

## **Official Emblem**

### **Ministerial Regulation, on Mediation and Compromise of Criminally-Inflicted Penalty Offence, B.E. 2553**

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By virtue of paragraph three of Section 61/3 of State Administration Act, B.E. 2534, which is revised by State Administration Act, (No. 7), B.E. 2550, the Prime Minister hereby issues the Ministerial Regulation as follows:

Clause 1 This Ministerial Regulation shall come into force after the elapse of one hundred and twenty days from the date of its publication in the Government Gazette.

Clause 2 In this Ministerial Regulation:

“District” inclusively means a Minor District.

“Chief of District” inclusively means an Deputy District Chief taking charge as Chief of a Minor District.

“Deputy District Chief” inclusively means an Deputy District Chief assigned by the Chief of District to mediate the case of a criminally-inflicted penalty offence.

“Criminally-Inflicted Penalty Offence” means a criminally-inflicted penalty offence under the Criminal Code or the other law or compoundable offence and not the offence relating to sexuality.

Clause 3 All criminally-inflicted penalty offence occurring in any District area, if the injured party and the alleged offender should have given their consents or expressed their intentions for a mediation, the Chief of District or Deputy District Chief of such District shall be the mediator, as the case may reasonably be.

Clause 4 An injured party or an alleged offender whoever desiring of having the dispute mediated shall notify the Chief of District or Deputy District Chief at such particular District Office on his/her desire either in writing or by verbal means. In the case of a verbal notification on the desire, the Chief of District or Deputy District Chief shall have the paper expressing such desire documented and signed by the injured party and the alleged offender, as well.

The Chief of District or Deputy District Chief shall, upon receiving the notification on the desire under paragraph one, notify the other accused party and inquire such party whether he will agree or express his intention to go into the mediation process or not. If it should be in the case where there are several injured or accused parties, all parties shall be notified and inquired accordingly.

In the case where all injured and accused parties agree and express their intentions to enter the mediation process, the Chief of District or Deputy District Chief shall notify all parties accordingly and cause to have the Note on the agreement or intention to go into the mediation process documented in the Criminal Case Dispute Mediation Register and all injured and accused parties to subscribe their signatures in such Register.

In the case where any injured or accused party has disagreed or failed to express his intention to enter into the mediation process, the effect on the notification on the desire under paragraph one shall come to a distinction and that the Chief of District or Deputy District Chief shall notify the remaining parties accordingly.

Clause 5 In the case where the Chief of District or Deputy District Chief is of the view that the right to institute a criminal action has already been extinct under the Criminal Procedure Code prior to the date of giving the notification under paragraph one of Clause 4 or prior to the date on which the Chief of District or Deputy District Chief has given the notification to the injured party or the other accused party under paragraph two of Clause 4, the Chief of District or Deputy District Chief shall be prohibited to accept such dispute for mediation and shall notify the person giving the notification on the desire accordingly without delay.

Clause 6 The giving of a notification under paragraph one of Clause 4 shall not be the lodging of a complaint under the Criminal Procedure Code.

Clause 7 Once all injured and accused parties have subscribed their signatures in the Criminal Case Dispute Mediation Register under paragraph three of Clause 4, the Chief of District or Deputy District Chief shall accept such dispute for further mediation and notify all injured and accused parties on their rights and result on the dispute mediation under Clause 12, Clause 14, Clause 15 and Clause 17 together with the inquiries on the details in respect of the dispute from all injured and accused parties as well as related parties and then make a documentation on such notification and details in respect of the dispute in the Criminal Case Dispute Mediation Register.

The documentation on the details in respect of the dispute under paragraph one, shall be only on the matter of the commission of an act relating to the dispute obtained from all injured and accused parties as well as related parties including the date, time, place and persons or things relating to the dispute.

The Chief of District or Deputy District Chief shall read the contents documented in the Criminal Case Dispute Mediation Register to all injured and accused parties and then cause such all injured and accused parties, the Chief of District or Deputy District Chief to subscribe their signatures as an evidence.

Clause 8 In inquiring for the details in respect of the dispute under paragraph one of Clause 7, the Chief of District or Deputy District Chief shall hold such inquiries in the presence of all injured and accused parties except when any injured or accused party has failed to show up as scheduled without a reasonable ground which, in such case, the inquiries may be allowed to conduct in the absence of such injured or accused party. In this respect, such mediation may be held simultaneously or separately, however, the agreement shall be made in the presence of all injured and accused parties.

All injured and accused parties shall have the right to bring in not exceeding two persons in whom they have trust to participate in hearing the mediation, however, in any mediation process, if the Chief of District or Deputy District Chief should be of the view that in having the other persons not being the injured or accused party in the presence may hinder the mediation, such time mediation may be carried out without allowing the other persons not being the injured or accused party to participate in listening to such mediation.

Clause 9 A mediation process shall be conducted at the District Office or in the case of a compelling necessity, a mediation process may be conducted at the other place as prescribed by the Chief of District provided, however, that all injured and accused parties must be notified accordingly within a reasonable period of time in advance.

The Chief of District or Deputy District Chief shall forward a letter of appointment on the mediation process schedule to all injured and accused parties unless otherwise such person has been verbally notified and such verbal notification acknowledged which shall be deemed to be a legal appointment.

Clause 10 In the interest of the dispute medication process, the Chief of District or Deputy District Chief may give the chance to the injured or accused party to offer the extenuation to one another or propose an option on the extenuation to the injured or accused party for offering to one another, however, the Chief of District or Deputy District Chief shall be prohibited to make a decision on the fact or finalize the dispute.

Clause 11 Once all injured and accused parties have agreed on the result as mediated, the Chief of District or Deputy District Chief shall cause to have the Letter of Agreement made and then a Note on such agreement documented in the Criminal Case Dispute Mediation Register.

The Letter of Agreement under paragraph one shall expressly specify the date, month, year and details on the Agreement including the timeframe for the executions under the Agreement and that, in this respect, the provision under paragraph three of Clause 7 shall apply *mutatis mutandis*.

Clause 12 After all injured and accused parties have executed in compliance with the Agreement under Clause 11, the criminal case shall be dismissed and the right to institute the criminal action under the Criminal Code Procedure shall come to an extinction.

In the case where a complaint has been lodged or an action entered in a Court, the Chief of District or Deputy District Chief shall notify the Police Inquiry Officer, Public Prosecutor or Court, as the case may be.

Clause 13 The Chief of District or Deputy District Chief shall be prohibited to disclose the facts acquired through a dispute mediation process except it is a disclosure in accordance with the Court order.

Clause 14 In the case where the injured and accused parties have all agreed as mediated, however, they have failed to abide by such Agreement or have not fully abided by such Agreement within the established timeframe as agreed upon, the Chief of District or Deputy District Chief shall disposed of such dispute from the Criminal Case Dispute Mediation Register.

Clause 15 Any injured or accused party may give a notice on the cancellation of the dispute mediation by forwarding a written notification or giving his verbal notification to the Chief of District or Deputy District Chief. In the case of the verbal notification on the cancellation, the Chief of District or Deputy District Chief shall make a note on such cancellation and cause the injured or accused party giving the notification on such cancellation to subscribe his signature as an evidence.

The Chief of District or Deputy District Chief shall, upon receiving the notification on the cancellation of the dispute mediation under paragraph one, dispose of such dispute from the Criminal Case Dispute Mediation Register.

Clause 16 The Chief of District or Deputy District Chief shall carry out a dispute mediation process for successful completion within fifteen days from the date of accepting such dispute except when there is a compelling necessity and that the injured and accused parties have all agreed to permit the Chief of District or Deputy District Chief to extend the period of time for such purpose for a period of not exceeding fifteen days.

After the period of time under paragraph one has elapsed, if all injured and accused parties could not reach an agreement, the Chief of District or Deputy District Chief shall dispose of such dispute from the Criminal Case Dispute Mediation Register.

Clause 17 The Chief of District or Deputy District Chief shall refrain from accepting any disputes having already been disposed of from the Criminal Case Dispute Mediation Register under paragraph two of Clause 16 for processing through the mediation means again.

Clause 18 Once the Chief of District or Deputy District Chief has disposed of a dispute from the Criminal Case Dispute Mediation Register, a note on the disposition of such dispute shall be documented, as well.

Given on this 25<sup>th</sup> day of August 2010

Abhisit Vejjajiva,

Prime Minister