

(Translation)

Unofficial Translation*

REGULATIONS

GOVERNING THE CRITERIA AND METHODS OF PRESENTATION OF MATTERS TO THE CABINET B.E.2548

Whereas it is expedient to prescribe the criteria and methods of presentation of matters to the Cabinet, compliance with the Cabinet's resolutions, reporting of results of compliance with the Cabinet's resolutions, or any other actions in favor of the performance of duties of the Cabinet;

By virtue of Section 12 of the Royal Decree Governing the Presentation of Matters and Cabinet Meetings B.E.2548, therefore, the Cabinet has prescribed the Regulations, as follows:

Clause 1 These Regulations shall be called the "Regulations Governing the Criteria and Methods of Presentation of Matters to the Cabinet B.E. 2548".

Clause 2 These Regulations shall come into force as from the date following the date of its publication in the Government Gazette.

Clause 3 The following Acts shall be repealed:

- (1) Regulations of the Office of the Prime Minister Governing the Presentation of Matters to the Cabinet B.E.2531;
- (2) Regulations of the Office of the Prime Minister Governing the Presentation of Matters to the Cabinet (No.2) B.E.2535;

Clause 4 In these Regulations:

"Law" means Acts or Royal Ordinances, and it shall also include Royal Decrees, Ministerial Regulations, rules, regulations or announcements;

Clause 5 The Secretariat of the Cabinet shall be obliged to conduct meetings of state agencies from time to time to clarify state agencies regarding the criteria and methods of presentation of matters to the Cabinet under these Regulations.

Clause 6 The Prime Minister shall take charge under these Regulations.

DISCLAIMER: THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

CHAPTER 1 PRESENTATION OF MATTERS

Clause 7 A state agency which has presented the matters to the Cabinet shall submit the matters to the Secretariat of the Cabinet, together with documents, as per the methods, numbers and periods of time as prescribed by the Secretariat of the Cabinet, via electronic means or other technological methods.

Clause 8 Matters presented to the Cabinet may be withdrawn when the authorized person in the submission letter has signed the withdrawal request letter or has requested for withdrawal in the Cabinet's meetings.

CHAPTER 2 REQUEST FOR OPINIONS

Clause 9 In case, matters to be presented to the Cabinet are subject to prior approvals from other state agencies, the state agency responsible for the matters shall request for approvals from the related state agencies until completion, and shall then submit the matters to the Secretariat of the Cabinet, together with such approvals.

In case, the related state agencies failed to notify the results of consideration thereof to the state agency responsible for the matters within fifteen days as from the date of receiving the request; or such related state agencies failed to approve the matters; and such matters must be considered by the Cabinet, then, the state agency responsible for the matters shall present the matters to the Secretariat of the Cabinet for submission thereof to the Cabinet.

Clause 10 Within three days as from the date of receiving the matters, the Secretariat of the Cabinet shall notify the related state agencies of the presentation of the matters to the Cabinet, and shall notify them relating to the estimated date of entry of the matters for the Cabinet's consideration. In case, such state agencies have any recommendations or opinions, they shall present such recommendations or opinions to the Secretariat of the Cabinet for no later than five days prior to the date of entry of the matters for the Cabinet's consideration, or may propose the matters to the Minister in Charge for acknowledgment and for presentation of the matters in the Cabinet's meetings.

The related state agencies which have proposed their recommendations or opinions shall be obliged to report the Minister in Charge relating to such recommendations or opinions prior to the Cabinet's meeting on such matters.

In case, it is deemed expedient, the Cabinet Secretary-General may ask for opinions of persons or body of persons that are not state agencies, for the Cabinet's consideration.

DISCLAIMER: THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

Clause 11 In case of difference or conflicts between recommendations or opinions of the related state agencies presented under Clause 10, the Secretariat of the Cabinet shall manage the related agencies to discuss or find a solution before presenting the matters to the Cabinet.

Clause 12 Regarding the request for approvals under Clause 9 and the request for opinions under Clause 10, it shall be in accordance with the principles of Section 25 Paragraph 2 of the Royal Decree Governing the Criteria and Methods of Good Governance B.E.2546.

CHAPTER 3 PRESENTATION OF GENERAL MATTERS

Clause 13 In the submission letter of matters to be presented to the Cabinet, the state agency responsible for the matters shall prove a clear and complete summary of the matters, which shall, at least, consist of essences, as follows:

- (1) Background (if any);
- (2) Reasons and necessities for presentation of matters to the Cabinet;
- (3) Urgency of the matters (if any), specified with the last date when such matters must be handled;
- (4) Essence of the matters, or matters of facts and matters of laws;
- (5) Issues required for the Cabinet's consideration;
- (6) Approvals of the related state agencies (if any);
- (7) In case, it is required by laws, the Cabinet's resolutions or any orders that an analysis or study shall be conducted prior to the operation; and the report on such analysis or study shall be summarized and presented;
- (8) Expenses required for operation and source of expenses;
- (9) Details intended to be submitted for the Cabinet's approvals or resolutions shall be clearly specified and fully itemized;

In case, state agencies have not summarized the matters in accordance with Paragraph 1, the Secretariat of the Cabinet shall ask for matters of facts for summary and presentation of such matters to the Cabinet. In such case, when any delay or damage has occurred, resulting from the inquiry of such matters of facts, it shall be under the responsibilities of the state agencies responsible for the matters.

CHAPTER 4 PRESENTATION OF DRAFT OF LAWS

Clause 14 Regarding the presentation of matters to the Cabinet for consideration and enactment, in addition to operations under Chapter 3, state agencies shall also take actions, as follows:

DISCLAIMER: THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

- (1) Provide explanations as per the criteria for audit of necessities for enactment appended to these Regulations;
- (2) Provide summary of principles in the draft of Act;
- (3) Provide table of comparison, in case of amendment or revision of the existing Acts;

Statements contained in (2) and (3) shall apply, *mutatis mutandis*, to the presentation of drafts of other laws which are not Acts;

Clause 15 Regarding the presentation of matters for drafting of new laws or amendment of the applicable laws, the following actions shall be taken:

- (1) In case of presentation of matters for enactment, state agencies shall present the draft of Act or shall specify details of the principles and essence intended to be included in the Act without providing the draft of Act. In case, the draft of Act has not been provided, action under Clause 14(3) shall be taken by comparing the existing principles and essence of the applicable Act with the principles and essence newly presented;

- (2) In case of other laws which are not Acts, the draft of such laws shall be provided;

Clause 16 In case, the Cabinet has passed its resolution to send the draft of Act to the Office of the Council of State for inspection, consideration or drafting of any Act, the Office of the Council of State shall verify the correctness thereof as per the criteria for audit of necessities for enactment.

In case, the Office of the Council of State has considered that it is not necessary to have or amend any Act or that the existence or amendment of such Act shall not be worthy or shall cause damage to the State or to the general public, then, the Office of the Council of State shall report such opinions to the Cabinet promptly; and when the Cabinet has passed any resolution relating thereto, actions shall be taken according to such resolution.

CHAPTER 5

PRESENTATION OF MATTERS TO THE CABINET

Clause 17 When the Secretariat of the Cabinet has received the matters sent for presentation to the Cabinet, the Secretariat of the Cabinet shall audit the matters; and in case, such matters are not in accordance with the Royal Decree Governing the Presentation of Matters and Cabinet Meetings B.E.2548 or with these Regulations, then, the Secretariat of the Cabinet shall notify the state agency responsible for the matters to make corrections thereof within the prescribed period of time; in case, such action may not be taken within the prescribed period of time, the Secretariat of the Cabinet shall return the matters to the state agency responsible for the matters.

DISCLAIMER: THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

Clause 18 Regarding any matters which are duly presented in accordance with the Royal Decree Governing the Presentation of Matters and Cabinet Meetings B.E.2548 and with these Regulations, the Secretariat of the Cabinet shall provide a summary of matters to be presented to the Prime Minister promptly; and when the Prime Minister has instructed to present such matters to the Cabinet, then, such matters shall be included in the meeting agenda of the Cabinet.

In the summary of matters provided by the Secretariat of the Cabinet under Paragraph 1, recommendations may also be provided for the Cabinet's consideration.

Clause 19 In case, the Cabinet has passed a resolution to appoint a committee for consideration and screening of matters before presenting such matters to the Cabinet under Section 5 of the Royal Decree Governing the Presentation of Matters and Cabinet Meetings B.E.2548; and the Prime Minister shall issue an order under Clause 18 to present the matters to such committee, then, the Secretariat of the Cabinet shall take actions as per such order.

When the committee under Paragraph 1 has passed any resolution, then, the Secretariat of the Cabinet shall take actions as per such resolution or as per the Cabinet's resolution on the appointment of such committee, as the case may be.

CHAPTER 6 RESOLUTIONS OF THE CABINET

Clause 20 When the Cabinet has passed a resolution on any matter, the Secretariat of the Cabinet shall conform or notify the Cabinet's resolution on such matter to the state agency responsible for the matters, the related state agencies and other related parties for acknowledgment or actions in accordance with such resolution of the Cabinet.

Regarding the Cabinet's resolution on any matter which has been openly declared, the Secretariat of the Cabinet shall provide a summary of matters to be disclosed to the general public via the electronic media.

Clause 21 In the Cabinet's meeting which has been openly convened, the Secretariat of the Cabinet shall always provide a summary of results of all the Cabinet's meetings to be presented to the Cabinet for acknowledgment. In case, the Cabinet's meeting has any objections or corrections, the Secretariat of the Cabinet shall make such corrections promptly.

CHAPTER 7 REPORTING OF RESULTS OF COMPLIANCE WITH THE CABINET'S RESOLUTIONS

Clause 22 In case, the Cabinet has passed a resolution for any state agency to take any action and to report the results of such action to the Cabinet, then, such state agency shall be obliged to send a report of results of action, problems and obstacles to the Secretariat of the Cabinet

DISCLAIMER: THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

as per the period of time prescribed by the Cabinet. In case, the Cabinet has not prescribed any period of time, then, such state agency shall report the results thereof to the Secretariat of the Cabinet on a quarterly basis.

TRANSITORY PROVISIONS

Section 23 Any action which has been taken or to be taken as per the Regulations of the Office of the Prime Minister Governing the Presentation of Matters to the Cabinet B.E.2531 and amended before or on the date when these Regulations have come into force, may be taken continuously as per such Regulations, unless otherwise instructed by the Prime Minister.

Announced on this 15th day of March 2005
Police Lieutenant Colonel Thaksin Shinawatra
Prime Minister

DISCLAIMER: THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

CRITERIA FOR AUDIT OF NECESSITIES FOR ENACTMENT

1. Objectives and goals of the mission:

- 1.1 What are objectives and goals of such mission?
- 1.2 How necessary is the accomplishment of such mission?
- 1.3 What problems or defects that such mission has to solve?
- 1.4 What are measures to achieve objectives of the mission?
- 1.5 Are there other alternatives to achieve the same objective?
- 1.6 How much does the mission solve such problems or defects?

2. Who should carry out the mission?:

- 2.1 Should the public sector or the private sector carry out the mission? provided that matters of public protection, efficiency, cost and flexibility should be taken into account;
- 2.2 In case, the public sector should do so, should the Government or a local administrative organization carry out the mission?

3. Necessities for enactment:

- 3.1 In order to carry out the mission, is it necessary to enact the law? In case, the law is not enacted, will it be any obstacles to the accomplishment of the mission?
- 3.2 In case, it is necessary to enact the law, should such law be a local or national law?
- 3.3 In case, a national law should be enacted, is it necessary to enforce the law in all localities nationwide, or should the law be enforced in some localities insofar as it is not contrary to the Constitution; and should the term of enforcement of such law be prescribed?
- 3.4 The law to be enacted should use the control, supervision or promotion systems;
- 3.5 The sanction of the law should be criminal penalties or administrative enforcement;

4. Redundancy of laws:

- 4.1 In the same or similar matter, are there any provisions of laws? If so, should the laws be revised to cover the mission to be carried out or should new laws be enacted?
- 4.2 In case, new laws should be enacted, how will the existing laws be treated? Should the laws be repealed, revised or amended for conformity?

5. Burdens to people and worthiness:

- 5.1 Are there any obligations incurred to people by the laws to be enacted?
- 5.2 In which matters will the rights and liberties of people be limited?
- 5.3 Are such rights and liberties limited insofar as it is necessary?
- 5.4 What are the benefits to the general public and the society as a whole?
- 5.5 Will the provisions of laws be complied without difficulties or excessive obligations?

DISCLAIMER: THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

5.6 When taking account of budgets to be spent, will the obligations to be incurred to the general public and the limitation of rights and liberties of the general public worth the benefits to be received?

6. Preparedness of the public sector:

6.1 Is the public sector prepared in terms of manpower, money, knowledge to be effectively enforced in accordance with the laws?

6.2 What are the methods to provide people to be enforced by laws with understanding, preparedness and concurrent compliance with the laws

7. Responsible agencies:

Are there any other agencies that have carried out the mission redundantly or similarly? If so, should and how such agencies be dissolved or adjusted?

8. Working methods and audit:

8.1 Are the working methods prescribed in accordance with the Good Governance Principle?

8.2 Are there any audit systems and balance of powers and processes for rapid, irredundant and effective operations?

9. Powers to enact subordinate legislations:

9.1 To which extent that the scope or measure has been prescribed to prevent the enactment of subordinate legislations which extend powers of the government officials or incur excessive burdens to people?

10. Public hearing:

10.1 In the drafting of laws, were all related parties given with opportunities to express their opinions?

10.2 What are objections of the related parties?