

– Unofficial Translation –

Notification of the Ministry of Digital Economy and Society
Re: Appointment of the Fines Committee
under the Computer-Related Crime Act B.E. 2550 (2007)
B.E. 2560 (2017)¹

Whereas, it is expedient to establish the Fines Committee to perform the duty of considering fines for computer-related crime offences.

By virtue of Section 4 in conjunction with Section 17/1 of the Computer-Related Crime Act B.E. 2550 (2007), as amended by the Computer-Related Crime Act (No.2) B.E. 2560 (2017), the Minister of Digital Economy and Society issued the Notification appointing the Fines Committee as follows:

Clause 1 This Notification is called “Notification of the Ministry of Digital Economy and Society Re: Appointment of the Fines Committee under the Computer-Related Crime Act B.E. 2550 (2007), B.E. 2560 (2017)”

Clause 2 This Notification shall come into force on the day directly following the date of its publication in the Government Gazette.

Clause 3 In this Notification:

“**offence**” means offences stated under Section 5, Section 6, Section 7, Section 11, Section 13 Paragraph 1, Section 16/2, Section 23, Section 24 and Section 27 of the said Computer-Related Crime Act B.E. 2550 (2007) and its amendment.

“**offender**” means a person who is accused of committing an offence under the Computer-Related Crime Act B.E. 2550 (2007) and its amendment.

“**competent official**” means a person appointed by the Minister for the execution of the Computer-Related Crime Act B.E. 2550 (2007) and its amendment.

“**Fines Committee**” means the fines committee in accordance with Section 17/1 of the Computer-Related Crime Act B.E. 2550 (2007) and its amendment.

¹ Government Gazette, Volume 134 / Special Part 188 Ngor / Pages 12-15 / 22 July B.E. 2560 (2017).

Chapter 1

The Fines Committee

Clause 4 There shall be a Fines Committee consisting of a representative of the Office of the Attorney General as Chairperson; a representative of the Technology Crime Suppression Division as a member; the Director of the Legal Division, Office of the Permanent Secretary, Ministry of Digital Economy and Society as a member and secretary; and an appointed working group in the Legal Division, Office of the Permanent Secretary, Ministry of Digital Economy and Society as the secretariat office (administrative office) of the Fines Committee.

The secretary shall appoint an assistant secretary, as it deems necessary.

Clause 5 The secretariat office shall have the duty to receive the accused offence cases from the competent official, then inquire the official or the working group stipulated under Clause 6 to submit them to the Fines Committee, as well as to follow up and inform the result of the consideration and order of the Fines Committee to the competent official, the relevant inquiry official or the working group stipulated under Clause 6 for their further consideration to proceed in accordance with the laws.

In performing duties of the secretariat office stated under paragraph 1, they may be performed by using any electronic means.

Clause 6 With regard to the wish that the consideration and proceedings shall be rapidly performed and comprehensive throughout all regions, there shall be one or several working groups in regional areas to consider and scrutinise the facts relating to the offence; and to propose opinions to the Fines Committee, or to perform any action beneficial to the settlement thereof.

The said working group stated in Paragraph 1 above shall consist of a representative of the Office of the Attorney General as Chairperson, the inquiry official who is the chief of such area as a member, and the responsible inquiry official as a member and secretary.

Chapter 2

Criteria and Procedure for Consideration of the Fines Committee

Clause 7 All offences which have, or are alleged or believed to have, been committed in Bangkok or outside the Kingdom of Thailand, the Fines Committee shall settle the case at the Ministry of Digital Economy and Society, and the offender shall pay the fine at the Ministry of Digital Economy and Society.

All offences which have, or are alleged or believed to have been committed outside Bangkok, the working group stipulated under Clause 6 shall have the duty to consider and scrutinise the facts relating to the offence and to propose its opinion to the Fines Committee; and the offender shall pay the fine to the secretariat office of such working group.

Where an offence has been committed in several venues, or an offence is partly committed in one venue but partly in another venue, or it is a serial offence committed continuously in several venues; any one of the working groups in the concerned venues shall have the authority to consider the facts relating to the offence and to propose its opinion to the Fines Committee.

When it is uncertain about where the settlement shall take place or which of the several working groups under Clause 6 shall have the authority to consider the fact relating to the offence, the Permanent Secretary of the Ministry of Digital Economy and Society shall be the person having authority to decide, and such decision of the Permanent Secretary of the Ministry of Digital Economy and Society shall be final.

Any procedure for keeping and delivery of the fine money, which is not prescribed in this Notification, shall impliedly comply with the observance of the governmental administrative regulations, and the secretary who has collected the fine shall have the duty to further proceed in accordance with the relevant governmental administrative regulations.

Clause 8 When the Fines Committee receives a report with a proposed opinion for settlement, the Fines Committee shall complete its settlement consideration without delay, taking into account the time period for court proceedings in case a settlement could not be possible.

Clause 9 In a settlement consideration, the Fines Committee shall have the power to search for facts, order for the presence of witnesses or any documentary evidence from any persons as necessary for the sake of consideration.

Clause 10 When there is any evidence that an offence is committed and there is a justifiable reason to give its order to the offender to settle the case by paying a fine, whereby the offender confesses to the offence and the injured person gives consent to proceed with the settlement by a fine; the Fines Committee shall issue a letter notifying the offender within five working days or within a period deemed appropriate as from the date on which the Fines Committee has ordered the settlement. The letter shall include a required period in which the offender shall meet the competent official or the inquiry official, as latest within seven working days from the date of receipt of the letter.

A letter notifying the offender stated under Paragraph 1 above shall be in accordance with the form PorTorKor 1, as attached to this Notification, in the interim period during the absence of preparation of this letter by electronic means.

Clause 11 When the offender presents himself/herself, the competent official or the inquiry official shall notify the charge offence, date, time and place of committing the offence, and notify the offender that such offence committed is able to be settled by way of the payment of a fine. In case the offender confesses to have committed to the offence and gives consent to the settlement, the competent official or the inquiry official shall record a statement of the offender and a settlement record.

A statement of the offender and a settlement record stated under Paragraph 1 above shall be in accordance with the form PorTorKor.2, as attached to this Notification, in the interim period during the absence of preparation of this letter by electronic means.

Clause 12 In the event that the offender is a juristic person, if the offender confesses to the offence and consents to the settlement, the settlement shall also be made against the managing director, the manager or the person responsible for the operation of such juristic person. In which case, the settlement shall be proceeded in accordance with the procedures and criteria prescribed in this Notification, while a record of statement of defence and a settlement report shall be separately made between a juristic person and the managing director, a manager or a person responsible for the operation of such juristic person.

Clause 13 In the event that the offender denies the charge or fails to consent to the settlement, the competent official or the inquiry official shall record a statement of defence. However, in the case that the Fines Committee decides to take action by way of judicial proceedings, the case shall be sent to the inquiry official for further action in accordance with the Computer-Related Crime Act B.E.2550 (2007), within seven working days as from the date on which the offender denies the charge or fails to consent to the settlement, or the Fines Committee decide to take action by way of judicial proceedings .

Clause 14 An offender shall make a payment of a fine in the amount ordered by the Fines Committee at the place as stated under Clause 7, within fifteen days as from the date of the settlement and, upon payment by the offender of the settled amount of the fine; the case shall be deemed terminated and the right to prosecute shall be extinguished in accordance with the Criminal Procedure Code.

A settlement record as stated in the preceding paragraph shall be in accordance with form PorTorKor.3, as attached to this Notification in the interim period during the absence of preparation of the settlement record by electronic means.

If there is an object or an item used for committing the offence, the inquiry official may proceed with forfeiting or seizing such according to the criteria prescribed in the Criminal Procedure Code.

Chapter 3 **Fine Determination**

Clause 15 The Fines Committee is entitled to settle with the offender as it may deem appropriate, by taking into consideration the objectives of the criminal penalty, which are to suppress and prevent the offence commission and to reprimand or to compensate any incurred damages.

In determining a fine amount, the intensity of the charge and circumstances of the offence, incurred damage or impact to society and the user, including age, background, behaviour, intelligence, education, health, career, scale of business investment and other surrounding background of the offender, shall be taken into consideration; provided that a normative determination in the previous settlement shall also be considered.

Chapter 4 **Miscellaneous**

Clause 16 Payment of a fine in observance with a settlement order of the Fines Committee in accordance with this Notification shall not be deemed to terminate the right of the injured person to claim for damages or to proceed with a legal action in a civil case on the basis of a tort offence or any other relevant offences.

Clause 17 The Permanent Secretary of the Ministry of Digital Economy and Society shall have charge and control of execution of this Notification, and shall have the power to interpret and to make a decision on any issue arising from the execution of this Notification.

Given on the 21st day of July B.E. 2560 (2017)
Pichet Durongkaverroj
The Minister of Digital Economy and Society

No. DorSor 0202/

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Date Month B.E.

Re.: Settlement in accordance with the Computer-Related Crime Act B.E. 2550 (2007)

To:

Whereas, the competent official under the Computer-Related Crime Act B.E. 2550 (2007) has found that you have committed an offence as stipulated in the Computer-Related Crime Act B.E. 2550 (2007), Section....., offence charge; whereby such offence is an offence which can be settled by way of the payment of a fine.

By virtue of Section 17/1 of said Computer-Related Crime Act B.E. 2550 (2007) as amended by the Computer-Related Crime Act (No.2) B.E. 2560 (2017), the Fines Committee requests that and, who is/are the managing director, the manager or the person responsible for the operation of this juristic person shall meet the competent official/ inquiry official at No., as from now onwards until the day of Month B.E. on the official working day, at any time before 16:30 hr., in order to proceed with a settlement in accordance with the law. In case of failure to meet the competent official on the above mentioned date and time, the competent official shall submit this case to the inquiry official for further legal proceedings under said Computer-Related Crime Act B.E. 2550 (2007).

For your attention, please go to meet the competent official within the scheduled date, time and place as aforementioned.

Yours faithfully,

(.....)

Chairperson of the Fines Committee

Remark The offence of this case is for the time, and upon payment of the settled amount of fine by the offender, the case shall be deemed terminated in accordance with the Criminal Procedure Code.

Statement of the offender

(In case of consenting to settlement)

Case No. /

Written at
.....

Date Month B.E.

I, age years, nationality....., residing at No. Village No. (Moo), Alleyway (Soi), Road, Sub-District, District, Province, Tel. By as the attorney-in-fact of according to the Power of Attorney No. Dated Month B.E., hereby testify as follows.

I was informed by the competent official that committed an action in violation of the Computer-Related Crime Act B.E. 2550 (2007), Section....., offence charge:, subject to the penalty under Section....., with a term of imprisonment not longer than years or a fine not exceeding Baht, whereby the Fines Committee has considered and has made a resolution/an order for settlement by way of payment of a fine. I have acknowledged the accusation and would like to confess that I committed such offence, and the Fines Committee orders for the settlement by way of payment of a fine in the amount of Baht (.....)

In this regards, I certify that:

1. I give consent to permit the competent official for settlement to settle by way of payment of the fine in the amount of Baht (.....), and I will complete payment of the fine in the said amount by the date of Month B.E.
2. I will speedily rectify and correct the act which is an offence, the correction shall be done within day(s); and I will inform thereof as soon as possible after the rectification is finished.
3. If I fail to make payment in the amount as stated in Clause 1 above within the prescribed time or fail to comply with Clause 2 above, the competent official shall take further legal action.

The competent official/inquiry official has read this statement to the offender, and the offender has confirmed its correctness and accuracy of fact in all respects without being forced or threatened in any way. Therefore, the offender hereby sets his/her signature to evidence hereof.

Signed (Offender)	Signed (Recorder)
Signed (Settlement Official)	Signed (Witness)

Remark If the offender who is subjected to the penalty under the Computer-Related Crime Act B.E. 2550 is a juristic person, this form shall be used separately: one for the juristic person and another one for the managing director or the representative, while the case numbers shall be the same.

Statement Record

Settlement Case No. /

Place of Settlement
.....
.....

Date Month B.E.

Between Accuser

..... Offender

Accusation
.....
.....

Case Circumstance
.....
.....
.....
.....

The incident happened on Month B.E.
At No, Road,
..... Sub-District, District, Province,
Offender's telephone number

Under this case, the offender confessed to all accusations that he/she committed an offence under the Computer-Related Crime Act B.E. 2550 (2007), Section....., subjected to the penalty under Section....., with a term of imprisonment not longer than years or a fine not exceeding Baht....., or both, which is an offence that can be settled by way of payment of a fine; and has consented to have the offender pay for the settlement in the amount of Baht (.....), and the offender has made a payment of the settled amount of the fine in the said amount on the date of Month B.E. already.

Signed () Offender

Signed () Payer

Signed () Settlement Official

Signed () Payee