

THAILAND

PREVENTION AND SUPPRESSION OF PROSTITUTION ACT B.E. 2539 (1996), dated 14 October 1996

Translation

Section 1. This Act is called the "Prevention and Suppression of Prostitution Act, B.E. 2539 (1996)".

Section 2. This Act shall come into force sixty days after the date of its publication in the Government Gazette.*

*Published in the Government Gazette Vol. 113, Part 54a, dated 22nd October B.E. 2539 (1996)

Section 3. The Suppression of Prostitution Act, B.E. 2503 (1960) shall be repealed.

Section 4. In this Act,

"prostitution" means sexual intercourse, or any other act, or the commission of any other act in order to gratify the sexual desire of another person in a promiscuous manner in return for money or any other benefit, irrespective of whether the person who accepts the act and the person who commits the act are of the same sex or not;

"prostitution establishment" means a place established for prostitution or in which the prostitution is allowed, and shall include a place used for soliciting or procuring another person for prostitution;

"Preliminary Admittance Centre" means a place established under this Act by the Government or by a foundation, association or any other institution for the temporary admission of persons who will receive protection and vocational

development in order to consider the procedure for the protection and occupational development appropriate for each of them;

"Protection and Occupational Development Centre" means a place established by the Government or by a foundation, association or other institution in order to render welfare protection and occupational development to persons receiving the protection and occupational development under this Act;

"protection and occupational development" means psychological rehabilitation, therapy, vocational training and development as well as development of quality of life;

"Member" means a member of the Protection and Occupational Development Committee or a member of the Changwat Protection and Occupational Development Committee, as the case may be;

"competent official" means a person appointed by the Minister for the execution of this Act;

"Director-General" means the Director-General of the Department of Public Welfare;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 5. Any person who, for the purpose of prostitution, solicits, induces, introduces herself or himself to, follows or importunes a person in a street, public place or any other place in an open and shameless manner or causes nuisance to the public, shall be liable to a fine not exceeding one thousand Baht.

Section 6. Any person who associates with another person in a prostitution establishment for the purpose of prostitution of himself or herself or another person shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand Baht or to both.

If the offence under paragraph one is committed on account of compulsion or under an influence which cannot be avoided or resisted, the offender is not guilty.

Section 7. Any person who advertises or agrees to advertise, induces or introduces by means of documents or printed matters, or by any means makes known to the public in a manner apparently indicative of importunity or solicitation for the prostitution of himself, herself or another person shall be liable to imprisonment for a term of six months to two years or to a fine of ten thousand to forty thousand Baht or to both.

Section 8. Any person who, in order to gratify his or her sexual desire or that of another person, has sexual intercourse or acts otherwise against a person over fifteen but not over eighteen years of age in a prostitution establishment, with or without his or her consent, shall be liable to imprisonment for a term of one to three years and to a fine of twenty thousand to sixty thousand Baht.

If the offence under paragraph one is committed in relation to a child not over fifteen years of age, the offender shall be liable to imprisonment for a term of two to six years and to a fine of forty thousand to one hundred twenty thousand Baht.

If the act under paragraph one is committed in relation to one's own spouse, and not to gratify the sexual desire of another person, the offender is not guilty.

Section 9. Any person who procures, seduces or takes away any person for the prostitution of such person, even with her or his consent and irrespective of whether the various acts which constitute an offence are committed within or outside the Kingdom, shall be liable to imprisonment for a term of one to ten years and to a fine of twenty thousand to two hundred thousand Baht.

If the offence under paragraph one is committed against a person over fifteen but not over eighteen years of age, the offender shall be liable to imprisonment for a term of five to fifteen years and to a fine of one hundred thousand to three hundred thousand Baht.

If the offence under paragraph one is committed in relation to a child not over fifteen years of age, the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand Baht.

If the offence under paragraph one, two or three is committed by means of fraud, deceit, threat, violence, the exercise of undue influence or coercion against her or his will in any manner whatsoever, the offender shall be liable to a one-third heavier penalty than that provided in paragraph one, two or three, as the case may be.

Any person who, in order to bring about prostitution, admits a person known to him or her as having been procured, seduced or taken away under paragraph one, two, three or four, or supports the commission of such offence shall be liable to the penalty provided in paragraph one, two, three or four, as the case may be.

Section 10. Any person who, being a father, mother or parent of a person not over eighteen years of age, knows of the commission against the person under his or her parental control of the offence under paragraph two, three or four of section 9 and connives in such commission shall be liable to imprisonment for a term of four years to twenty years and to a fine of eighty thousand to four hundred thousand Baht.

Section 11. Any person who is the owner, supervisor or manager of a prostitution business or a prostitution establishment, or the controller of prostitutes in a prostitution establishment shall be liable to imprisonment for a term of three to fifteen years and to a fine of sixty thousand to three hundred thousand Baht.

If the prostitution business or establishment under paragraph one has, for prostitution, a person over fifteen but not over eighteen years of age, the offender shall be liable to imprisonment for a term of five to fifteen years and to a fine of one hundred thousand to three hundred thousand Baht.

If the prostitution business or establishment under paragraph one has, for prostitution, a child not over fifteen years of age,

the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand Baht.

Section 12. Any person who detains or confines another person, or by any other means, deprives such person of the liberty of such person or causes bodily harm to or threatens in any manner whatsoever to commit violence against another person in order to compel such other person to engage in prostitution shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand Baht.

If the commission of the offence under paragraph one results in:

(1) grievous bodily harm to the victim, the offender shall be liable to the imprisonment for life;

(2) death of the victim, the offender shall be liable to the death penalty or to imprisonment for life.

Any person who supports the commission of the offence under paragraph one or two shall be liable to the penalty provided in paragraph one or two, as the case may be.

If the offender or supporter of the offence under paragraph one is an administrative or police official or a competent official or an official of a Primary Admittance Centre or an official of a Protection and Occupational Development Centre under this Act, such person shall be liable to imprisonment for a term of fifteen to twenty years and to a fine of three hundred thousand to four hundred thousand Baht.

Section 13. If the father, mother or parent of the offender under section 5, section 6, or section 7 connives in the prostitution of the person under his or her parental control, the public prosecutor shall, at the request of the Protection and Occupational Development Committee, apply to the Court for the revocation of parental power of the father, mother or parent and for the appointment of a guardian in place of such person.

When the Court is about to appoint a guardian under paragraph one and the Court is of the opinion that no one is appropriate to be guardian of the offender, the Court may appoint as guardian the Director of the Primary Admittance Centre or the Director of the Protection and Occupational Development Centre in the territorial jurisdiction of which the offender is subjected.

The provisions of the Civil and Commercial Code relating to the appointment of guardian shall apply *mutatis mutandis* to the appointment of guardian under this section.

Section 14. There shall be a Protection and Occupational Development Committee ("P.O.C.") , consisting of Permanent Secretary for Labour and Social Welfare as Chairman, Director-General of the Department of Public Welfare, Director-General of the Department of Local Administration, Director-General of the Department of Employment, Director-General of the Community Development Department, Director-General of the Department of Non-formal Education, Director-General of the Department of Communicable Disease Control, Director-General of the Royal Thai Police Department, Director-General of the Department of Skill Development, Director-General of the Department of General Education, Director-General of the Department of Vocational Education, Secretary-General of the National Primary Education Commission, Secretary-General of the National Youth Bureau, or Deputy Directors-General or Deputy Secretaries-General entrusted by the aforesaid Directors-General or Secretaries-General, a representative of the Central Juvenile and Family Court, a representative of the National Commission on Women's Affairs and not more than seven qualified persons appointed by the Minister as members, and Director of the Office of the Protection and Occupational Development Committee shall be member and secretary, and the Chairman shall appoint not more than two assistant secretaries.

The qualified members appointed by the Minister under paragraph one shall possess knowledge and experience in the prevention and resolution of prostitution problems, and at least five of them shall be appointed from qualified persons who

work in non-governmental organisations involved in the prevention and resolution of prostitution problems.

Section 15. P.O.C. shall have the following powers and duties:

- (1) to determine policies with regard to the protection and occupational development, including the development of the quality of life of prostitutes;
- (2) to co-ordinate plans, projects, working systems and to determine actions plans jointly implemented with Government agencies and the private sector involved in the prevention and suppression of prostitution;
- (3) to submit to the Minister, for further submission to the Council of Ministers, opinions on the improvement of the performance of official duties or plans of Government agencies in relation to the prevention and suppression of prostitution;
- (4) to submit to the Minister recommendations on the appointment of competent officials and on the establishment of Primary Admittance Centres or Protection and Occupational Development Centres by the Government;
- (5) to submit to the Minister recommendations on budgetary appropriation for financing the operation of the protection and occupational development;
- (6) to submit to the Minister recommendations on the prescription of rules, procedure and conditions for the implementation of section 26;
- (7) to submit to the Minister recommendations on the issuance of Rules, Regulations or Orders relating to the operation of Primary Admittance Centres and Protection and Occupational Development Centres;
- (8) to issue the Rule relating to the admission and care of the persons kept in custody in accordance with section 32;
- (9) to issue the Rule relating to the rules and procedures for the commission of persons to Primary Admittance Centres and Protection and Occupational Development Centres as well as the determination of the term of protection and occupational development in the Protection and Occupational Development Centres;

- (10) to carry out other acts for the execution of this Act.

Section 16. There shall be a Changwat (Provincial) Protection and Occupational Development Committee ("Changwat P.O.C."), consisting of the Changwat Governor or Deputy Changwat Governor entrusted by the Changwat Governor as Chairman, Palad Changwat or representative, Changwat Employment Officer or representative, Changwat Chief Police Officer or representative, Changwat Development Officer or representative, Changwat Chief Educational Officer or representative, Changwat General-Education Officer or representative, Director of the Changwat Primary Education Office or representative, Director of the Changwat Non-formal Education Centre or representative, Changwat Public Health Officer or representative, Changwat Labour and Social Welfare Officer or representative, Changwat Public Prosecutor or representative and not more than seven qualified persons appointed by the Changwat Governor as members, and the Changwat Public Welfare Officer shall be member and secretary.

The qualified members appointed by the Changwat Governor under paragraph one shall possess knowledge and experience in the prevention and resolution of prostitution problems, and at least five of them shall be appointed from qualified persons who work in non-governmental organisations involved in the prevention and resolution of prostitution problems.

Section 17. A Changwat P.O.C. shall have the following powers and duties:

1. to be a centre for co-ordination between the Government and the private sector in respect of information, resources and operations in connection with the prevention and suppression of prostitution in Changwat (the province);
2. to promote and support the operation both of the Government sector and of the private sector in connection with the prevention and suppression of prostitution in the area of Changwat (the province);
3. to consider and submit to P.O.C. recommendations for the revision or issuance of Rules, Regulations and Orders

- relating to the prevention and suppression of prostitution in Changwat (the province);
4. to perform any other act as entrusted by P.O.C..

Section 18. A qualified member shall hold office for a term of three years. An outgoing member may be re-appointed but for not more than two consecutive terms.

Section 19. In addition to vacating office at the end of his or her term under section 18, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) removal from office by the Minister or the Changwat Governor who has the power to appoint qualified members, as the case may be;
- (4) incompetence or quasi-incompetence; or
- (5) imprisonment pursuant to a final judgement, except for an offence committed through negligence or a petty offence.

Section 20. When a qualified member vacates office before the end of his or her term and another person is appointed to fill the vacancy, the appointee shall hold office for the remaining term of the qualified member whom the appointee has replaced.

When an additional qualified member is appointed during the term of qualified members already appointed, the appointee shall hold office for the remaining term of the qualified members already appointed.

Section 21. When new qualified members have not yet been appointed after the end of term of the qualified members, the qualified members whose term expires shall continue to perform their duties until the new qualified members are appointed.

Section 22. At a meeting of P.O.C. or Changwat P.O.C., the presence of not less than one-third of the total number of members is required to constitute a quorum. If the Chairperson

is not present or is unable to perform his or her duties, the members present shall elect one among themselves to preside over the meeting.

A decision of the meeting shall be carried by a majority of votes. Each member shall have one vote. In case of equal of votes, the Chairman shall have an additional vote as a deciding vote. A member who is personally interested in any matter is not entitled to vote in that matter.

Section 23. P.O.C. or Changwat P.O.C. may appoint a sub-committee for the consideration and execution of any matter as entrusted by P.O.C. or Changwat P.O.C., and section 22 shall apply mutatis mutandis to a meeting of the sub-committee.

Section 24. In performing duties under this Act, P.O.C. or Changwat P.O.C. or the sub-committee entrusted by P.O.C. or Changwat P.O.C. shall have the power to issue a written order requiring any person to give statements or produce any document or material for consideration as deemed necessary.

Section 25. There shall be established the Office of the Protection and Occupational Development Committee in the Department of Public Welfare of the Ministry of Labour and Social Welfare. The Office shall have the following powers and duties:

- (1) to be responsible for administrative work of P.O.C.;
- (2) to co-ordinate and co-operate with Government agencies, State agencies and private agencies involved in the protection, occupational development and the prevention and suppression of prostitution;
- (3) to provide for occupational training and development;
- (4) to promote occupations and provide employment to persons having received occupational training and development under (3);
- (5) to compile the results of analysis, research, operations, follow-up and assessment in regard to the implementation of the protection and occupational development policies and plans of Government agencies,

State agencies and private agencies concerned, and then report them to P.O.C. for information;

- (6) to perform such act as required by a resolution of P.O.C. or as entrusted by P.O.C..

Section 26. A foundation, association or any other institution prescribed in the Ministerial Regulation, which wishes to establish a Primary Admittance Centre or a Protection and Occupational Development Centre under this Act, shall submit an application to the Director-General.

The application for and the issuance of a licence shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 27. Upon issuing a licence to establish a Primary Admittance Centre or a Protection and Occupational Development Centre, the Director-General shall proceed in accordance with section 28.

When an application for a licence is rejected by the Director-General, the applicant is entitled to submit an appeal in writing to the Minister within thirty days as from the date of the receipt of the letter notifying the rejection thereof.

The decision of the Minister shall be final.

Section 28. The Director-General shall, by publication in the Government Gazette, determine the locality situated within the territorial jurisdiction of the Primary Admittance Centre or Protection and Occupational Development Centre which has been established.

When there is reasonable cause, the Director-General may, by publication in the Government Gazette, alter the location within the territorial jurisdiction of a Primary Admittance Centre or Protection and Occupational Development Centre.

Section 29. When it appears that a foundation, association or any other institution obtaining a licence under section 26 violates or does not comply with the laws, or the Rules and Regulations as prescribed by the Government, the Director-

General shall have the power to give such foundation, association or other institution a written order requiring the cessation of an act or the improvement, correction or compliance with any matter as notified within a specified period.

When the foundation, association or any other institution, without reasonable cause, fails to comply with the order or where its compliance is not complete within the period specified under paragraph one, the Director-General shall have the power to order the competent official to take action in its place in compliance with such order; and such foundation, association or other institution shall be responsible for the expenses incurred therefrom.

The expenses under paragraph two shall include such necessary and appropriate expenses as prescribed by the Director-General.

If the competent official is of the opinion that the action under paragraph two cannot be taken or that, even if the same has been taken, the foundation, association or other institution is still unable to continue its operations or that its continuous operation may cause danger to persons receiving protection and occupational development in the said Primary Admittance Centre or Occupational Development Centre, the competent official shall submit a recommendation to the Minister that he or she consider the revocation of the licence.

When the violation of or failure to comply with the laws or the Rules and Regulations prescribed by the Government is such a serious offence that, in the Director-General's opinion, an order under paragraph one or two is inappropriate, the Director-General shall have the power to revoke the licence.

Section 30. Within fifteen days from the date of receipt of the notification of the order revoking the licence, the foundation, association or any other institution obtaining a licence under section 26 which was revoked under section 29 is entitled to submit to the Minister an appeal in writing against the order

revoking the licence and, pending the decision of the Minister, may continue its operations.

The decision of the Minister shall be final.

Section 31. When the Minister makes a final decision revoking the licence issued under section 26, the competent official shall, with the approval of the Director-General, commit the persons receiving the protection and occupational development to another Primary Admittance Centre or Protection and Occupational Development Centre.

The commission of the persons receiving the protection and occupational development to another Primary Admittance Centre or Protection and Occupational Development Centre established by a foundation, association or any other institution shall also obtain the consent of such Primary Admittance Centre or Protection and Occupational Development Centre.

Section 32. During the inquiry by the inquiry official or during the court trial, the alleged offender or the accused in respect of the offence under section 5 or section 6 may, if necessary, be kept in custody in accordance with the law on criminal procedure in Khaeng Courts; provided that such alleged offender or accused shall be kept in custody separately from other alleged offenders or accused, or a request may be made to the Department of Public Welfare in accordance with the Rule prescribed by P.O.C..

Section 33. When the offender under sections 5 or 6 is not over eighteen years of age and it does not appear that he or she is alleged to have committed or is subject to criminal proceedings for any other offence punishable with imprisonment, or is sentenced to imprisonment, the inquiry official shall, if the offence has been settled by a fine, notify the Department of Public Welfare for the purpose of committing such person to care in the Primary Admittance Centre of competent territorial jurisdiction.

In a case under paragraph one, if the offender is over eighteen years of age and wishes to receive protection and occupational development in a Protection and Occupational Development

Centre, the inquiry official shall notify the Department of Public Welfare for the purpose of committing such person to care in the Primary Admittance Centre of competent territorial jurisdiction.

Section 34. When the offender under sections 5, 6 or 7 is not over eighteen years of age, and the Court, having considered his or her former life, conduct, psychological state, education and training, health, mental condition, occupation and environment, is of the opinion that punishment is inappropriate and should be replaced by commission of the offender to protection and occupational development, the Department of Public Welfare shall admit the offender for the purpose of committing such person to care in a Primary Admittance Centre of competent territorial jurisdiction within fifteen days from the date of the judgment.

In a case under paragraph one, if the offender is over eighteen years of age and wishes to receive protection and occupational development in a Protection and Occupational Development Centre and the Court deems it appropriate, the Department of Public Welfare shall admit the offender for the purpose of committing such person to care in a Primary Admittance Centre of competent territorial jurisdiction within fifteen days from the date of the judgment.

When the Court passes a judgment punishing the offender under paragraph one and deems it appropriate also to commit him or her to protection and occupational development, the Department of Public Welfare shall admit the offender for the purpose of committing such person to care in a Primary Admittance Centre of competent territorial jurisdiction within fifteen days from the date of the judgment; and the offender shall be in custody of the Primary Admittance Centre and the Protection and Occupational Development Centre.

The period in which the offender under paragraph three has been kept in custody shall not be included in the term for which the offender is taken into the care of the Primary Admittance Centre and the term for which the offender receives protection

and occupational development in the Protection and Occupational Development Centre.

The rules and procedure for the release of the offender from Court for the purpose of committing such person to the care in a Primary Admittance Centre of competent territorial jurisdiction shall be in accordance with the Rule prescribed by the Director-General with the approval of P.O.C..

Section 35. The Primary Admittance Centre shall consider personality, education and training background as well as the cause of the commission of the offence, and shall conduct an aptitude test and then consider the commission of the person under its care under section 33 or section 34 to an appropriate Protection and Occupational Development Centre in order to receive protection and occupational development within such period as specified by the Rule prescribed by P.O.C.; provided that such period shall not exceed six months from the date of the admission of that person.

Subject to paragraph three of section 34, when the Primary Admittance Centre is of the opinion that commission of the offender to protection and occupational development is not yet necessary, it may decide, in accordance with the Rule prescribed by P.O.C., not to commit such a person to the Protection and Occupational Development Centre.

Section 36. Rules and procedure for the commission of persons to care in a Primary Admittance Centre under sections 33 and 34 and to protection and occupational development in a Protection and Occupational Development Centre under section 35 shall be in accordance with the Rule prescribed by P.O.C..

Section 37. A person receiving protection and occupational development must stay to receive the same in the Protection and Occupational Development Centre in accordance with the Rule prescribed by P.O.C. for a term of not more than two years from the date of admission by the Protection and Occupational Development Centre.

Section 38. If any person, while under the care of a Primary Admittance Centre or under the protection and occupational

development in a Protection and Occupational Development Centre, escapes therefrom, the official of the Primary Admittance Centre or Protection and Occupational Development Centre shall have the power to pursue such person for the purpose of committing such person to the Primary Admittance Centre or the Protection and Occupational Development Centre, as the case may be. For this purpose, the Primary Admittance Centre or Protection and Occupational Development Centre may request assistance from the police.

At the end of the term of protection and occupational development, the official of the Primary Admittance Centre or Protection and Occupational Development Centre shall send the person committed thereto back to his or her residence or domicile unless P.O.C. considers it expedient to proceed otherwise.

Section 39. The competent official shall have the following powers and duties:

- (1) to enter entertainment establishments under the law on entertainment establishments, during daytime or night-time, for inspecting to determine whether or not offences are committed under this Act;
- (2) to take persons, seduced or coerced against their will to engage in prostitution, who agree to receive protection and occupational development, to the inquiry official for proceeding further to detect the offender; provided that the provisions of section 33 shall apply mutatis mutandis to the commission of prostitutes to care in a Primary Admittance Centre.

Section 40. Members, members of the sub-committee and competent officials under this Act shall be officials under the Penal Code.

Section 41. Any person who fails to render facilities to the competent official who performs an act in pursuance of section 39 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand Baht or to both.

Section 42. Pending the establishment of the Office of the Protection and Occupational Development Committee, the Department of Public Welfare shall have the powers and duties under section 25.

Section 43. Welfare centres established under the Suppression of Prostitution Act, B.E. 2503 (1960) shall be Protection and Occupational Development Centres under this Act.

The Persons receiving welfare under the Suppression of Prostitution Act, B.E. 2503 (1960), who still receive the same on the date this Act comes into force shall continue to receive protection and occupational development until the end of such period Specified by the Director-General.

Section 44. All the notifications, Rules, Regulations or Orders issued under the Suppression of Prostitution Act, B.E. 2503 shall continue to be in force insofar as they are not contrary to or inconsistent with this Act until the Notifications, Rules, Regulations or Orders are issued under this Act.

Section 45. The Minister of Labour and Social Welfare shall have responsibility for and control over the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulations and Notifications for the execution of this Act.

Such Ministerial Regulations and Notifications shall come into force upon their publication in Government Gazette.