

# **CHILD PROTECTION ACT, 2003**

# **Child Protection Act of 2003<sup>1[\*]</sup>**

**Bhumibol Adulyadej, Rex.**

**Given on the 24<sup>th</sup> Day of September, 2003**

**Being the 58<sup>th</sup> Year of the Present Reign**

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is deemed appropriate to revise the law governing the protection of children.

This Act contains provisions relating to the restriction of rights and liberties of individuals, which Section 29, together with Sections 31, 34, 35, 36, 39, 48 and 50 of the Constitution of the Kingdom of Thailand facilitate by virtue of provisions of law.

**Article 1** This Act shall be referred to as the “Child Protection Act of 2003”.

**Article 2** This Act shall enter into force one hundred and eighty days from the date of its publication in the Government Gazette.

**Article 3** The following shall be repealed:

- 1) Announcement No. 132 of the Revolutionary Council dated 22 April 1972;
- 2) Announcement No. 294 of the Revolutionary Council dated 27 November 1972.

**Article 4** In the Act,

“Child” means a person below 18 years of age, but does not include those who have attained majority through marriage.

“Street child” means a child who has no parents or legal guardian, or whose parents or guardian either fails or cannot afford to take care of the child, causing such child to wander from place to place; or a child who develops a vagrant lifestyle likely to be harmful to his or her safety.

“Orphan” means a child whose father or mother has died, or who has no evidence of parents or whose parents cannot be traced.

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“Child in difficult circumstances” means a child staying with an impoverished family or abandoned by his or her parents or whose parents are divorced, imprisoned or separated causing difficulties to such child; or a child who has to shoulder familial responsibilities beyond his or her age, ability and intellect; or a child who cannot help him or herself.

“Disabled child” means a child who suffers some form of defect, physically, mentally or intellectually, regardless of whether such defect occurred at birth or thereafter.

“Child at risk of wrongdoing” means a child who behaves inappropriately, who is engaged in occupational activities, or in the company of persons, that appear likely to induce such child into committing unlawful or immoral acts; or a child who is in the environment detrimental to such child, as stipulated in the ministerial regulations.

“Pupil” means any child who is studying at the primary or secondary levels, either general or vocational, or the equivalent, in public or private institutions.

“Student” means a child who is studying at the tertiary level or the equivalent, in public or private institutions.

“Parents” means biological father and mother of a child, regardless of whether they are married or not.

“Guardian” means parent, persons providing care, adopter and guardians according to the Civil and Commercial Code, including step parents, guardian of a child's safety, employer, as well as any other person providing care or shelter to a child.

“Foster family” means a person who takes on and cares for a child as his or her offspring.

“Neglect” means failure to care for, nurture or develop a child in accordance with the minimum standards as stipulated in ministerial regulations, to such an extent that it appears likely to be harmful to the child's physical and mental wellbeing.

“Abuse” means any commission or omission of acts which cause the deprivation of freedom of, or mental or physical harm to, a child; sexual abuses committed against a child; inducement of a child to act or behave in a manner which is likely to be mentally or physically harmful to the child, unlawful or immoral, regardless of the child's consent.

“Fact finding” means an act of searching and gathering facts relating to a person in order to make an analysis in accordance with the social welfare, medical, psychological, legal and other principles relating to that person and such person's family.

“Nursery” means a place which provides care for at least six children not over six years of age who are not related by kinship to the owner or operator of such nursery, not including health care facilities or schools, whether public or private.

“Gatehouse” means a place where a child is temporarily sheltered and cared for with the intention of fact finding the child and his or her family so as to develop guidelines for appropriate provisions of assistance and safety protection to each individual child.

“Welfare centre” means a place which provides care and development for over six children in need of assistance.

“Safety protection centre” means a place, which provides education, discipline and occupational training to a child who is in need of protection in order to correct his or her behaviour, and provide treatment and rehabilitation for the child's physical and mental conditions.

“Development and rehabilitation centre” means a place, school, institution or centre established for the purpose of treatment and rehabilitation of the physical and mental conditions of a child who is in need of special welfare assistance or protection, as well as providing such child with education, guidance and occupational training.

“Remand home” means the Central Observation and Protection Centre for children and juveniles with jurisdiction over Bangkok Metropolis, Provincial Observation and Protection Centres, and Observation and Protection Centres under the Juvenile and Family Division of Provincial Courts, established under the Act Instituting the Juvenile and Family Courts and the Juvenile and Family Procedures of 1991.

“Fund” means the Child Protection Fund.

“Committee” means the National Child Protection Committee.

“Competent Official” means the person appointed by the Minister to perform in accordance with this Act.

“Provincial Governor” applies also to the Governor of the Bangkok Metropolis or his or her designate.

“Permanent Secretary” means the Permanent Secretary of the Ministry of Social Development and Human Security, including a person designated by the Permanent Secretary.

“Minister” means the Minister in charge of the enforcement of this Act.

**Article 5** The Courts having power by virtue of the Act Instituting the Juvenile and Family Courts and the Juvenile and Family Procedures to hear juvenile and family cases shall have the power to hear such cases under this Act. In provinces where no juvenile and family court or division exists, a Provincial Court shall have the power to hear such cases under this Act.

**Article 6** The Minister of Interior, Minister of Social Development and Human Security, Minister of Education and Minister of Justice shall be responsible for the enforcement of this Act, and shall, in relations to their respective Ministries, have the power to appoint competent officials and issue ministerial regulations or regulations to enable the implementation of this Act.

Ministerial regulations or regulations shall be enforced from the time of its publication in the Government Gazette.

## **Chapter 1**

### **Child Protection Committee**

**Article 7** There shall be a National Child Protection Committee made up of the Minister of Social Development and Human Security as Chairperson of the Committee, the Permanent Secretary to the Ministry of Social Development and Human Security as Vice-Chairperson, members comprising the Permanent Secretary to the Ministry of Interior, the Permanent Secretary to the Ministry of Justice, the Permanent Secretary to the Ministry of Education, the Attorney General, the Chief of the Royal Thai Police, the Director-General of the Department of Provincial Administration, the Director-General of the Department of Mental Health, the Chief Judge of the Central Juvenile and Family Court, and the Director of the Office of Welfare Promotion and Protection and Empowerment of Vulnerable Groups, and distinguished members appointed by the Minister from experts who have had no less than seven years professional experience in the fields of social welfare, teaching, psychology, law and medicine, two from each field, one of which shall be a representative from the private sector, and two additional persons appointed from those who have demonstrable experience in child welfare of no less than seven years. The Deputy Permanent Secretary to the Ministry of Social Development and Human Security, designated by the Minister, shall act as member and Secretary of the Committee.

No less than one third of the distinguished members under the foregoing paragraph must be women.

The National Child Protection Committee may appoint no more than two civil servants from the Ministry of Social Development and Human Security to serve as Assistant Secretary of the Committee.

**Article 8** The Office of the Permanent Secretary of the Ministry of Social Development and Human Security shall be the Secretariat of the National Child Protection Committee. The Secretariat of the Committee shall have the following authority and duties:

- 1) To perform administrative tasks of the Committee;
- 2) To coordinate and cooperate with other government agencies, and public and private organisations concerned, in connection with the implementation of child welfare, safety protection and behavioural promotion related work;

3) To develop systems, modules, procedures, and provide services, in connection with child welfare, safety protection and behavioural promotion;

4) To compile research results, studies and analyses in connection with the monitoring and evaluation of the implementation of policies and plans for the provision of welfare, safety protection and behavioural promotion of children of concerned agencies, public and private alike, and report to the National Child Protection Committee;

5) To perform other work in accordance with the resolutions of, or as assigned by, the National Child Protection Committee;

**Article 9** The distinguished members of the National Child Protection Committee shall serve for a period of three years per term.

When a distinguished member of the National Child Protection Committee vacates the office upon expiry of his or her term, he or she may be reappointed, but not for more than two consecutive terms.

**Article 10** In addition to the vacation of office upon expiry of term, a distinguished member of the National Child Protection Committee will vacate the office upon:

1) Death;

2) Resignation;

3) Being removed by the Minister due to failure to perform duties, dishonesty, or misconduct;

4) Being sentenced to imprisonment under a final judgement to a term of imprisonment;

5) Being declared bankrupt;

6) Being an incompetent or quasi-incompetent person;

7) Being absent from three consecutive meetings without an appropriate reason.

**Article 11** When a distinguished member of the National Child Protection Committee vacates the office before expiry of his or her term, the Minister shall appoint a person in the same category as stipulated in Article 7 as the replacement committee member and the person who is appointed shall serve for a period equal to the remainder of the term of the committee member whom he or she replaced.

**Article 12** When a distinguished member of the National Child Protection Committee vacates the office upon expiry of his or her term and a new committee member has not yet been appointed, the outgoing committee member shall continue to perform his or her duties pro tempore.

**Article 13** No less than one half of the total number of committee members must be present at a meeting of the National Child Protection Committee to establish a quorum for the meeting of the Committee.

At a meeting of the National Child Protection Committee, the Chairperson of the National Child Protection Committee shall chair the meeting. If the Chairperson of the Committee is not present or unable to perform his or her duties, the Vice-Chairperson of the National Child Protection Committee shall chair the meeting. If the Vice-Chairperson of the Committee is not present or unable to perform his or her duties, other members of the Committee who are present at the meeting shall elect one among their number to chair the meeting.

Rulings and decisions of a meeting shall be carried out by simple majority. One committee member shall have one vote. If the votes are tied, the chairperson of the meeting shall cast an additional vote as the deciding vote.

**Article 14** The Committee shall have the following authority and duties:

1) To submit its views to the Minister regarding policies, plans, budgets and measures in social welfare, safety protection and behaviour promotion of the child in accordance with this Act;

2) To submit its views to the Minister regarding the issuance of ministerial regulations to implement this Act;

3) Issue regulations, with the consent of the Ministry of Finance, on receipt, payment and keeping of money and earnings of funds;

4) To issue regulations on measures to protect the safety of the child in accordance with Article 49;

5) To determine criteria for the appointment of competent officials;

6) To give advice, make recommendations and coordinate with government agencies and the private sector active in education, social welfare, safety protection and behaviour promotion of the child, as well as to have the authority to inspect any nurseries, gatehouses, welfare centres, safety protection centres, development and rehabilitation centres, remand homes, or places related to social welfare, safety protection and behaviour promotion of the child, both public and private;

7) To monitor, evaluate and monitor the implementations of the Bangkok Metropolis Child Protection Committee and Provincial Child Protection Committees, as well as to give advice and recommendations in connection with the prevention and remedy of matters concerning social welfare, safety protection and behaviour promotion of the child, at the Bangkok Metropolis and provincial levels;

8) To carry out any other tasks related to social welfare, safe protection and promotion of behaviour of the child.

**Article 15** The Committee has the power to appoint sub-committees or working groups to act in pursuant to that assigned by the Committee.

The provisions under Article 13 shall apply mutatis mutandis to meetings of the sub-committees or working groups.

**Article 16** There shall be a Bangkok Metropolis Child Protection Committee, composed of the Governor of Bangkok Metropolis as Chairperson of the Committee, the Permanent Secretary of the Bangkok Metropolis as Vice-Chairperson, and members appointed from representatives of the Office of the Permanent Secretary to the Ministry of Education, Office of the Attorney General, the Metropolitan Police Commission, Department of Social Development and Welfare, Central Juvenile and Family Court, Central Observation and Protection Centre in Bangkok, Office of Welfare Promotion and Protection and Empowerment of Vulnerable Groups, Director of the Community Development Bureau, Director of Health Bureau and Director of Medicines, including distinguished members, appointed by the Bangkok Governor from experts in the fields of social welfare, teaching, psychology, law and medicine, two from each field, one of whom must be a representative from the private sector, and an additional two distinguished members appointed from those with demonstrable experience in child welfare. The Director of the Social Welfare Bureau shall act as committee member and Secretary.

No less than one third of the total number of the distinguished members under the first paragraph must be women.

The Bangkok Metropolis Child Protection Committee may appoint no more than two civil servants from the Social Welfare Bureau as Assistant Secretary.

**Article 17** There shall be a Provincial Child Protection Committee, composed of the Governor as Chairperson of the Committee, Deputy Governor designated by the Governor as Vice-Chairperson, members comprising the Provincial Prosecutor, Permanent Secretary of the Bangkok Metropolis, Chief of Provincial Development, Chief of Provincial Labour and Social Welfare, Chief of Provincial Education, Chief of provincial Public Health, Provincial Police Commissioner, representative from the Provincial Juvenile and Family Court or, in the case where no Juvenile and Family Court exists in the province, a representative from the Provincial Court, representative from the Provincial Observation and Protection Centre, or representative from the Ministry of Justice appointed from officials in that province in the case where there is no Provincial Observation and Protection Centre , and President of the Provincial Administration Organization, and distinguished members appointed by the Governor from experts who have no less that seven years experience in the fields of social welfare, teaching, psychology, law, and medicine, two from each field, one out of which shall come from private organizations, including two additional distinguished members appointed from those with apparent experience in child welfare. Chief of the Provincial Social Development and Welfare Office shall act as member and Secretary.

No less than one third of the total number of the distinguished members under the foregoing paragraph must be women.

The Committee may appoint no more than two provincial civil servants to serve as Assistant Secretary.

**Article 18** The provisions under Articles 9, 10, 11 and 12 shall apply mutatis mutandis to the assumption of office, vacation of office, appointment of replacement committee members and the performance of duties of the distinguished members in pursuance of Article 16, save for the power of the Minister under Article 10 (3) and 11, where it is deemed within the power of the Governor of Bangkok Metropolis or Provincial Governor, as the case may be.

**Article 19** The provisions under Articles 13 and 15 shall apply mutatis mutandis to the meetings and appointment of sub-committees or working groups of the Bangkok Metropolis Child Protection Committee or Provincial Child Protection Committee.

**Article 20** The Bangkok Metropolis Child Protection Committee and the Provincial Child Protection Committee shall have the following authority and duties:

1) To submit their views to the Committee regarding policies, plans, budgets and measures in respect of social welfare, safety protection and behaviour promotion of the child in accordance with this Act;

2) To give advice and recommendations to, and coordinate with, government agencies and private organisations active in the fields of education, social welfare, safety protection and behaviour promotion of the child, as well as to have the authority to inspect nurseries, gatehouses, welfare centres, safety protection centres, development and rehabilitation centres, remand homes, or other places related to social welfare, safety protection and behaviour promotion of the child, public and private, within the Bangkok Metropolis or in the provinces, as the case may be;

3) To determine guidelines regarding social welfare, safety protection and behaviour promotion of the child in the Bangkok Metropolis or the provinces, as the case may be;

4) To raise funds for the purpose of social welfare, safety protection and behaviour promotion of the child in the Bangkok Metropolis or the provinces, as the case may be, and to report to the Committee and the Fund Management Committee on management of funds;

5) To examine or summon persons concerned to give statements in case of child abuse;

6) To request persons concerned to produce any documents or related evidence or give statements for consideration in the performance of duties according to this Act;

7) To monitor, evaluate and inspect the implementation of activities relating to child assistance and behaviour promotion in the Bangkok Metropolis and at the provincial level, as the case may be, and report the findings to the Committee;

8) To carry out other acts as assigned by the Committee.

**Article 21** In the performance of duties under this Act, members of Committees and Sub-committees shall be officials under the Penal Code.

## **Chapter 2**

### **Treatment of the Child**

**Article 22** Treatment of the Child in any case shall give primary importance to the best interests of the child and any discrimination of an unfair nature shall not be allowed.

In determining if an act is in the best interests of or unfairly discriminatory to the child, guidelines stipulated in the ministerial regulations shall be applied.

**Article 23** Guardians must take care, exhort and develop a child under their guardianship in manners appropriate to local traditions, customs and culture but which in any case must not be below the minimum standards as stipulated in the ministerial regulations. They shall also safeguard the child under care against potentially harmful circumstances, whether physical or mental.

**Article 24** Permanent Secretaries, provincial governors, district chiefs, assistant district officers as head of sub - districts or administrative heads of local administration organizations have the duty to protect the safety of children living in the areas under their jurisdiction, regardless of whether or not they have parents or guardians, and also have the authority and duty to supervise and inspect nurseries, gatehouses, welfare centres, safety protection centres, development and rehabilitation centres and remand homes falling under their jurisdiction. Findings of the inspections shall be reported to the Bangkok Metropolis Child Protection Committee or the Provincial Child Protection Committee, depending on the case. They shall also have the same authority and duties as those of competent officials according to this Act.

**Article 25** Guardians of a child are forbidden to act as follows:

1) Abandon a child at a nursery or health care facility, or with a person employed to look after the child, or at a public place or any other place, with the intention of not taking him or her back;

2) Neglect a child at any place without arranging for appropriate safety protection or care;

3) Deliberately or neglectfully withhold from a child things that are necessary for sustaining the child's life or health, to an extent which seems likely to cause physical or mental harm to the child;

4) Treat a child in ways or manners which hinder his or her growth or development;

5) Treat a child in ways or manners which constitute unlawful caring.

**Article 26** Under the provisions of other laws, regardless of a child's consent, a person is forbidden to act as follows:

- 1) Commit or omit acts which result in torturing a child's body or mind;
- 2) Intentionally or neglectfully withhold things that are necessary for sustaining the life or health of a child under guardianship, to the extent which would be likely to cause physical or mental harm to the child ;
- 3) Force, threaten, induce, encourage or allow a child to adopt behaviour and manners which are inappropriate or likely to be the cause of wrongdoing;
- 4) Advertise by means of the media or use any other means of information dissemination to receive or give away a child to any person who is not related to the child, save where such action is sanctioned by the State;
- 5) Force, threaten, induce, encourage, consent to, or act in any other way that results in a child becoming a beggar, living on the street, or use a child as an instrument for begging or committing crimes, or act in any way that results in the exploitation of a child;
- 6) Use, employ or ask a child to work or act in such a way that might be physically or mentally harmful to the child, affect the child's growth or hinder the child's development;
- 7) Force, threaten, use, induce, instigate, encourage, or allow a child to play sports or commit any acts indicative of commercial exploitation in a manner which hinders the child's growth and development or constitutes an act of abuse against the child;
- 8) Use or allow a child to gamble in any form or enter into a gambling place, brothel, or other place where children are not allowed;
- 9) Force, threaten, use, induce, instigate, encourage or allow a child to perform or act in a pornographic manner, regardless of whether the intention is to obtain remuneration or anything else;
- 10) Sell, exchange or give away liquor or cigarettes to a child, other than for medical purposes.

If the offences under paragraph one carry heavier penalties under other law, penalties under such law shall be imposed.

**Article 27** It is forbidden for anyone to advertise or disseminate by means of the media or any other kind of information technology any information on a child or the child's guardian, with the intention of causing damage to the mind, reputation, prestige or any other interests of the child or seeking benefit for oneself or others in an unlawful manner.

**Article 28** In those cases where a child's guardian is not in a state to take care, raise, discipline and develop the child, regardless of the reason, or a child's guardian acts in a manner which is likely to be harmful to the child's safety or obstructive to his or her growth or development, or provides neglect; or for any other compelling reason for the benefit of assisting or protecting the child against harm, a competent official must undertake to provide assistance and protection to the child according to this Act.

**Article 29** Upon finding a child in circumstances which warrant welfare assistance or safety protection as stipulated under Chapters 3 and 4, a person shall provide basic assistance and notify a competent official, administrative official or police officer or person having the duty to protect a child's safety according to Article 24 without delay.

A physician, nurse, psychologist or public health official admitting a child for treatment; teacher, instructor or employer having the duty to take care of a child who is his or her student or employee, shall report immediately to a competent official or person having duty to protect a child's safety according to Article 24, or administrative official or police officer if it is apparent or suspected that the child has been abused or is sick due to neglect.

Persons notifying or reporting in good faith under this Article shall receive appropriate protection and shall not be held liable for any civil, criminal or administrative action arising there from.

**Article 30** For the benefit of implementation in pursuance of this Act, a competent official according to Chapters 3 and 4, shall have the authority and duties as follows:

1) To enter homes, any establishments or vehicles, during the period from the rising to the setting of the sun, for the purpose of searching, in those cases where there is reason to suspect that an act of abuse, detention or neglect has been committed against a child. However, in the case where there is reason to believe that if action is not taken immediately, a child may be harmed mentally or physically or be taken to another place which would make it difficult to trace and rescue such child, a competent official may have the power to enter such places after the setting of the sun;

2) To question a child when there is reason to suspect that the child is in need of welfare assistance or safety protection. If necessary, in order that welfare assistance and protection of safety may be better provided or arranged, the child may be brought to the office of the competent official to obtain information about the child and his family, including any person the child is living with. In this regard, such action must be taken without undue delay, but, in any case, the child may not be detained for more than 12 hours. When such a period of time has elapsed, the provisions under clause (6) shall apply. During the time that the child remains in custody, he or she shall be provided for and, if ill, receive medical care;

3) To issue a letter summoning a child's guardian or any other persons to testify or give statements on the living conditions, behaviour, health and relationships within the family of the child;

4) To issue a written order to a child's guardian, employer or business operator, owner or possessor of a place where the child works or used to work, live or used to live, owner or possessor or keeper of a place at which the child is studying or used to study, or to the person in charge of protecting the child's safety, to submit documents or evidence regarding the child's living conditions, education, employment or behaviour;

5) To enter the residence of a child's guardian, place of business of the child's employer, the child's place of education or the place with which the child is concerned or connected, within the period from dawn to dusk to interview persons living in such places and gather information or evidence concerning the child's living conditions, relationship within the child's family, care provided, and character and behaviour of the child;

6) To restore a child to his or her guardian with recommendations or warning given to the guardian to take care and bring up the child in the right manner to enable the child to develop properly;

7) On request, to prepare a report on a child for submission to the relevant persons or authorities in those cases where the child is being sent to a gatehouse or other concerned institute or agency.

A child under care of a competent official shall be properly provided for and received suitable education, and prior to sending the child to a nursery, gatehouse, welfare centre, safety protection centre or development and rehabilitation centre, experts in the fields of social welfare and medicine shall be consulted to the extent possible.

To carry out duties in pursuance of clauses (1), (2) and (5), a competent official shall present his identification card to the persons concerned and the persons concerned shall accord facilitations as appropriate.

The competent official's identification card shall be in conformity with the form stipulated by the Minister as published in the Government Gazette.

**Article 31** In the performance of duties under this Act, the competent officials shall be officials under the Penal Code.

### **Chapter 3**

#### **Social Welfare**

**Article 32** Children warranting welfare assistance include as follows:

- 1) Street children or orphans;
- 2) Abandoned or lost children;

3) Children whose guardians are unable to care for them for whatever reasons, for example, being imprisoned, detained, disabled, chronically ill, impoverished, juvenile, divorced, deserted, mentally ill or neurotic;

4) Children whose guardians have inappropriate behaviours or occupations, which might affect the physical or mental development of the children under their guardianship;

5) Children who have been unlawfully brought up, exploited, abused, or subjected to any other conditions which are likely to cause them to behave in an immoral manner or suffer physical or mental harm;

6) Disabled children;

7) Children in difficult circumstances;

8) Children in situations warranting welfare assistance as stipulated in the ministerial regulations.

**Article 33** In the case of a competent official or person having the duty to protect a child's safety according to Article 24 having been notified by persons according to Article 29 or having found a child warranting welfare assistance according to Article 32, he or she shall consider the most appropriate ways and means of providing assistance as follows:

1) To provide assistance and welfare to the child and his or her family or any person providing care for the child so as to enable them to take care of the child in a manner pursuant to Article 23;

2) To submit the child into the care of an appropriate person who consents to provide care for the child for a period as deemed appropriate but not exceeding one month in the case where it is not possible to act according to clause 1);

3) To facilitate the adoption of the child by a third person in accordance with the law on child adoption;

4) To send the child to be cared for by an appropriate foster family or nursery consenting to take the child into care;

5) To send the child to be cared for at a gatehouse;

6) To send the child to be cared for at a welfare centre;

7) To send the child to receive education or occupational training, or to receive treatment, rehabilitation, education or occupational training in a development and rehabilitation centre, or to receive spiritual discipline based on religious principles in a Buddhist temple or other place of other religion consenting to take the child into care.

The measures for providing welfare assistance in paragraph one shall follow the regulations laid down by the Permanent Secretary of the Ministry, and in any case, the measures under clauses 4), 5), 6) or 7) must have the consent of the child's guardian. Such consent must be given in writing in compliance with the form stipulated by the Permanent Secretary of the Ministry or verbally in the presence of at least two witnesses. In cases where the guardian of the child refuses to give consent without appropriate reason or is unable to give consent, the Permanent Secretary or the Provincial Governor, as the case may be, shall be empowered to send the child for welfare assistance according to the said measures, but not before having heard the recommendations and opinions of experts in the fields of social welfare and medicine.

The Permanent Secretary or the Provincial Governor, as the case may be, shall be empowered to fix the period for the provision of welfare assistance under clauses 4), 5), 6) and 7); however, he or she may use his or her discretion to extend or shorten such period as deemed appropriate, if there are changes in circumstances. In the meantime during such period, a competent official shall expeditiously arrange for that the child to be returned to his or her guardian.

In the case where a request is made by the guardian for the release of a child being provided welfare assistance and such guardian can demonstrate that he or she is capable of exercising guardianship over and taking care of the child, the Permanent Secretary or the Provincial Governor, as the case may be, shall order the release of the child from welfare assistance and submit the child to his or her guardian, even though the period of welfare assistance has not been completed.

In the case where the person receiving welfare assistance has reached 18 years of age but is still in a condition warranting further assistance, the Permanent Secretary or the Provincial Governor, as the case may be, may order such person to be granted further assistance until he or she reaches 20 years of age. However, if, due to a compelling reason, the provision of welfare assistance to such person must continue further, and such person has no objection, the Permanent Secretary or the Provincial Governor, as the case may be, may order the continuation of such assistance as necessary and appropriate, but which in any case shall not extend beyond the date when such person reaches 24 years of age.

**Article 34** A child's guardian or relative may take the child to apply for welfare assistance at the Department of Social Development and Welfare or the Provincial Office of Social Development and Welfare or a gatehouse, welfare centre or a private development and rehabilitation centre.

In the case of a child being brought to apply for welfare assistance at the Department of Social Development and Welfare or the Provincial Office of Social Development and Welfare, if such child is deemed in need of assistance, a competent official shall consider providing appropriate welfare assistance according to Article 33 but in the case where a competent official has not yet been able to find appropriate means of assistance according to Article 33, the competent official may send the child to a gatehouse in the meantime.

In the case of a child being brought to apply for welfare assistance at a gatehouse, welfare centre or private development and rehabilitation centre, the child's

guardian shall provide a competent official with information concerning the child for consideration in taking further action under paragraph two.

**Article 35** When a competent official or person having the duty of protecting the safety of a child according to Article 24 has found the child to warrant welfare assistance according to Article 32 (1) and (2) or has been notified by persons according to Article 29, he or she shall make enquiries with the view to obtaining information concerning the child. If the child is ill or in need of physical examination or is disabled, arrangements must be made without delay to provide physical and mental examination and treatment. If such child is deemed in need of welfare assistance, consideration shall be given to providing assistance in accordance with Article 33 and, and in any case, efforts should be made towards restoring the child to his or her family promptly. However, if it appears that the family situation or environment is unsuitable for the child to return to and if there is a compelling reason for providing protection for the child's safety, a competent official may adopt measures to provide safety protection to the child according to Chapter 4.

**Article 36** During such period when a child is granted welfare assistance in accordance with Article 33 (2), (4) or (6), if it appears that such child is at risk of wrongdoing and warrants safety protection, the Permanent Secretary or the Provincial Governor, as the case may be, has the power to order the application of safety protection measures according to Chapter 4.

**Article 37** When a gatehouse, welfare centre or development and rehabilitation centre has received a child according to Article 33 (5), (6) or (7), the person in charge of the child's safety shall expeditiously seek to obtain information about and observe the child and his family, and shall submit without delay his or her views regarding appropriate measures for welfare assistance and safety protection for each individual child, together with the child's record, to the Permanent Secretary or the Provincial Governor, as the case may be, and the Permanent Secretary or the Provincial Governor shall use his or her discretion to order action as appropriate.

**Article 38** In cases where the Permanent Secretary or the Provincial Governor orders a child to receive welfare assistance without the consent of the child's guardian under Article 33, paragraph 2, or where the guardian disagrees with the specified period of assistance under Article 33, paragraph three, or where the guardian had submitted a request to take the child back into guardianship but such request had been rejected by the Permanent Secretary or the Provincial Governor under Article 33, paragraph four, the child's guardian shall by all means have the right to bring the case to the court which has the jurisdiction over that area in accordance with Article 5 within one hundred and twenty days from the day of notification of the court's order.

**Article 39** In the case where the guardian, having taken a child back into his or her guardianship, displays conduct which suggests that he or she will resume unlawful caring behaviour, a competent official or person having the duty to protect the child's safety according to Article 24 shall give advice to the guardian. If the guardian does not act according to the advice given, the competent official shall submit a petition to the Permanent Secretary, the Provincial Governor, District Chief or Assistant District Officer as Head of the Sub-District, as the case maybe, to summon the guardian to be put under a bond of performance whereby he or she shall

not act in any way that will constitute neglect to the child again, and deposit the bond money in the appropriate amount according to the statute; however, the duration of the bond deposit shall not exceed two years. If the bond of performance is violated, the money deposited shall be forfeited under the Child Protection Fund according to Article 69.

The giving of advice or requisition of a bond shall take into account the economic status of the child's guardian and the best interests of the child.

## **Chapter 4**

### **Safety Protection**

**Article 40** Children warranting safety protection are defined as follows:

- 1) Abused children;
- 2) Children vulnerable to wrongdoing;
- 3) Children in the state necessitating safety protection in accordance with the ministerial regulations.

**Article 41** Upon having witnessed or come to know of conduct which leads a person to believe that an act of abuse has been committed against a child, such person shall promptly notify or report to a competent official, administration official or a person having the duty to protect a child's safety according to Article 24.

When a competent official, administration official or police officer or a person having the duty to protect a child's safety according to Article 24 has received a notification according to paragraph one, or witnessed or come to know of, at any place, conduct which leads him or her to believe that an act of abuse has been committed against a child, he or she shall have the power to enter and inspect such place and separate the child from the child's family in order to provide protection to the child at the earliest opportunity.

Persons notifying or reporting in good faith under this Article shall receive protection and shall not be held liable for any civil, criminal or administrative action arising therefrom.

**Article 42** In conducting the safety protection according to Article 41, paragraph two, arrangements shall be made for the immediate physical and mental examination of the child. If a competent official deems it necessary to find fact the child and the child's family in order to determine appropriate safety protection measures for the child, he or she may send the child to a gatehouse or, if welfare assistance is called for, consider providing assistance in accordance with Article 33, and, if mental rehabilitation is needed, send the child promptly to a development and rehabilitation centre.

The transfer of a child to a gatehouse, development and rehabilitation centre or any other place according to paragraph one during such time when the fact finding is

being carried out to determine appropriate safety protection measures for the child shall not be for a period longer than seven days, but in the case where there exists a compelling and appropriate reason for the benefit of the child, a competent official or public prosecutor may submit a petition to the court pursuant to Article 5 to order extending such period further, but not exceeding 30 days in total.

**Article 43** In the case where a child's guardian or relative is the one committing an act of abuse, if criminal proceedings are instituted against the perpetrator and there is reason to believe that the accused will repeat the act of abuse, the court which considers such case shall have the power to determine conditions for controlling the behaviour of the accused, to forbid the accused from entering a specified area or to come closer to the child than the distance specified by the court, in order to prevent any repetition of such act, and may place the accused under a bond of performance in accordance with the procedures stipulated under Article 46 and 47 of the Penal Code.

If criminal proceedings are yet to be instituted or are not instituted, but there are circumstances suggesting that an act of abuse or abuse will be repeated against a child, a competent official, administration official, police officer or person in charge of protecting the child's safety under Article 24 or public prosecutor shall submit a request to the court pursuant to Article 5 to give an order prohibiting such act by imposing measures for controlling behaviour and, if deemed fit, demanding a performance bond.

In any cases under paragraph one and two, if the court is of an opinion that there exists an urgent need to protect the child from a repeated act of abuse, the court shall have the authority to order the police to arrest any person believed to have the intention to perpetrate the act of abuse against the child to be detained for a period not exceeding 30 days at a time.

The decision to give orders or demand a performance bond under this Article shall take into primary account the best interests of the child.

**Article 44** When a competent official or person having the duty of protecting a child's safety according to Article 24 has witnessed or come to know of a child at risk of wrongdoing, he or she shall make enquiries of the child and proceed to seek facts concerning the child, including relationships within the child's family, living conditions, the manner in which the child has been brought up, and the character and behaviour of the child, and if it is deemed necessary to protect the safety of the child by sending the child to a safety protection centre or development and rehabilitation centre, the competent official shall submit the child's record together with his or her observations to the Permanent Secretary or the Provincial Governor, as the case may be, for consideration in determining and ordering appropriate protection measures for the child.

In the case where a competent official or person having the duty of protecting a child's safety according to Article 24 is of the opinion that the child needs welfare assistance, he or she shall use appropriate discretion to provide assistance according to Article 33, but if the competent official is of the opinion that it is not yet timely to send the child to a gatehouse, welfare centre, safety protection centre or development

and rehabilitation centre, the competent official shall hand over the child to the child's guardian or person consenting to take the child into care and guardianship, in which case the competent official may or may not appoint a safety protector according to Article 48, and after having consulted with the child's guardian or person consenting to taking the child under care and guardianship, the competent official may impose suitable conditions to prevent the child from misbehaving or adopting behaviour which places the child at risk of wrongdoing by ordering the child's guardian or person consenting to taking the child under care and guardianship to adopt one or more of the following courses of action as appropriate:

1) To be vigilant in not letting the child enter any place or locality which would induce the child to behave in an unfitting manner;

2) To be vigilant in not letting the child go outside the place of residence at night except there is a necessity or the child is accompanied by his or her guardian;

3) To be vigilant in not letting the child associate with persons or group of persons who might induce the child to behave inappropriately;

4) To be vigilant in not permitting the child undertake any act that might cause the child to behave inappropriately;

5) To arrange for the child to receive education suitable to the child's age, intellect and interests;

6) To arrange for the child to engage in an occupation or pursuit which is in line with the child's interests and ability;

7) To arrange for the child to participate in activities which help improve the child's spiritual and ethical development and are beneficial to society.

If it is apparent that the guardian or person consenting to take the child under care and guardianship has neglected to comply with the conditions imposed by the competent official or person in charge of protecting the child's safety under Article 24, the competent official or person in charge of protecting the child's safety shall take the child back into care.

**Article 45** A child is forbidden to purchase or consume liquor or cigarettes, or enter a place which has the particular purpose of selling or permitting the consumption of liquor or cigarettes. In case of violation, a competent official shall question the child with a view to obtaining information about the child and issue a letter summoning the child's guardian to meet and consult on admonishing, putting the child under bond of good behaviour, or producing a joint agreement concerning procedures and a timeframe for arranging for the child to undertake social service or public utility work, or imposing any other conditions to rectify the situation or prevent the child from repeating the offence.

If it appears that the child's guardian has violated the provisions under paragraph one, provisions under Article 39 shall be applied mutatis mutandis.

The imposition of admonition, placing the child under bond of performance, arranging for the child to undertake social service or public utility work under paragraph one shall follow the criteria, procedures and conditions stipulated in the ministerial regulations.

**Article 46** In the case where the Permanent Secretary or the Provincial Governor orders the transfer of a child to receive safety protection or a competent official imposes conditions for the child to undertake social service or public utility work under Article 45, if the child's guardian does not concur, he or she shall have the right to bring the case to court according to Article 5 within one hundred and twenty days from the day of notification of the court's order.

**Article 47** Measures for providing protection for the child's safety in addition to those prescribed under this Chapter shall follow the regulations specified by the Committee.

## **Chapter 5**

### **Child's Safety Protectors**

**Article 48** In carrying out welfare assistance, safety protection, and behaviour promotion of the child in accordance with the Act or other laws, if a competent official deems it fit to appoint a safety protector for any child, the competent official shall submit a request to the Permanent secretary or the Provincial Governor, as the case may be, to appoint a competent official, social worker or a willing and suitable person to be the child's safety protector, with or without specifying the place of residence of the child who is under care of the safety protector.

In the case where a child has been released from the care and guardianship of a gatehouse, welfare centre, safety protection centre and development and rehabilitation centre, if there is an appropriate reason, the guardian of the child's safety may submit a request to the Permanent Secretary or the Provincial Governor, as the case may be, to appoint a competent official, social worker or a willing and suitable person to be the child's safety protector.

The appointment of a safety protector shall be valid for a period not exceeding two years per term.

**Article 49** A child's safety protector has the authority and duties as follows:

- 1) To visit, give advice, recommendations or cautions to a child under supervision regarding the child's behaviour, education and occupation;
- 2) To visit, give advice and recommendations to the guardian of the child under supervision regarding matters of child care and discipline.
- 3) To prepare reports and recommendations concerning the living conditions of the child and the child's guardian for submission to the Permanent Secretary, Provincial Governor, competent official, guardian of the child's safety, the

Committee, the Bangkok Metropolitan Child Protection Committee or the Provincial Child Protection Committee, as the case may be, for further action.

**Article 50** The guardian of a child's safety or a child's safety protector are forbidden to disclose the name, surname, picture or any information regarding the child and the child's guardian in a manner which is likely to be detrimental to the reputation, esteem or entitlements of the child.

The provisions under paragraph one, shall apply *mutatis mutandis* to a competent official, social worker, psychologist or person having the duty to protect a child's safety according to Article 24, who has come into the possession of such information as a result of the performance of his or her duties.

It is forbidden for any person to advertise or disseminate by means of the mass media or any other form of information technology the disclosed information in violation of the provisions under paragraphs one or two.

## **Chapter 6**

### **Nursery, Gatehouse, Welfare Centre, Safety Protection Centre and Development and Rehabilitation Centre**

**Article 51** The Permanent Secretary has the power to establish a nursery, gatehouse, welfare centre, safety protection centre and development and rehabilitation centre throughout the Kingdom and the Provincial Governor has the power to establish a nursery, gatehouse, welfare centre, safety protection centre and development and rehabilitation centre within his or her respective province.

Other government agencies, in additions to those duties specified under this Act, may establish and operate a nursery only by notifying the Permanent Secretary or the Provincial Governor, as the case may be, who shall advise or support such establishment and operation thereof.

**Article 52** Under the provisions of Article 51, any person wishing to establish a nursery, gatehouse, welfare centre, safety protection centre and development and rehabilitation centre shall apply for a license to the Permanent Secretary or the Provincial Governor, as the case may be.

The application for licence, issuance of licence, application for renewal of licence, granting of permission to renew licence, application for temporary licence replacing a lost, destroyed or damaged licence, granting of temporary license, and revocation of licence shall follow the criteria, guidelines and conditions stipulated in the ministerial regulations, and a fee shall be charged at the rate specified in the ministerial regulations.

**Article 53** The Permanent Secretary, Provincial Governor, the Committee, the Bangkok Metropolitan Child Protection Committee, and the Provincial Child Protection Committee shall supervise, promote and support the operation of a nursery, gatehouse, welfare centre, safety protection centre and development and rehabilitation centre in their responsible area.

**Article 54** A gatehouse, welfare centre, safety protection centre and development and rehabilitation centre shall not be operated on a profit seeking, commercialised basis and shall be supervised and administered by the guardian of safety.

The operation of such places under paragraph one shall comply with the regulations prescribed by the Permanent Secretary.

**Article 55** The Permanent Secretary and the Provincial Governor shall have the power to appoint or remove the guardian of safety of a gatehouse, welfare centre, safety protection centre and development and rehabilitation centre in accordance with criteria, guidelines and conditions set forth in the ministerial regulations.

**Article 56** A guardian of safety of a gatehouse has the authority and duties as follows:

1) To take into custody a child in need of welfare assistance or safety protection for the purpose of fact finding of the child and the child's family, and making judgements in determining appropriate measures for providing welfare assistance or safety protection to each individual child; if necessary, the guardian may take the child under temporary guardianship for a period not exceeding 3 months;

2) To find fact in connection with the age, background, behaviour, intelligence, education and control, health, state of mind, habits, occupation and status of the child in need of welfare assistance and safety protection, as well as those of the child's guardian or the person with which the child lives, including all of the circumstances and environment surrounding the child and the situation and conditions which caused the child to be in the circumstances warranting welfare assistance or safety protection, in order to report to the agencies concerned;

3) To arrange for physical and mental health examination, as well as proceeding with the treatment of the child under care and guardianship;

4) To arrange for appropriate and hygienic accommodation, sleeping place and clothing, as well as nutritious and sufficient meals for the child under care and guardianship;

5) To arrange for education, sports and recreational activities to be provided to the child under care and guardianship with due consideration to the age and condition of each individual child;

6) To send the child, who has followed the procedures under clauses 1) and 2), to a welfare centre, development and rehabilitation centre, school or any other place which has welfare assistance or protection of the child's safety as its objective, paying due regard to the age and condition of each individual child;

7) To hand over the child to the child's guardian, or a person consenting to, and suitable to be, the child's guardian, and if deemed appropriate, to submit a request to the Permanent Secretary or Provincial Governor, as the case may be, for the appointment of a safety protector under Article 48;

8) To give advice, make recommendations and provide assistance to the child's guardian, in those cases where the child is deemed in need welfare assistance or safety protection.

A guardian of safety of a gatehouse must first undertake to facilitate the return of the child to his or her guardian; whereas the arrangement for the transfer of the child to a welfare centre, safety protection centre or development and rehabilitation centre shall be adopted only as the last resort.

**Article 57** A licence holder and guardian of safety of a welfare centre and safety protection centre established in accordance with this Act or other laws shall ensure that every child in need of welfare assistance or safety protection is admitted to the centre.

**Article 58** A guardian of safety of a welfare centre has the authority and duties according to Article 56 (1), (2), (3) and (4) and shall have additional authority and duties as follows :

1) To arrange for appropriate education, instruction and occupational training for the children under care and guardianship in a manner suited to each individual child;

2) To provide guidance, counselling and assistance to the child's guardian;

3) To monitor and follow up on a child who has been discharged from the welfare centre, offering the child advice, guidance and assistance, to ensure that the child will not return to the previous circumstances.

The fact finding under Article 56 (2) may be waived if the child has been sent from a gatehouse with a report indicating that such fact finding has already been conducted.

**Article 59** A guardian of safety of a safety protection centre has the authority and duties as follows:

1) To take charge of, supervise and care for a child staying at the safety protection centre;

2) To arrange for the education, instruction and occupational training of a child staying at the safety protection centre;

3) To rectify behaviour, and treat and rehabilitate the physical and mental conditions of a child staying at the safety protection centre;

4) To monitor and follow up on a child who has been discharged from the safety protection centre, offering the child advice, guidance and assistance.

**Article 60** A guardian of safety of a development and rehabilitation centre has the authority and duties as follows:

1) To take into custody a child who is deemed in need of physical or mental rehabilitation;

2) To find fact in connection with the child and the child's family for the purpose of determining guidelines for the development and rehabilitation of each individual child;

3) To arrange for appropriate education, control, treatment, guidance and physical and mental rehabilitation in a manner suitable to each individual child under custody.

**Article 61** An owner, guardian of safety, and staff of a nursery, gatehouse, welfare centre, safety protection centre and development and rehabilitation centre shall be forbidden to assault, physically or mentally, detain, abandon or impose any other harsh measures of punishment on any child under care and guardianship, except where such acts are reasonably applied for disciplinary purposes in accordance with the regulations specified by the Minister.

**Article 62** In performing the duties under this Act or as assigned by the Permanent Secretary or the Provincial Governor, a guardian of safety shall be an official under the Penal Code.

## **Chapter 7**

### **Behaviour Promotion of Pupils and Students**

**Article 63** Schools and educational establishments shall set up systems and activities to provide guidance, counselling and training for pupils, students and guardians, with a view to promoting appropriate behaviour, social responsibility and safety for the pupils and students, in accordance with the criteria, procedures and conditions stipulated in the ministerial regulations.

**Article 64** Pupils and students shall behave in accordance with the regulations of the schools or educational establishments and in compliance with the ministerial regulations.

**Article 65** If a student or pupil violates the provisions under Article 67, a competent official shall act in accordance with the regulations specified by the Minister and shall have the authority to hand over the student or pupil to the administrator of the school or educational establishment attended by the pupil or student for investigation, admonition or punishment in accordance with the regulations. In cases where it is not possible to hand over the student or pupil, the competent official may notify the administrator verbally or in writing.

Upon having admonished or punished the student or pupil, a competent official or administrator of the school or educational establishment shall notify the guardian for additional rebuke or disciplining.

The punishment of pupils or students shall be carried out reasonably for disciplinary purposes, in accordance with the regulations specified by the Minister.

**Article 66** A competent official under this Chapter has the authority to act for the purpose of promoting the behaviour of pupils and students as follows:

1) Make enquiries of the teachers, instructors or heads of educational establishments with regard to the behaviour, education, habits and intellect of a student or pupil who has violated provisions under Article 64;

2) Summon the guardian, teachers, instructors or head of the educational establishment where such student or pupil attends to collect the student or pupil for further admonition and discipline;

3) Give advice to guardians in connection with discipline;

4) Summon a guardian for admonition or to be placed under a bond of performance in order that repeated violations of Article 64 may be guarded against;

5) Monitor, supervise, and report to the Committee on the behaviour of persons or on other situations which are likely to induce pupils or students to behave inappropriately;

6) Coordinate with the administrators of schools or educational establishments, teachers, guardians, police officers or other competent officials for implementation of actions in accordance with this Chapter.

**Article 67** In the case where there is a reason to suspect that the laws or regulations on the behaviour of pupils or students may have been violated, a competent official shall have the authority to enter any residences, premises or vehicles during the period from dawn to dusk or during business hours for investigation purposes.

In performing the duties under paragraph one, the competent official shall present his or her identification card to persons concerned, and the persons concerned shall accord facilities as appropriate.

The identification card of a competent official shall comply with the form prescribed by the Minister as published in the Government Gazette.

## **Chapter 8**

### **Child Protection Fund**

**Article 68** The Government shall set aside a budget for the establishment of a fund at the Office of the Permanent Secretary of the Ministry of Social Development and Human Security called the “Child Protection Fund” for use as capital for providing welfare assistance, safety protection and behaviour promotion of a child, including the child’s family and foster family under this Act.

**Article 69** The Fund shall consist of:

- 1) Start-up money contributed by the Government;
- 2) Money received from the annual budget distribution;
- 3) Money or property donated;
- 4) Money contributed internationally or by an international organisation;
- 5) Money or property belonging to the Fund or received by the Fund by lawful means or any other legal acts;
- 6) Money forfeited as a result of violations of bond of performance according to Article 39;
- 7) Interests accruing on the monies in the Child Protection Fund.

**Article 70** The monies and interest received by the Fund under Article 69 shall not be required to be remitted to the Ministry of Finance as state income.

**Article 71** There shall be a Fund Management Committee to be composed of the Permanent Secretary of the Ministry of Social Development and Human Security as Chairperson of the Committee; members comprising the Permanent Secretary of the Ministry of Interior, Permanent Secretary of the Ministry of Education, representative from the Bureau of the Budget, representative from the Comptroller-General's Department, and no more than three distinguished persons appointed by the Committee, one of whom must be a representative from the private sector active in child welfare; and the Deputy Permanent Secretary of the Ministry of Social Development and Human Security designated by the Permanent Secretary as member and Secretary of the Committee.

**Article 72** Provisions under Articles 9, 10, 11, 12, 13 and 15 shall apply mutatis mutandis to the assumption of office, vacation of office, meeting of the Fund Management Committee, and appointment of any sub-committees of the Fund Management Committee.

**Article 73** The Fund Management Committee shall have the authority and duties as follows:

- 1) To manage the Fund in accordance with regulations specified by the Committee;
- 2) To consider the approval of payments for the purpose of welfare assistance, protection of safety and behaviour promotion of the child, including the child's family and foster family, according to the regulations specified by the Committee or by court order.
- 3) Report to the Committee on the financial status and performance of the Fund according to the regulations set forth by the Committee.

**Article 74** The receipt, payment, maintenance, fund raising, and management of the Fund shall follow the regulations set forth by the Committee.

**Article 75** There shall be a Monitoring and Evaluation of the Fund Performance Committee consisting of five persons, comprising the Chairperson and distinguished members appointed by the Committee from those with knowledge and experience in finance, child welfare and evaluation, and the Deputy Permanent Secretary of the Ministry of Social Development and Human Security designated by the Permanent Secretary as member and Secretary of the Committee.

Provisions under Articles 9, 10, 11, 12 and 13 shall apply mutatis mutandis to the assumption of office, vacation of office, and meetings of the Monitoring and Evaluation Committee under paragraph one.

**Article 76** The Monitoring and Evaluation Committee under Article 75 shall have the authority and duties as follows:

- 1) To monitor, inspect and evaluate the performance of the Fund;
- 2) To report to the Committee on the performance of the Fund, together with any recommendations;
- 3) To have the power to request the provision of documents or evidence in connection with the Fund from any person or to summon any person to give statements to further complement its evaluation of the Fund.

**Article 77** The Office of the Auditor-General of Thailand shall audit the Fund annually and prepare a report on the findings and certification of the Fund's accounts and finances for submission to the Committee within one hundred and fifty days from the end of the financial year for submission to the Cabinet.

The Minister shall present the audit report under paragraph two to the Prime Minister for submission to parliament for information and publication in the Government Gazette.

## **Chapter 9**

### **Penalties**

**Article 78** Any person who violates Article 26 shall be liable to a term of imprisonment not exceeding three months or a fine not exceeding 30,000 Baht, or both.

**Article 79** Any person who violates Articles 27, 50 or 61 shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding 60,000 Baht, or both.

**Article 80** Any person who obstructs a competent official in the performance of his or her duties under Article 30 (1) or (5), or refuses to submit documents or knowingly submits documents which are false to a competent official when a notice

has been served according to Article 30 (4) shall be liable to a term of imprisonment not exceeding one month, or a fine not exceeding 10,000 Baht, or both.

Any person who fails to appear to give a statement, refuses without justification to give a statement or gives a false statement to a competent official performing his or her duties under Article 30 (3) shall be liable to a term of imprisonment not exceeding one month, or a fine not exceeding 10,000 Baht, or both. However, if the testifier reverses his position by providing a true statement before the testimony is over, the criminal proceedings against that person shall be halted.

**Article 81** Any person who violates the conditions imposed by the court in connection with the control of behaviour, restrictions on entry to a specified area or restrictions on coming into close proximity to a child under Article 43 shall be liable to a term of imprisonment not exceeding one month, or a fine not exceeding 10,000 Baht, or both.

**Article 82** Any person who establishes or operates a nursery, gatehouse, welfare centre, safety protection centre or development and rehabilitation centre under Article 52 without a permit, or when the permit has expired or has been revoked shall be liable to a term of imprisonment not exceeding one month, or a fine not exceeding 10,000 Baht, or both.

If the person who violated the provisions under paragraph one applies for a permit or renewal of permit within the period specified by a competent official, the criminal proceedings against that person shall be halted.

**Article 83** The owner or guardian of safety of a nursery, gatehouse, welfare centre, safety protection centre or development and rehabilitation centre who fails to comply with this Act or the ministerial regulations or regulations issued in pursuance of this Act shall be liable to a term of imprisonment not exceeding one month, or a fine not exceeding 10,000 Baht, or both.

If the person who violated the provisions under paragraph 1 has taken action to rectify or comply with the recommendations of the competent official or person having the duty to protect the child's safety under Article 24, the criminal proceedings against that person shall be halted.

**Article 84** Any person acting as a guardian of safety of a nursery, gatehouse, welfare centre, safety protection centre and development and rehabilitation centre without appointment in accordance with Article 55 shall be liable to a term of imprisonment not exceeding one month, or a fine not exceeding 10,000 Baht, or both.

**Article 85** Any person committing an act of inducing, encouraging, assisting or supporting a pupil or student to violate the provisions under Article 64 shall be liable to a term of imprisonment exceeding three months, or a fine not exceeding 30,000 Baht, or both.

**Article 86** Any person who fails to facilitate the work of a competent official in the performance of his or her duties under Article 67 shall be liable to a term of imprisonment not exceeding one month, or a fine not exceeding 10,000 Baht, or both.

## **Transitional Provisions**

**Article 87** Nurseries, gatehouses, welfare centres and safety protection centres belonging to government agencies or privately owned with authorisation according to the Announcement no. 294 of the Revolutionary Council dated 27 November 1972 which have been in operation until the day of the enactment of this Act shall be regarded as nurseries, gatehouses, welfare centres and safety protection centres under this Act.

**Article 88** All ministerial regulations, rules, regulations, announcements or orders issued by virtue of Announcements No. 132 and No. 294 of the Revolutionary Council dated 22 April 1972 and 27 November 1972 respectively shall remain in full force and effect, insofar as they do not contradict or are in any way inconsistent with this Act, until such time as Ministerial regulations, rules, regulations, announcements issued under this Act come into force.

Counter-signed

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Pol. Lt. Col. Thaksin Shinawatra

Prime Minister

### **Remarks:**

The rationale for the promulgation of this Act is as follows:

The Announcements No. 132 and No. 294 of the Revolutionary Council, dated 22 April 1972 and 27 November 1972 respectively, have been in force for a long time. The essence and detail governing the procedures and measures for providing welfare assistance, protecting safety and promoting behaviour of the child are not suited to present social conditions. It is thus deemed appropriate to define procedures and amend methods in dealing with the child to enable the child to be taken care of, nurtured and developed properly, which in turn will promote the stability of the family institution and prevent the child from being abused, exploited or discriminated against. It is also deemed expedient to improve the ways and means to foster collaboration amongst the government agencies and private organisations in providing protection to the child, so as to be in line with the present Constitution of the Kingdom of Thailand, the National Economic and Social Development Plan, and the United Nations Convention on the Rights of the Child. It is therefore deemed necessary to promulgate this Act.