

**Regulation of Internal Security
Operations Command Region 4
Concerning Guidelines of Practice for
Competent Official as per Section 11
Of the Emergency Decree on
Government Administration in States
of Emergency B.E. 2548 (2005)**

Pursuant to the Notification for the Extension of States of Emergency in the provinces of Narathiwat, Pattani and Yala dated 16 January 2007 and the Notification issued under Section 11 of the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005) dated 20 July 2005.

In order to provide for proper execution of functions of competent official according to Section 11 (1) (2) of the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005), by the virtue of No.3 of the Order of the Office of Prime Minister No. 1/2550 concerning the appointment of Chief of the Response Team to States of Emergency dated 16 January 2007, the Fourth Army Area Commander, as Director of the Internal Security Operations Command Region 4 and Chief of the Response Team to States of Emergency, deems it expedient to issue the following regulation;

1. This regulation is called "Regulation of Internal Security Operations Command Region 4 concerning Guidelines of Practice for Competent Official as per Section 11 of the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005)."

2. The regulation will become effective since 20 January 2007 onward.

3. Arrest and detention of person as per Section 11 (1)

3.1 Person to be arrested and held in custody must be believed to act as accomplice to the commission of states of emergency or to be employer, or promoter or supporter of the act that has led to states of emergency, or those involved in concealing information related to the commission of states of emergency. The arrest is permitted if necessary to prevent the person from committing or abetting in the commission of any act that may lead to violent incidence or in order to seek cooperation to preempt such violence.

3.2 Prior to the submission of motion to the Court to ask for arrest and detention warrant, the competent official must have verified correctly first name, family name, ID number and other relevant personal information of the person. In case where the name is unknown, picture and description of the identity of the person must be sufficiently established to avoid

the arrest of a wrong person. In this case, there must be a collective agreement among administrative official, the police, the military in charge of Forward Internal Security Operations Command Region 4 or Provincial Internal Security Operations Command or Operation Center of District Internal Security Operations Command, as deemed fit. The report that contains names of the person to be arrested or held in custody must be created and signed by officials from the three sections according to the form annexed to this regulation. The report must be kept the office of the agency that applies for the arrest or detention warrant and must be made available for examination by the commander of the agency.

- 3.3 Authorized person to ask from the Court the arrest or detention warrant is competent official including a civilian government officer at the equivalent of C3, a military officer at the rank of Second Lieutenant, Sub-Lieutenant, Pilot Officer, or police officer at the rank of Sub-Lieutenant and higher.

The application must be made using the form annexed to this regulation which will be submitted together with the motion for the arrest and detention warrant, inquiry report and reasons for the arrest or detention warrant as per the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005), as well as pictures and description of identity of the person.

In case of emergency and with appropriate reasons that the applicant is not able to go and meet the judge in person, he may apply for the warrant via phone, fax, electronic mail, or other appropriate communication technology. In this case, the applicant must have the rank of Major or higher. The phone call must be made directly to the judge for him to make inquiry. If the judge agrees, the warrant will be sent via fax for the use in emergency situation. And after the arrest or detention, the applicant shall promptly submit to the judge all evidence needed for the application.

- 3.4 After permission from the court has been given for the arrest and detention, the designated person must be arrested and held into custody promptly.

The arrest and detention method has to be planned in accordance to the situation and behavior of each designated person. No act can be done on the presumption that the person is already an alleged offender and all violence and action that may bring about damages are to be avoided. Safety of the arrester and his convenience has to be the first priority and cooperation of the target of arrest must be taken into account.

To establish the court warrant, a copy with certifying signature, a copy of facsimiled warrant, a printout of electronic copy, or a copy sent via other

telecommunication technology or a telegram indicating that the warrant has been issued, can be shown. But the original copy of the warrant or the certified copy must be promptly submitted to the arresting authority.

A copy of the warrant must be submitted to Forward Internal Security Operations Command Region 4 or Provincial Internal Security Operations Command, each copy for each unit, within three days after the permission has been given by the court. The original copy must be kept at the agencies in 3.2 which apply for the arrest or detention warrant in a report. The records must also include applications for warrant which are disallowed by the court as well as per annex of this regulation. In that case, other orders may be issued to summon the person to report himself or give oral statement instead.

In case where the person under the warrant has fled from the area of states of emergency, a copy of the warrant can be sent to administrative official in the area where the person remains at large to conduct the arrest. The local official must be thoroughly informed of the guidelines of practice and must adhere to them stringently.

- 3.5 After the person has been held in custody, he must be promptly brought to the detention facility

designated in the warrant without delay. During the custody, he must not be handcuffed, shackled, detained in a cage, or transferred in cage carrier, or treated with violence. He cannot be held in custody at the police station, corrective department's facility, or prison.

In case where the detainee commits a criminal offence during or after the arrest, and he must be held in custody of an inquiry official, an arrest report must be written and given to the inquiry official of the locality where the offence is committed for due legal process.

If the detainee is found to have in possession material or objects suspected of having been used or will be used for committing or abetting an act that gives rises to states of emergency, the material or object must be given to the official applying for the arrest warrant for further action.

The person can be held in custody at most seven days since the day of the arrest. The arresting official must create an arrest report as per the form annexed to this regulation and submit it to the court promptly. A copy of the report must be kept each at the Forward Internal Security Operations Command Region 4 and the Provincial Internal Security Operations Command or the Provincial Authority Office where the arrest takes place and shall be

made available for relatives of the person held in custody so that they can have convenient access and be made aware of detail of the arrest and the place where the person is held in custody during the course of the detention.

- 3.6 Access to the original copy of the arrest and detention report must be made available as well as a copy of the arrest warrant at the designated detention facility. Both the deliverer and recipient of the person held in custody must sign in their names, date and time of the delivery and reception date in the reception form (Sor Sor Sor 48-1) annexed to this regulation. Two identical copies of the form must be made with exactly the same detail and a copy is kept by the deliverer and another at the detention facility.

Change of the designated detention facility as indicated in the arrest and detention warrant can be done so, in case it is appropriate and needed in response to states of emergency without having to seek prior permission from the court, but the court must be promptly informed.

- 3.7 An extension of the detention must be applied for at least three days before the end of the detention period. Competent official must inquire and make an inquiry report. The report will be written based on information from the inquiry made to the

detention facility concerning the attitude and behavior of the suspects and then submitted as an important evidence for application for extension. The police officer in liaison with the detention facility must coordinate and submit an inquiry report to the official who applies for the arrest warrant in the first place or to the competent official who applies for an extension to the court of jurisdiction.

To apply for an extension of detention, it is not necessary to bring forth the person held in custody to the court, but the necessities for the extension must be proven to the

court explaining how the extension is related to the response to states of emergency. The form annexed to this regulation can be used for the submission along with an preliminary inquiry report. After permission is given by the court, the applicant shall send a copy of the court writ to the detention facility and the Forward Internal Security Operations Command Region 4. However, the whole duration of the detention since the arrest must not exceed 30 days.

- 3.8 The arrest and detention is to be carried with the aim to give explanation and instill correct attitude so that the person quits the behavior or stops abetting the act that may give rise to violence in states of emergency. And if it is believed so that the person

agrees to denounce the behavior, he must be released immediately to return to his domicile. In case the duration of 30 days of the detention is reached, the person held in custody must be released and no arrest and detention as per this application shall be further made.

If deemed necessary, a person who has caused violence must be criminally prosecuted, and the arrest and detention method as per this regulation shall not be applied. Instead, the person must be pursued with criminal prosecution in accordance to the Criminal Procedure Code and laws concerning the establishment of district court and criminal procedure code of the district court whereby the person must be informed of charges and their rights. The suspension of prosecution, or detention, or prosecution must be applied according to the juvenile and family justice procedure in case the person is a minor.

- 3.9 During the course of detention at the detention facility, the person in charge must issue regulation following the guidelines;
 - 3.9.1 Suspects who are children and youth and adults must be separated. Children and women must be provided separate living quarter.
 - 3.9.2 Accommodation, food and other facilities must be made available at the government's expenses to the person held in custody. Appropriate

accommodation and food must be provided with sanitation, in accordance with one's religious belief and in sufficient quantity.

3.9.3 Visiting time, after the first three days of detention, visit by relatives must be allowed everyday between 09.00-10.00 and 14.30-15.00. The person held in custody is allowed to meet his relative not exceeding 30 minutes per day.

3.9.4 Medical treatment must be provided when needed, or in case the person has congenital disease.

3.9.5 The person held in custody must be treated according to the Peace Enhancement Scheme.

3.9.6 Where the necessity for the detention is no longer valid, or when the detention limit is reached, the person must be released immediately. And if detention is no longer necessary, the court must be informed promptly.

4. Issuance of order to summon any person to report oneself, or to give an oral statement or submit any documents or evidence as per Section 11 (2)

4.1 Official authorized to issue an order to any person to report oneself, or to give an oral statement or submit any documents or evidence a relevant to the emergency situation must be authorized official who is assigned to execute the function, or official with relevant responsibilities and must hold the rank at the equivalent of those mentioned in 3.3.

- 4.2 The action as per 4.1 has to be done so based on good reasons. The order must be made in written form as per the form annexed to this regulation. In emergency case, the authorized official may issue the order verbally asking the person to come along with him to his office. Upon arrival at the office, the order can be made in written form.

Records of orders issued must be made and kept at office of the units indicated in 3.2 which issue the orders as per the form annexed to this regulation.

- 4.3 The order must be issued heeding to the rule of law and with assurance that it will cause minimum inconveniences to innocent people. The status of the person summoned, distance to his place, amount of time needed for taking him to report or give oral statement and the accommodation while having to stay with the official have to be taken into account and the order must be made to cater to necessities of each person. Order to summon a person at night time should be avoided except in case where it is necessary, and without which the situation can get extremely damaged. In case where the summoned person is a woman, it is not permitted so to ask her to come during night time, or to ask her to come to a private area.

- 4.4 Authorized official include official or administrative official or police officer in the area where the order shall be sent from.

The order must be delivered to the designated person as per the order. If he or she cannot be found, the order must be delivered to husband, or wife, or a relative, or a custodian, or any person who is older than 18 years and lives or works in the residence or workplace belonging to the person whose name is in the order.

In case the designated person refuses to take the order, the official who brings the order to him may ask for company of respectable persons in the area such as sub-district chief, or village headman, or spiritual leader or other leader who can be witness. And if the person still refuses to take the order, the official may leave the order there and has witness sign to confirm this.

In case where it is impossible to deliver the order as per the former clause, the order has to be put out in a place where it can be easily visible in the domicile or workplace of the designated person and a respectable person indicated in the former clause has to sign as witness.

Record of the delivery of order must be made to include detail of the delivery method, date and

time of delivery, signature of recipient, and signature of deliverer, and related witnesses.

To deliver the order to a person who lives outside the area where the order is issued, the order must be sent to competent official or local administrative official or police officer who will execute the delivery as per detail in the former clause and must report the results to the issuing official promptly.

- 4.5 Order made for the submission of a large number of documents or evidence, a list must be annexed to the order.

5. Issuance of order for search as per Section 11 (4)

- 5.1 Competent official who wants to issue an order for search places related to states of emergency must be authorized official who is assigned to execute the function, or official with relevant responsibilities and must hold the rank at the equivalent of those mentioned in 3.3.
- 5.2 Execution of function as per 5.1 must be done so appropriately in order to promptly terminate a serious situation where a delay might render the situation beyond control;
- 5.3 The search must be carried out gently, based on the rule of law, and may causes the least inconveniences

to innocent people. Religion, traditional belief, culture and tradition of local people must be treated as most important and unity among believers of different religions must be taken into account. An exception can be made where it is deemed necessary if the avoidance of the search may render the situation beyond control.

5.4 For every search made, the chief of the search team must produce a report a list of properties identified as evidence as per the form annexed to this regulation. All of them must be kept at the office as per 3.2, which issues the search order.

6. Execution of duties in this regulation must be carried out according to strategic plan or action plan laid out by the Internal Security Operations Command Region 4.

7. The Director of Internal Security Operations Command Region 4 is assigned as in-charge officer for this regulation.

Issued on the 24th day of January 2007

Lieutenant General Wirote Buacharoon

Chief of the Response Team to States of Emergency/Director of Internal Security Operations Command Region 4

Law Enforcement Division

**Regulation of Internal Security
Operations Command Region 4
concerning Guidelines of Practice for
Competent Official as per Section 11 of
the Emergency Decree on Government
Administration in States of Emergency
B.E. 2548 (2005)
(2nd Amendment)**

Pursuant to the Regulation of Internal Security Operations Command Region 4 concerning Guidelines of Practice for Competent Official as per Section 11 of the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005) dated 24 January 2007, and the Regulation of Internal Security Operations Command Region 4 concerning Guidelines of Practice for Competent Official as per Section 11 of the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005) amended on 1 January 2008, in order to ease worry of the detainee's family and express honesty of competent officials in treating detainees, by the virtue of No. 3 of the Order of the Office of Prime Minister No. 1/2550 regarding the appointment of Chief of the Response Team to States of Emergency dated 16 January 2007, the 4th Army Area Commander, as Director of the Internal Security

Operations Command Region 4 and Chief of the Response Team to States of Emergency, deems it expedient to issue the regulation as follows:

1. the text stated in Section 3.9.3 of the Regulation of Internal Security Operations Command Region 4

concerning Guidelines of Practice for Competent Official as per Section 11 of the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005), and another one in Section 3.9.3 of the Regulation of Internal Security Operations Command Region 4 concerning Guidelines of Practice for Competent Official as per Section 11 of the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005) are to be cancelled.

2. The following text will be used in lieu of the cancelled one:

*3.9.3 Visiting time, visit by the detainee's grandparents, parents, husband or wife, husband's or wife's parents as well as children and brothers or sisters must be allowed every day after the detention. The visiting time shall begin immediately on the first day of detention done according to this Regulation from 9 a.m. to 10 a.m. and from 2.30 p.m. to 3 p.m. Detainees can meet their relatives not exceeding 30 minutes per day. In case the detainee is a military official, police officer, civil servant or the one serving for the Internal Security Operation Command Region 4 and/or an official from other governmental sectors whose work is related to the internal security, visit shall not be allowed, except the one made under permission of the Director of the Internal Security Operation Command Region 4.

Other visit made by the detainee's relatives, apart from the one stated in the above paragraph, shall be allowed every day after the first three days of detention from 9 a.m. to 10 a.m. and from 2.30 p.m. to 3 p.m., and the detainee is allowed to meet his/her relatives for no more than 30 minutes per day.

In case of a visit made by other person than the one mentioned in the two paragraphs above, prior permission must be made from the Director of the Internal Security Operation Command Region 4.

The visits made in accordance with those mentioned in the paragraphs earlier shall be under supervision of authorized officials who will be able to observe the conversation during the visits.²⁸

The amended regulations shall be formulated and imposed henceforth.

Issued on the 9th day of February 2008

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