



Rules

Concerning Receipt of Notifications and Reports, Permitting the Disembarkation of a Person, Taking Delivery of a Person for Prosecution in the Kingdom and Making a Preliminary Enquiry into the Facts

B.E. 2562

Whereas it is expedient to stipulate rules on notification, and receipt of notifications, submission and receipt of reports from the aircraft commander, permitting the disembarkation of a person from the aircraft, and taking delivery of a person for prosecution in the Kingdom, as well as procedures for making a preliminary enquiry into the facts by the competent authority concerning offences committed on board the aircraft when a foreign aircraft lands in the Kingdom.

By virtue of Section 36, paragraph 3 of the Certain Offences against Air Navigation Act B.E. 2558, the Permanent Secretary of the Ministry of Foreign Affairs, the Permanent Secretary of the Ministry of Transport and the Commissioner General of Royal Thai Police jointly prescribe the Rules as follows:

Article 1 These Rules shall be cited as the “Rules Concerning Receipt of Notifications and Reports, Permitting the Disembarkation of a Person, Taking Delivery of a Person for Prosecution in the Kingdom and Making a Preliminary Enquiry into the Facts B.E. 2562”

Article 2 These Rules shall come into force upon expiration of ninety days from the date of publication thereof in the Government Gazette.

Part I

Receipt of Notifications and Reports

Article 3 In the case that the aircraft commander intends to disembark or deliver any person to the competent authority concerning offences committed on board the aircraft for prosecution in the Kingdom, he shall notify the competent authority concerning offences committed on board the aircraft with the power to be notified by radio communication or electronic means as soon as practicable and if possible before

landing, stating his intention to disembark such person or to deliver such person to the competent authority concerning offences committed on board the aircraft for the prosecution.

In the case that the aircraft commander has imposed any reasonable measure upon the person to be disembarked under paragraph 1, the aircraft commander shall notify of the measure(s) taken together with the reason(s) therefor.

Article 4 When the competent authority concerning offences committed on board the aircraft with the power to be notified had been notified by the aircraft commander pursuant to Article 3, such authority shall make a record of the receipt of notification in writing with date, time and the information received, as well as the authority's name and shall submit it to the competent authority concerning offences committed on board the aircraft with the power to receive the report.

Article 5 When the aircraft lands, the aircraft commander under Article 3 shall make a report on the facts and the reasons to disembark or deliver such person for prosecution in the Kingdom and submit such report to the competent authority concerning offences committed on board the aircraft with the power to receive the report.

The report under paragraph 1 shall consist of at least the following information:

(1) Name-surname, date of birth, nationality and passport number of the person to be disembarked or delivered for prosecution in the Kingdom, and of the victim(s), as well as their address(es) (if available);

(2) Details of such person's flight itinerary, including the places of origin and destination, seat number on the aircraft, flight number and the State of registration of the aircraft;

(3) Nature of the incident and the person's commission of act(s);

(4) Date and time of the incident, and in the case that the location where the incident took place is known, the location in the territory of the State above which the incident occurred shall be specified;

(5) Measure(s) taken by the aircraft commander and the reason therefor;

(6) Whether there is any person with any injury who requires a medical treatment;

(7) Witness(es) or any evidence(s) at the scene (if any);

(8) Necessary measure(s) taken to restore control of the aircraft for the safety of the aircraft, persons or properties on board the aircraft (if any); and,

(9) In the case that the aircraft commander intends to deliver the person for prosecution in the Kingdom, the law of the State of registration of the aircraft that criminalizes such act to be an offence shall be specified;

In the case that the aircraft commander intends to deliver the person for prosecution in the Kingdom pursuant to (9) above, the aircraft commander shall furnish the competent authority concerning offences committed on board the aircraft with the power to receive the report with evidence which are in his possession.

Article 6 When the competent authority concerning offences committed on board the aircraft with the power to receive the report receives the report pursuant to Article 5, such authority shall make a record of the receipt in writing.

Part II

Permitting Disembarkation of a Person from the Aircraft

Article 7 Upon receiving the report pursuant to Article 5 and in the case where the aircraft commander intends to disembark the person from the aircraft, the competent authority concerning offences committed on board the aircraft with the power to receive the report shall establish whether the State of registration of the aircraft is a State Party to the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September B.E. 2506 (1963) and if that is the case, he shall permit the disembarkation of the person from the aircraft.

Entry into or exit from the Kingdom of the person disembarked from the aircraft under paragraph 1 shall conform with the law on immigration.

Part III

Taking Delivery of a Person for Prosecution and Procedures for Making a Preliminary Enquiry into the Facts

Article 8 Upon receiving the report pursuant to Article 5 and in the case where the aircraft commander intends to deliver the person for prosecution in the Kingdom, the competent authority concerning offences committed on board the aircraft with the power to receive the report shall establish whether all the criteria in Section 36, paragraph 1 are met. If such criteria are met, the competent authority shall take delivery of the person for a preliminary enquiry into the facts.

Article 9 After taking delivery of the person pursuant to Article 8, the competent authority concerning offences committed on board the aircraft with the power to receive the report shall proceed as follows:

(1) Immediately notify the competent authority concerning offences committed on board the aircraft with the power to make preliminary enquiries to make a preliminary enquiry into the facts pursuant to Article 11; and,

(2) Notify the Ministry of Foreign Affairs in writing so that the Ministry of Foreign Affairs shall notify the State of registration of the aircraft and the State of nationality of the person, as well as any other interested State of the fact that such person is in custody. The competent authority shall coordinate with the Ministry of Foreign immediately after taking delivery of such person.

Article 10 In the case that the person delivered for the purpose of a preliminary enquiry pursuant to Article 8 desires to communicate with the Embassy, Consulate - General, Consulate, Honorary Consulate-General, Honorary Consulate in Thailand or Representative Office in Thailand entrusted with similar functions as the abovementioned missions or posts of the State of which he is a national, the competent authority concerning offences committed on board the aircraft with the power to receive the report shall assist him with such communication.

In the case that there is no establishment of an Embassy, Consulate - General, Consulate, Honorary Consulate-General, Honorary Consulate in Thailand or Representative Office in Thailand entrusted with similar functions as the abovementioned missions or posts of the State of which he is a national, the competent authority concerning offences committed on board the aircraft shall coordinate with the Ministry of Foreign Affairs to assist with communication between the person and the Embassy, Consulate - General, Consulate, Honorary Consulate-General, Honorary Consulate or Representative Office in other country entrusted with similar functions as the abovementioned missions or posts, located in another state and accredited to Thailand, of the State of which he is a national, or shall assist with the communication directly.

Article 11 The competent authority concerning offences committed on board the aircraft with the power to make preliminary enquiries shall make a preliminary enquiry into the facts with the person delivered or any other person(s) involved, as necessary and appropriate, at the airport where the aircraft lands or any other place where the aircraft lands or makes a forced landing, as soon as practicable after being notified in order to establish whether the person delivered has committed an offence on board the aircraft and whether he shall be prosecuted in the Kingdom, by obtaining the following facts:

(1) Name-surname, age, and nationality, of the person delivered for prosecution in the Kingdom, and the victim(s), as well as their address(es) (if available);

(2) Nature of the incident and the person's commission of act(s);

(3) Date and time of the incident, and the location in the territory of the State above which the incident occurred; and,

(4) Witness(es) or evidence(s) at the scene (if any);

In making a preliminary enquiry into the facts under paragraph 1, the competent authority concerning offences committed on board the aircraft with the power to make preliminarily enquiries shall take into account the principles of speediness, continuity and fairness and shall not compel the delivered person to incriminate himself.

Article 12 After making a preliminary enquiry pursuant to Article 11, and it is the case where a prosecution may be instituted in the Kingdom, the competent authority concerning offences committed on board the aircraft with the power to make preliminarily enquiries shall deliver such person to an inquiry official to proceed in accordance with the powers and duties, and shall furnish him with the findings of the preliminary enquiry and the report of the aircraft commander together with evidence received from the aircraft commander. In this connection, the competent authority concerning offences committed on board the aircraft with the power to make preliminarily enquiries shall notify the Ministry of Foreign Affairs in writing and together with copies of the findings of the preliminary enquiry and the report of the aircraft commander, as well as any other useful information, and the Ministry of Foreign Affairs shall report to the State of registration of the aircraft and the State of nationality of the person, as well as any other interested State of the findings of the preliminary enquiry, and shall indicate whether the prosecution will be instituted or not, and also submit copies of the report(s) to the Civil Aviation Authority of Thailand.

In the case that the findings of the preliminary enquiry indicate that the prosecution in the Kingdom cannot be instituted and there is no request under the law of extradition, the competent authority concerning offences committed on board the aircraft with the power to make preliminarily enquiries shall take the person in custody, as necessary to ensure his exit from the Kingdom except where such person has the right to entry into or residence in the Kingdom, the competent authority concerning offences committed on board the aircraft shall release that person. In this connection, such entry into or exit from the Kingdom shall conform with the law on immigration.

In this Article, “an inquiry official” means an inquiry official according to the Criminal Procedure Code.

Article 13 The person disembarked from the aircraft or delivered for prosecution in the Kingdom shall be accorded with treatment which is no less favourable for his protection and security than that accorded to Thai nationals in like circumstances.

Announced on the 15th July B.E. 2562,

-Signature-

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