

**The Martial Law Order**

**Buddhist Era 2457 (1914 AD)**

Royal Edict

A royal order has been issued by His Majesty King Vajiravudh making a public declaration that the Martial Law Order issued in BE 2450 (r.s. 126) (1907 AD) does not provide sufficient power to the military at the time of war to maintain law and order and defend against the danger of attack, either from abroad or from within the country. It is now necessary to amend the Martial Law Order to render it more appropriate to the current times. The Martial Law Order of BE 2450 (r.s. 126) (1907AD) is therefore to be revoked and a new Martial Law Order to be introduced, with details as follows:

The Name of the Act

Article 1 \* This Royal Law Order is to be known as "The Martial Law Order of 1914"

\* (r.k. 2457/-/388/13 September 1907)

Whenever or wherever the Law Order is enforced a Declaration must be made.

Article 2\* When a situation arises that makes it necessary to maintain law and order and to defend against the danger of attack, either from abroad or from within the Kingdom, then a royal decree will be issued to implement all articles of the Martial Law Order, or some articles of the Order, or any part of any article. This declaration will also include the establishment of conditions for the enforcement of the Order in any part of the Kingdom or throughout the entirety of the Kingdom. Whenever or wherever the Order is enforced then any contents of any other Order or any other laws that are at variance with those of the Martial Law Order will be rescinded and the Martial Law Order will be enforced in their stead.

\*[Article 2 has been amended and added to by a decree on Martial Law in Buddhist era 2485 (AD 1942)]

The Declaration of Martial Law

Article 3 If Martial Law has not been announced throughout the Kingdom then the declaration of a state of Martial Law will indicate which regions (*monthon*), which sub-districts (*tambon*) and which districts (*khet*) are to be placed under Martial Law.

#### Details of those Entitled to Declare a State of Martial Law

Article 4 When there is an outbreak of war or of unrest at any location then the local Military Commander with a minimum force of one battalion at his disposal or a military commander at any fortified post or military stronghold, has the power to declare a state of Martial Law in the area under his control. He must however report his declaration of Martial Law as soon as possible to the government.

#### The Revocation of Martial Law Must Be Declared

Article 5 Martial Law can only be rescinded in any location by royal decree.

#### Military Powers during the Declaration of a state of Martial Law

Article 6\* In areas where a state of Martial Law has been declared, the authority of military personnel overrules that of civilian personnel in relation to issues of war, suppression, or the maintenance of law and order. Civilian personnel must do as they are ordered by military personnel.

\* [Article 6 was further amended under the announcement of the coup d'etat group, issue 303, dated 13 December B.E. 2515 (1972 AD)]

#### The Powers of Military Law Courts and of Civil Law Courts under the Declaration of Martial Law

Article 7\* In areas where a state of Martial Law has been declared, civil law courts still have the authority to consider and pass judgement on cases as normal, with the exception of those cases which fall under the authority of the Martial Law Order. Those who have the power to declare a state of Martial Law also have the authority to declare that the military court consider and pass judgement on criminal cases occurring in the areas where Martial Law has been imposed and which have occurred during the time when a state of Martial Law has been declared, as stated in the annexe of the decree in every article or some articles or some parts of some particular articles. They also have the power to amend or rescind the above-mentioned announcement.

The military courts have the authority to consider and pass judgement on the above-mentioned cases and the judgement is to be enforced only in cases where the criminal action took place from the time and date stated in the declaration of Martial Law. The time and date of declaration is that stated on or after the declaration and can be advertised, for example, in the Royal Gazette.

In addition to the above-mentioned cases, if any criminal case occurring in a district (*khet*) where a state of Martial Law has been declared relates specifically to issues of national security or the maintenance of public law and order, then the Supreme Military Commander may order that the case be considered by a military court.

\*[Article 7 was further amended under the announcement of the coup d'etat group, issue 303, dated 13 December B.E. 2515 (1972 AD)]

Article 7 (ii)\* states that military courts have the power to consider and pass judgement on criminal cases as outlined in Article 7 and that the military court in every locality or in some localities has the power to consider and pass judgement on criminal cases as stated in that article. [<sup>1</sup>]

\* [Article 7 (ii) was extended by the Martial Law Order (issue 3) of BE 2487 (1944 AD)]

Article 7 (iii)\* When Martial Law is rescinded, the military courts still have the power to consider and pass judgement on criminal cases which are still pending at the courts and have the power to consider and pass judgement on criminal cases which have not yet come to trial during the period in which a state of Martial Law had been declared.

\* [Article 7 (iii) was extended by the Martial Law Order (issue 3) of BE 2487 (1944 AD)]

#### Powers of Military Forces

Article 8 When a state of Martial Law has been declared in any sub-district (*tambon*), town (*meuang*) or region (*monthon*), military personnel have complete powers to search and inspect, to recruit whatever and whoever they might need, to use restraint, to make confiscations, or to occupy, demolish or makes changes to any building or location and to evict people from it.

#### Searches and Inspections

Article 9\* Search and inspection includes the power to search and inspect as follows:

- (1) To search and inspect anything against which is to be recruited for use, anything which has been banned or which is to be confiscated, or any place which is to be occupied or anything which is under illegal possession. The military further have the power to search any individual whomsoever whether in a vehicle, in a building or in any place and at any time whatsoever.

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<sup>1</sup> The remainder of this sentence reads literally as 'as much or more or less'. This does not make much sense either to me or native speakers of Thai. We have therefore not attempted to add it in.

- (2) To search and inspect information, letters, telegrams, boxes, packages or any other item which has been sent or transported into the area under Martial Law.
- (3) To search and inspect books, printed matter, newspapers, advertisements and written materials

\* [Article 9 was further amended under the announcement of the coup d'etat group, issue 303, dated 13 December B.E. 2515 (1972 AD)]

#### The Recruitment of Aid and Support

Article 10 The power to recruit support is granted in the following circumstances:

- (1) For the recruitment of citizens to aid military service in their activities, since these activities are for the purposes of protecting the Kingdom. Or for the support of all kinds of military affairs.
- (2) For the recruitment of provisions from private individuals or from companies, of the following: vehicles, animals for use in transport, supplies of food and arms and all varieties of tools and equipment deemed necessary for military affairs at that time.

Article 11\* The power of prohibition is granted, as detailed below:

- (1) For the prohibition of public gatherings.
- (2) For the prohibition of the distribution, purchase or sale of books, printed matter, newspapers, images, articles or written material.
- (3) For the prohibition of advertising, entertainment, the reception or dissemination of radios, radio broadcasting and televisions.
- (4) For the prohibition of the use of public routes for transport, whether on land, water or air, including the use of railway lines, tramlines.
- (5) For the prohibition of the possession or use of communications equipment or weapons or spare parts for weapons or of chemical products or any other items which pose a danger to the safety of people, animals, vegetation or goods and property. For the prohibition of the use of anything that relates to chemical products or anything that has the properties of the above-mentioned items.
- (6) For the prohibition of people from leaving their places of domicile or going outside during the hours of curfew.
- (7) For the prohibition of people from entering or taking up residence in any locality which military forces deem necessary for use in battle, in act of suppression, and in the maintenance of law and order. Once this prohibition has been announced, those resident in the area concerned must leave the area within the designated time permitted.
- (8) For the prohibition of people from acting or conducting any activities that are stated as prohibited by the Minister of War during the declaration of a state of Martial Law.

\*[Article 11 was further amended under the announcement of the coup d'etat group, issue 303, dated 13 December B.E. 2515 (1972 AD)]

Article 12 With regard to those items referred to in Articles 9,10 and 11, should military forces deem it necessary to confiscate them temporarily in order to prevent them from being of use to the enemy or to render them of use to the military, then they have the power to do so.

#### The Occupation of Properties

Article 13 The power of occupation extends to the occupation of any property deemed necessary by military forces and can be put to use by military forces, who have the power to occupy any place whatsoever.

#### The Demolition and Alteration of Properties

Article 14 The power to demolish or alter any site extends to the following circumstances:

- (1) In war or armed combat, if enemy forces are deemed to be in a position of superiority, the authority is granted for the burning down of houses and anything deemed of use to the enemy. When military units have withdrawn, anything deemed to represent an obstruction to battle may be destroyed.
- (2) Powers are granted for the construction of any fortified post or for alterations to be made to the landscape, villages or towns in order to engage in combat with the enemy or to make preparations for the defence of the Kingdom. Such decisions will be made on the basis of military requirements.

#### Eviction

Article 15 In the case of any individual without a confirmed place of residence or any individual who can come to reside temporarily in any locality (*tambon*), should there be any suspicion in relation to that individual or should it be deemed necessary, then authority is granted to evict that individual from the town or from the sub-district.

Article 15 (ii)\* In cases where military personnel have sufficient reason to suspect any individual of being an enemy or of being in opposition to the contents of this Act or to the orders issued by military personnel, then military personnel have the authority to detain the individual for questioning or for the purposes of the military. But the individual may not be detained in excess of 7 days.

[Article 15 (ii) was further amended under the announcement of the coup d'état group, issue 303, dated 13 December B.E. 2515 (1972 AD)]

It is not permitted to make claims for Compensation against, or to charge fines to, Military Personnel

**Article 16** It is not permitted for any individual or any company to make claims for compensation against, or to charge fines to, military personnel for any damages which might be caused in any way by the powers exercised by military personnel, as mentioned above in Articles 8 and 15. This is due to the fact that the powers exercised by military personnel during the declaration of a state of Martial Law are granted for the protection of the His Royal Highness the King, for the protection of the nation and of the Buddhist religion. Military force is employed for the purposes of bringing about prosperity, liberation and a state of law and order, free from the threat of enemies either from abroad or from within.

#### The Extension of Further Powers to Ministers of State

**Article 17** At times of stability and peace, the Minister for Military Affairs has the authority to pass ministerial orders to define details to facilitate the enforcement of law and order at times when Martial Law is imposed, as necessary. In the case of times of war or unrest, the Supreme Commander or the Deputy Commander has the power to issue further measures of enforcement so that Martial Law may proceed. When these orders or regulations issued by the Supreme Commander have been announced, then they become part of the current Martial Law Order.

Issued on 27 August B.E. 2457 (1914 AD), the 1386<sup>th</sup> day of the current reign.

#### Annexe \*

The Martial Law Order (issue 5), B.E. 2502 (1959)

##### A. Cases relating to certain types of individuals:

1. Cases of police misconduct occurring in the course of duty in the field.
2. Cases of individual civilians attached to military affairs, who have been accused of acts of misconduct, whether in relation to the performance of their duties and with regard to any form of wrongdoing in an area under Martial Law.
3. Cases of individuals accused of misconduct, in conjunction with those under the authority of the military courts or in conjunction with those individuals mentioned above in clauses

- 1 and 2. This includes both those accused of direct acts of misconduct and those complicit in acts of misconduct.
  4. Cases of individuals under the jurisdiction of the military court who are accused of misconduct in conjunction with those not under the jurisdiction of the military court. This includes both those accused of direct acts of misconduct and those complicit in acts of misconduct.
- B. Cases of wrongdoing and misconduct
1. Misconduct relating to the detail of Martial Law.
  2. Cases of accusation of misconduct in the course of duty in regard to monies for use in the affairs of the Military or of the military forces of Thailand's allies. Or of misconduct in the course of duty in regard to the life and physical well-being of the Thai Military or of the military forces of Thailand's allies.
  3. Misconduct against the rule of military law, in cases as follows:
    - (i) Misconduct against the King, the Queen, the heir to the throne and the Regent, from Article 107 to Article 112.
    - (ii) Misconduct against the security of the State conducted within the Kingdom, from Article 113 to Article 118.
    - (iii) Misconduct against the security of the State, conducted outside the Kingdom, from Article 119 to Article 129.
    - (iv) Misconduct against foreign allies, from Article 130 to Article 135.
    - (v) Misconduct against state officials according to Article 137 in the section relating to military affairs, Article 136 and from Article 138 to Article 142, Article 145 and Article 146.
    - (vi) Misconduct against administrative powers, from Article 147 to Article 154 and Article 158 to Article 165.
    - (vii) Misconduct against juridical operatives, according to Article 172, with particular reference to military affairs. Article 170, Article 171, Article 175 to Article 185, Article 189, Article 193, Article 197 and Article 198. This applies only when the court is a military court.
    - (viii) Misconduct against judicial powers, according to Article 201 and Article 202.
    - (ix) Misconduct relating to the order and well being of the population, from Article 209 to Article 216.
    - (x) Misconduct relating to threat of a danger posed to the population, from Article 217 to Article 224, Article 226, Article 228 to Article 232, Article 234, Article 235, Article 237 and Article 238.
    - (xi) Misconduct relating to seals, stamps and tickets, from Article 250 to Article 253, with particular reference to military affairs.
    - (xii) Misconduct relating to documents, from Article 265 to Article 268, with particular reference to military affairs.

- (xiii) Misconduct relating to monies, according to Article 336, Article 339 and Article 340.
4. Illegal conduct in relation to the recruitment of civilians into military service.
  5. Illegal conduct in relation to safe areas for the conduct of military affairs.
  6. Illegal conduct in relation to military uniform.
  7. Conduct in contradiction to the Royal Act on Military Affairs of B.E. 2497 (1954 AD), from Article 45 to Article 49.
  8. Illegal conduct in relation to opium.
  9. Illegal conduct in relation to drugs.
  10. Illegal conduct in relation to protecting the activities of communists.

\* [This annexe was amended by Royal Decree (issue 5), B.E. 2502 (1959 AD)]

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Amendments to the Martial Law Order of B.E. 2457 (1914 AD) made in Buddhist Era 2485 (1942 AD).  
[rk. 2485/29/916/28 April 1942]

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Provisional Clause of The Martial Law Order (issue 3), Buddhist Era 2487 (1942 AD).

Article 8 Criminal cases which are pending consideration by the military courts on the date of this Order upon which the military court has not had the authority to consider and pass judgement in keeping with this Order will be transferred to the civil courts for consideration and judgement and judicial officials will act for the prosecution in such cases. This does not curtail the rights of those prosecuting the case, including judicial officials. The contents of the criminal law code are brought into force from the date when the case is transferred.  
[rk. 2487/79/1245/31 December 1944]

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The Martial Law Order (issue 5) of B.E. 2502 (1959 AD)

Article 4 The powers of military command in accordance with Article 17 of the Martial Law Order of 1914 are the powers of the Supreme Commander of the Military.

Article 6 The current Martial Law Order is does overrule the Declaration of the Coup d'Etat group issue 12, issue 15, issue 16, issue 20, issue 30 and issue 41.



Note: The reason for the declaration of this of this Royal Decree is due to the fact that the laws relating to Martial Law are still not suitable for use in the current situation. Together with the annexe, the majority of laws relating to Martial Law largely refer to illegal acts of a criminal nature. They have therefore been rescinded and criminal laws introduced in their stead. It has therefore become necessary to amend and make new additions to the laws relating to Martial Law for them to befit current needs and requirements.

[rk. 2502/78/315/11 August 1959]

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The Announcement of the Coup d'Etat Group, issue 303, 13 December B.E. 2515 (1972 AD)

Given the current situation of fighting, the support of armed forces, including various types of equipment as outlined in the Martial Law Order, has developed further. The contents of the Martial Law Order brought into force in 1914 fail to cover some current forms of operation and equipment used both in the suppression and the support of military affairs. This refers in particular to areas such as non-conventional warfare. Additional powers should be granted to military personnel to permit them to operate with increased efficiency. Primary methods should be determined granting military personnel the authority to detain individuals who are on the side of the enemy or who contravene Martial Law or fail to obey orders issued by military personnel. They may be interrogated or detained as deemed necessary by military personnel so that further steps may be taken. The Martial Law Order of 1914 is therefore amended accordingly, as ordered by the leader of the Coup D'Etat Group.

[rk. 2515/190/16/13/ December 1972]

**THE MINISTRY OF DEFENCE REGULATIONS**  
**ON**  
**MILITARY JUDICIARY**  
**(NO. 2)**  
**B.E. 2528**

Whereas it is expedient to amend the Ministry of Defence Regulations on Military Judiciary;

In exercise of the power conferred by section 11 of the Act on the Organization of Military Courts B.E. 2498 and section 5 of the Act on the Organization of the Ministry of Defence B.E. 2503, the Ministry of Defence hereby issues the following Regulations:-

1. These Regulations may be cited as "The Ministry of Defence Regulations on Military Judiciary (No. 2) B.E. 2528"

2. These Regulations shall come into operation from now onward.

3. Regulation 6 of the Ministry of Defence Regulations on Military Judiciary B.E. 2528 is repealed and shall be replaced by the following provisions:

"6. There shall be a Military Judicial Commission which may be shortly referred to as "MJC." The Commission is composed of:-

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| 6.1 Under-Secretary of the Ministry of Defence,  | Chairman;      |
| 6.2 Judge Advocate General,  | Vice Chairman; |
| 6.3 Chief of Military Judicial Office,   | Vice Chairman; |
| 6.4 Deputy Judge Advocate General,   | Commissioner;  |
| 6.5 Assistant Judge Advocate General,  | Commissioner;  |
| 6.6 Chief Judge of the Military Court of Appeals,  | Commissioner;  |
| 6.7 Chief Judge of the Bangkok Military Court,   | Commissioner;  |
| 6.8 Senior Judges of the Military Supreme Court,   | Commissioners; |
| 6.9 Judge attached to Military Judicial Office (grade of Major General, Rear Admiral, or Air-Vice Marshal),          | Commissioner;  |
| 6.10 Qualified persons, appointed by the Chairman from officers of the rank of general, not more than three persons, | Commissioners; |
| 6.11 Chief of Military Judicial Commission Affairs Division,   | Secretary.     |

A qualified commissioner remains in office for two years. If the office of such commissioner becomes vacant before the expiration of his term of office, an appointment of a commissioner to fill the vacancy shall be held within thirty days. The commissioner so appointed may hold office only for the remaining term of the person he replaces. A retired commissioner may be re-appointed."

Issued on the fifth day of July B.E. 2528

(Signatru) General P. Tinsulanonda  
(Prem Tinsulanonda)  
Minister of Defence