

Regulation of the Attorney General
on Controlled Delivery
under the Anti-Participation in Transnational Organized Crime Act B.E. 2556, Section 20,
B.E. 2557

Whereas the law on the anti-participation in transnational organized crime authorizes the Attorney General to issue Regulations for every related organization on the criteria, procedures and conditions in applying for permission, granting permission and conducting controlled delivery for the benefit of an investigation into an offence of participating in transnational organized crime, it is deemed expedient to issue this Regulation.

By virtue of the power conferred by the third paragraph of Section 20 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 with the approval of the Cabinet of Ministers hereby issues the Regulation as follows:

Article 1. This Regulation is called the “Regulation of the Attorney General on Controlled Delivery under the Anti-Participation in Transnational Organized Crime Act B.E. 2556, Section 20, B.E. 2557”.

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

Article 3. The implementation of this Regulation is directly concerned with safety of life, body, property and living of family including privacy of the investigator or the operating officer; therefore every procedure shall be performed in secret.

Article 4. In this Regulation :
“Authorizing officer” means the Attorney General, the Commissioner General of the Royal Thai Police or his designated person, as the case may be.

Article 5. The Attorney General shall be in charge of this Regulation and have authority to interpret and make decision on issues concerning the execution of this Regulation.

Chapter 1

Applying for permission

Article 6. An investigator or officer who applies for permission to have authority in conducting controlled delivery may submit an application to Authorizing officer as follows:

(1) to apply for permission from the Attorney General or his designated person, the applicant shall be a public prosecutor at level 3 or higher, or a civil servant holding executive position, managerial position, knowledge worker position of professional level or higher or general position of senior level or higher, or a police officer holding the position of inspector or equivalent or higher, or a military officer holding the position of company commander or equivalent or higher;

(2) to apply for permission from the Commissioner General of the Royal Thai Police or his designated person, the applicant shall be a police officer holding the position of inspector or equivalent or higher.

Article 7. In applying for permission to have authority in conducting controlled delivery, the applicant shall submit an application in the form as specified by the Attorney General to Authorizing officer together with the reasons and necessities for investigation, particulars and plans or method as well as operation period and other related details which are approved by an applicant's superior, along with the following document and evidence:

(1) In case of delivery into the territory of the Kingdom of Thailand, a letter specifying the commitment of the state organization of the origin country in providing cooperation in delivering illicit or suspect consignments for the benefit of prevention and suppression of the offence of participating in transnational organized crime must be accompanied. In case, where such consignments have already been delivered into the territory, such letter shall be sought from the state organization of the origin country afterwards;

(2) In case of passing out of the territory of the Kingdom, a letter from the state organization of the receiving country expressing its intention or consent in allowing the delivery of illicit or suspect consignments into its territory must be accompanied for the benefit of prevention and suppression of the offence of participating in transnational organized crime.

Article 8. The approving person in Article 7 shall hold a position or an equivalent position as follows:

(1) In case of a civil servant, the approving person shall be a superior holding the position of Bureau Director or higher;

(2) In case of a police officer, the approving person shall be a superior holding the position of Commander or higher;

(3) In case of a military officer, the approving person shall be a Division Commanding General or higher.

Chapter 2

Granting permission

Article 9. To grant permission, one of the following reasons of necessity shall be taken into consideration:

(1) to investigate and arrest an offender or an involved person as a result of having information concerning the offence of participating in transnational organized crime;

(2) other methods in the investigation and the arrest of an offender of participating in transnational organized crime is difficult to be carried out, or may cause danger or damage in such performance;

(3) for the benefit of further arresting a wirepuller in the offence of participating in transnational organized crime.

Article 10. The Authorizing officer shall consider the application and then hand over the letter of permission or inform the refusal order to the applicant expeditiously.

The letter of permission in the first paragraph shall at least contain name particulars permitted and operation period in the form as specified by the Attorney General.

Chapter 3

Conducting controlled delivery

Article 11. In conducting controlled delivery permitted, a permitted person shall proceed as follows:

(1) In the case where illicit or suspect consignments have yet to be seized or frozen;

When the permitted person has to take the illicit or suspect consignments through the examination process of the law enforcement agency, if necessary, the letter of permission shall be presented and a copy thereof shall be delivered to the officer of such law enforcement agency so as to allow the permitted person to pass through;

(2) In the case where illicit or suspect consignments have been seized or frozen;

In the case where the illicit or suspect consignments have been seized or frozen by any competent officer, the permitted person shall present the letter of permission and give a copy thereof to such officer so as to handover the seized or frozen consignments to the permitted person. The handover shall be documented as evidence for the benefit of the monitoring. In case where there is rule, order or regulation prescribed specific procedure for conducting controlled delivery of any type of seized or frozen consignments, such procedure shall be followed as so prescribed.

Article 12. The permitted person shall record all the details and take photos of the illicit or suspect consignments delivered under control in the first possible chance. In the case where necessary and unable to do so, the permitted person shall then record general conditions of the illicit or suspect consignments and obstacles thereof.

Article 13. In conducting controlled delivery, where it is necessary to obtain a document or evidence from a related organization for such conducting, the Authorizing officer shall notify that related organization in writing and such related organization is obliged to provide cooperation to the permitted person in preparing the document or evidence.

The permitted person shall use the document or evidence obtained in the first paragraph as deems necessary for the benefit of conducting controlled delivery.

Article 14. In case of conducting controlled delivery into or pass out of the territory of the Kingdom of Thailand, the permitted person's superior shall provide a letter of one's own organization along with a copy of the letter of permission to the Director-General of the Customs Department to ask for facilitation in such taking into or passing out of the territory.

Article 15. In case where the permitted person or any person carrying out controlled delivery operation is required to be inspected or searched by the officer having duty as such, the permitted person may in advance cooperate with the organization of such officer to facilitate the operation.

Where there is no coordination as specified in the first paragraph and it is greatly essential to exhibit the letter of permission for inspection or search, the permitted person shall do as such.

Article 16. The permitted person shall complete the operation within the period as permitted.

Where there is a reasonable ground to amend or add the particulars or the period of the permission, the permitted person shall issue a letter to the Authorizing officer before the due date of the permission.

The letter requesting an amendment or addition of particulars or extension of operation period in the second paragraph shall be in the form as specified by the Attorney General.

Article 17. In the case where illicit or suspect consignments are damaged, destroyed or lost during conducting controlled delivery, the permitted person shall report in writing to the officer in charge within twenty-four hours from the time of knowing such damage, destruction or loss. If those items are seized or frozen, the officer in charge under Article 11 (2) shall be informed in writing as well.

The report in the first paragraph shall be in the form as specified by the Attorney General.

Article 18. Upon the completion of controlled delivery operation, the permitted person shall proceed as follows:

- (1) report the completion operation result to the Authorizing officer within three days as from the date of completion.
- (2) record the return of consignments to the officer in charge under Article 11 (2).
- (3) Upon receiving the operation report from a state official of the destination country, report such result to the Authorizing officer quickly.

The operation report in the first paragraph shall be in the form as specified by the Attorney General.

Article 19. The Authorizing officer shall appoint an official to operate as follows:

- (1) to coordinate with related organizations for the benefit of controlling and monitoring the exercise of power as specified in this Regulation;
- (2) to compile and prepare a database system, classify documents and evidence concerning the application for permission, the permission letter and the reports as required in this Regulation for the purpose of control and examination;

(3) to prepare an annual report containing the main substance of facts, problems, obstacles, and the achievement of the operation, as well as the statistics and submit such report to the Authorizing officer for the benefit of controlling and examining the controlled delivery operation;

(4) to carry out any other performance in related to the implementation of this Regulation as assigned by the Authorizing officer.

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Attapol Yaisawang
Attorney General