



**TITC**

Department of Health

The Executive Yuan

# Relevant Acts

1. Constitution of the Kingdom B.E.2550
2. Civil and Commercial Code B.E.2478
3. Penal Code B.E.2499
4. Criminal Procedural Act B.E.2478
5. Practice of the Art of Healing Act B.E. 2542

# Relevant Acts

6. Thailand Nursing Council Act B.E.2538  
amend B.E.2540
7. Negligence Officer Act B.E. 2539
8. Disclosure Information of Public Act  
B.E.2540
9. Nursing Act B.E.2541

# Relevant Acts

10. Computer Relating Crime Act B.E. 2550

10. Disclosure Information of Public Act  
B.E.2540

# Relevant Acts

- 12 National Health Bill B.E.2550
- 13 Liability for Damages Arising from Unsafe Products Act B.E. 255 I
- 14 Consumer Case Procedure Act B.E.255 I
- 15 Mental Health Law Act B.E.255 I

# Conventions Rule Regulation

- University Declaration of Human Right 1948
- Rule and Regulation Medical Council of Thailand, Thailand Nursing and Midwifery Council, The Pharmacy Council, Dental Council of Thailand
- Patient Right



# Constitution of Kingdom Thailand

# Constitution of Kingdom Thailand

- **Equal Right**
- **Accept or Refuse**
- **Personal Data Protection**
- **Appropriate and Standard**



# Section 30

Section 30. All persons are **equal** before the law and shall enjoy equal protection under the law. Men and women shall enjoy equal rights. Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, physical or **health condition**, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted. Measures determined by the State in order to eliminate obstacle to or to promote persons' ability to exercise their rights and liberties as other persons shall not be deemed as unjust discrimination under paragraph three.

## Section 32

No person shall be inflicted with a criminal punishment unless he or she has committed an act **which the law in force** at the time of commission provides to be an offence and imposes a punishment therefor, and the punishment to be inflicted on such person shall not be heavier than that provided by the law in force at the time of the commission of the offence.

## Section 35 (Right and Liberty)

A person shall enjoy the liberty of dwelling. A person is protected for his or her peaceful habitation in and for possession of his or her dwelling place. The entry into a dwelling place without consent of its possessor or the search thereof shall not be made except by virtue of the law.



# Civil and Commercial Code

## Section 5

Every person must, in the exercise of this rights and in the performance of his obligations, act in good faith

## Section 420

A person who, **willfully or negligently**, unlawfully injures the life, body, health, liberty, property or any right of another person, is said to commit a wrongful act and is bound to make compensation therefore.

## Section 421

The exercise of a right which can only have the purpose of causing injury to another person is unlawful.

## Section 423

A person who, contrary to the truth, asserts or circulates as a fact that which injurious to the reputation or the credit of another or his earnings or prosperity in any other manner, shall compensate the other for any damage arising therefrom, even if he does not know of its untruth, provided he ought to know it.





# Penal Code

## Section 2

A person shall be criminally punished only when the act done by such person is provided to be an offence and the punishment is defined by the law in force at the time of the doing of such act, and the punishment to be inflicted upon the offender shall be that provided by the law.

## Section 4

Whenever any offence is even **partially committed** within the Kingdom, or the **consequence of the commission** of which, as intended by the **offender occurs within the Kingdom**, or, by the nature of the commission of which, the consequence resulting therefrom should occur within the Kingdom, or it could be foreseen that the consequence would occur within the Kingdom, it shall be deemed that such offence is committed within the Kingdom.

## Section 59

A person shall be criminally liable only when such person commits an act *intentionally*, except in the case where the law provides that such person must be liable when such person commits an act *by negligence*, or except in the case where the law clearly provides that such person must be liable even though such person commits an act *unintentionally*

## Section 59

To do an **act intentionally** is to do an act consciously and at the same time the doer desired or could have foreseen the effect of such doing

If the doer not know the facts constituting the elements of the offence, it cannot be deemed that the doer desired or could have foreseen the effect of such doing

## Section 59

To do an act **by negligence** is to commit an offence unintentionally but without exercising such care as might be expected from a person under such condition and circumstances, and the doer could exercise such care but did not do so sufficiently.

An act shall also include any consequence brought about by the omission to do an act which must be done in order to prevent such consequence.

## Section 64

Ignorance of law shall not excuse a person from criminal liability. But, if the Court is of opinion that, according to the nature and circumstances, the offender may not have known that the law has provided such act to be an offence, the Court may allow such person to produce evidence before it, and if the Court believes that the doer does, not know that the law has so provided, the Court may inflict less punishment to any extent than that provided by the law for such offence.

## Section 65

Whenever any person commits an offence at the time of not being able to appreciate the nature, or illegality of his act or not being able to control himself on account of defective mind, mental disease or mental infirmity, such person **shall not be punished** for such offence.

But, if the offender is still partially able to appreciate the nature or illegality of his act, or is still partially able to control himself, such person shall be punished for such offence, but the Court may inflict less punishment to any extent than that provided by the law for such offence.



## Section 326

Whoever imputes anything to the other person before a third person in a manner likely to impair the reputation of such other person or the expose such other person to hatred or contempt is said to commit **defamation**, and shall be punished with imprisonment not exceeding one year or fine not exceeding twenty thousand baht, or both.

## National Health Bill B.E.2550 Section 12

A person shall have the right to make a living will in writing to refuse the public health service which is provided merely to prolong his/her terminal stage of life or to make a living will to refuse the service as to cease the severe suffering from illness.

The living will under paragraph one shall be carried out in accordance with the rules and procedure prescribed in the Ministerial Regulation.

An act done by public health personnel in compliance with the living will under paragraph one shall not be held an offence and shall not be liable to any responsibility whatsoever.



# Liability for Damages Arising from Unsafe Products Act B.E. 2551

## Section 4

“Product” means all assets produced or imported for sale, including agricultural products and electricity. The exception being products prescribed in the Ministerial Regulations.

## Section 4

“Produce” means making, combining, adding, creating, assembling, inventing, converting, altering, modifying, screening, packaging, freezing, exposing to radiation, or any other similar act.

## Section 4

“Damage” means damage arising from an unsafe product, regardless of whether the damage is to life, body, health, hygiene, mental state, or assets. This shall not include damage to the unsafe product.

## Section 4

“Damage to mental state” means pain, suffering, fear, anxiety, sorrow, shame or other similar mental damage.

# Damage

1. Actual Damages
2. Damage to mental state
3. Punitive Damages



## Section 4

“Unsafe product” means products that **cause or may cause** damage, regardless of whether it was caused by negligence during the production process or the design process. No guidelines being given for storage, or warning, or information related to the product, or guidelines being given but in an incorrect manner or vaguely so as to be improper when considering the condition of the product, including the normal method of use and storage for the product.

## Section 4

“Sell” means distributing, disposing, or exchanging for commercial benefit and includes leasing, lease purchasing, procuring, soliciting, and exhibiting as stated.

## Section 4

“Entrepreneur” means

- Producer or a party authorizing the production.
- Importer
- Seller of product who cannot identify his producer, party authorizing the production, or importer.
- Party using a name, trade name, trademark, mark, message or other means which may be understood as being the producer, party authorizing the production, or importer.

# Exception Liability Section 7

The entrepreneurs shall not be liable for damages arising from an unsafe product if it can be determined that

- The product was not unsafe.
- The damaged party had knowledge that the product was unsafe, or
- The damages occurred from inappropriate use or storage of the product determined by the instructions for appropriate use and storage, warning, or product information accurately and clearly provided by the entrepreneurs.

## Section 9

Agreements entered into between the consumer and the entrepreneurs before the damages and the statement of the entrepreneur to disclaim or place limits on his liability for damages caused by the unsafe product cannot be asserted as a disclaimer or limit the entrepreneur's liability.

## Section 12

The right to demand compensation arising from unsafe products according to this Act will expire after 3 years counting from the date the damaged party became aware of the damages and became aware of the entrepreneurs responsible, or after 10 years counting from the date the product was sold

## Section 12

In the event the damages were to life, body, health, or hygiene by the accumulation of chemicals in the body of the damaged party, or in the event a period of time must pass before any symptoms appear, the damaged party or his prosecuting representative, according to section 10, must demand his rights 3 years counting from the date that he became aware of the damages and the entrepreneurs responsible, but not to exceed 10 years counting from the date he became aware of the damages.



# CONSUMER CASE PROCEDURE ACT B.E.255 I



## Consumer Case Procedure Act B.E. 2551

Consumer case” means(1) A civil case between the consumer or person entitled to file a lawsuit on behalf of the consumer under Section 19 or under other law and the business operator concerning rights and duties under law due to consumption of **goods or services**;(2)A civil case under the law on liability for damage from unsafe goods;(3)A civil case related to a case under (1) or (2);(4)A civil case which is provided by law to be subject to the procedure under this Act.

## Consumer Case Procedure Act B.E. 2551

“Consumer” means a consumer under the law on consumer protection, and includes an injured person under the law on liability for damage from unsafe goods.

“Business operator” means a business operator under the law on consumer protection, and includes an operator under the law on liability for damage from unsafe goods.

# Consumer Case Procedure Act B.E. 255 I

Section 11. Notice, advertisement, covenant or any act of the business operator that makes the consumer understand at the time of making a contract that the business operator agrees to deliver or provide goods, services or any other public utility, or to perform any act for the consumer in return for the consumer's making of a contract or any agreement under which the business operator will provide rights and benefits to the consumer in addition to those under the contract, such provision, act or agreement shall be deemed part of the contract between the consumer and the business operator, and the consumer **can adduce a witness or evidence to prove such agreement**, although the law requires that such contract must be made in writing or be supported by some written evidence and there is no such agreement in any writing made.

## Consumer Case Procedure Act B.E. 2551

Section 12. In exercising his rights or performing his obligation, the business operator shall do so in good faith taking into account the appropriate **business standard** under the fair business system.

## Consumer Case Procedure Act B.E. 2551

Section 17. Where a business operator is to file lawsuit against a consumer as a consumer case and the business operator is entitled to submit his complaint to the court of the jurisdiction where the consumer has domicile or to other court, the business operator shall submit his complaint to only the court of the jurisdiction where the consumer has domicile.

# Consumer Case Procedure Act B.E. 2551

Section 42. If the act upon which the complaint is based arises from the business operator's willful act to unfairly take advantage of the consumer or intent to cause damage to the consumer or, with gross negligence, indifference to damage to be caused to the consumer, or act in breach of responsibility as a professional or businessman who is usually **trusted by the public**, when the court adjudicates that the business operator pay damages to the consumer, the court shall have the power to order the business operator to pay damages as **punishment in addition** to the amount of the actual damages fixed by the court as may be deemed appropriate, taking into account such circumstances as damage suffered by the plaintiff, benefit received by the business operator, financial condition of the business operator, relief by the business operator from the damage, and the consumer's contribution to the damage.

## Consumer Case Procedure Act B.E. 2551

In fixing damages for punishment under paragraph one, the court shall have the power to fix the damages by not more than **two times** the actual damages fixed by the court. However, if the actual damages fixed by the court is not more than Baht 50,000, the court shall have the power to fix the damages for punishment by not more than **five times** the actual damages fixed by the court.

# Consumer Case Procedure Act B.E. 255 I

Section 44. In a case in which the business operator who is sued is a juristic person, if the facts appear that such juristic person was formed or has acted in bad faith or is involved with fraud and deception of the consumer, or has removed or transferred assets of the juristic person to the benefit of any person, and those assets are not sufficient to pay debt according to the complaint, the court shall, upon request by a party or upon the court deeming it appropriate, have the power to call the partner, shareholder, person controlling the operation of the juristic person or person receiving assets from the juristic person to become co-defendant, and shall have the power to adjudicate **such person to be jointly liable for the debt owed by the juristic person to the consumer**, unless such person can prove that he has no knowledge of such act. In case of the person receiving those assets from the juristic person, he must prove that he has received the assets in good faith and with consideration. The person receiving assets from the juristic person under paragraph one shall be jointly liable for not more than the assets received by such person from the juristic person.





# THANK YOU

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