

Regulation of the Attorney General

on the Search and the Power and Duty of Investigator and Officer under the Anti-Participation in Transnational Organized Crime Act B.E. 2556, the Second Paragraph and the Fourth Paragraph of Section 14, B.E. 2556

Whereas the law on the anti-participation in transnational organized crime authorizes the Attorney General to issue Regulations for the benefit of investigation into an offence of participating in transnational organized crime concerning the search and the power and duty of an investigator and an officer to make a search, seize or freeze property, make an inquiry of person as well as conduct an examination of any document and material evidence for every organization concerned, it is deemed expedient to issue this Regulation.

By virtue of the power conferred by the second paragraph of Section 4 and the second paragraph and the fourth paragraph of Section 14 of the Anti-Participation in Transnational Organized Crime Act B.E. 2556 which contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which Section 29, in conjunction with Section 32, Section 33, Section 36, Section 41 and Section 45 of the Constitution of the Kingdom of Thailand so permit by virtue of law, the Attorney General hereby issues the Regulation, as follows:

Article 1. This Regulation is called the “Regulation of the Attorney General on the Search and the Power and Duty of Investigator and Officer under the Anti-Participation in Transnational Organized Crime Act B.E. 2556, the Second Paragraph and the Fourth Paragraph of Section 14, B.E. 2556”.

Article 2. This Regulation shall come into force after the date of its publication in the Government Gazette.

Article 3. The Attorney General shall be in charge of this Regulation and have authority to interpret and adjudicate issues concerning the execution of this Regulation.

Chapter 1

Search of any dwelling or place

Article 4. A search of private place requires a search warrant or a court order, except where there is a cause allowing a search without a warrant or a court order.

Article 5. Entering into any dwelling or place to search in according with (1) of the first paragraph of Section 14 of the Anti-Participation in Transnational Organized Crime Act B.E. 2556 requires causes as follows:

(1) there is a reasonable ground to believe that there is property hidden therein, the possession of which is an offence, or which is acquired by committing an offence, or which is used or will be used in committing an offence, or used to gain benefit, from an offence, or there is a person, an object and an article which may be used as evidence in litigation hidden in that dwelling or place; and

(2) there is also a reasonable ground to believe that by reason of the delay in obtaining a search warrant, the said property or evidence may be relocated, hidden, destroyed or transformed from its original condition.

Article 6. The search under Article 5 shall be conducted as follows:

(1) prior to the search, show his sincerity and present his officer's identification card, a search permit and a record of a reasonable ground to believe that the search specified by the Attorney General is authorized, to the possessor of the searched dwelling or place;

(2) In case there is no possessor of the searched dwelling or place, a search may be made before at least two persons requested to be witnesses by the investigator or the officer. In such a case, the investigator or the officer who makes the search shall submit the copy of such permit and record to the possessor of that dwelling or place as soon as possible;

(3) If the search takes place during nighttime, a public prosecutor at level 3 or higher or a civil servant at professional higher level or a police officer holding the position of inspector or equivalent or higher shall be the search leader.

Article 7. Before conducting the search in Article 6, a record of reasonable ground for a search in Article 5, shall be prepared and approval from the supervisor sought promptly.

Article 8. The search shall be conducted with prudence to ensure efficiency in investigation of an offence of participating in transnational organized crime, while taking into account protection of people's rights and freedom and human dignity according to the Constitution of the Kingdom of Thailand.

Article 9. After the search in Article 6, the investigator or the officer who leads the search shall submit, as evidence, a copy of the record of reasonable ground and a copy of the search record and a list of seized or frozen property to the provincial court having jurisdiction over the searched area or the Criminal Court in Bangkok within forty-eight hours after the end of the search.

Article 10. The investigator or the officer who leads the search shall report an operation to his immediate supervisor, and incorporate the report into the investigation file, as the case may be.

Chapter 2
Position, power and duty

Article 11. In implementing this Regulation, the investigator shall have power to perform as set forth in (1), (2), (3) and (4) of the first paragraph of Section 14 of the Anti-Participation in Transnational Organized Crime Act B.E. 2556.

The Officer who shall have the authority to perform according to (1), (2), (3) and (4) of the first paragraph of Section 14 of the Anti-Participation in Transnational Organized Crime Act B.E. 2556 is required to be a responsible officer, and an officer of the Office of the Attorney General either an officer of practitioner level or its equivalent higher, a civil servant of practitioner level or its equivalent higher, or a police or military officer of commissioned level. In case the officer performs in according with (1) of the first paragraph of Section 14 of the Anti-Participation in Transnational Organized Crime Act B.E. 2556, two of such officers higher shall jointly perform their duty.

Article 12. The immediate supervisor shall have the authority to grant permission as stipulated in Article 7.

The supervisor in the first paragraph shall make an assigned identification document for the investigator or the officer who applies for permission.

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