person under the relevant section loses his or her security shall be punished 1/2 heavier than the punishment to under that section.

Countersigned by
Pol. Lt. Col. Thaksin Shinawatra
Prime Minister

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