

FACTSHEET

Thailand - Royal Amnesties and the King's Pardon



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Royal Amnesties and King's Pardons are two methods through which people detained in Thailand can obtain early release or a reduction of their prison sentence. This factsheet describes what these processes are and how to benefit from them. Royal Amnesties are automatic – they cannot be requested and there is no application process to follow. King's pardons must be specifically requested by sending a pardon application to the King.

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1 Royal Amnesties

A Royal Amnesty in Thailand involves the King of Thailand granting a reduction of sentence or other benefits to certain categories of offenders. The King usually declares such amnesties on certain occasions, most commonly at the time of his birthday, which is 5 December.

No specific actions are required by the person detained or his/her family to benefit from such a declaration. The King will publish a list of categories of offences and/or categories of prisoner (such as length of time already served, or classification) to which a reduction of sentence will apply. When this occurs, the Embassy will translate the terms of the amnesty and a notification will be sent to each person they are providing consular services to if, and how, the amnesty has affected their sentence.

In our experience it can take many months following the publication of the amnesty before individuals will be notified if they have benefited or not. Please also note that people who have transferred to the UK to complete their Thai prison sentences in a UK prison will benefit from any amnesty which is declared after the time they have transferred.

2 Royal Pardons

This type of pardon needs to be specifically prepared in advance and sent to the King in the form of a petition. It is also known as a Petition for Executive Clemency. If a pardon is not approved, the applicant will have to wait for 2 years before submitting another application. The Petition process is mandated under Sections 259 to 267 of the Criminal Procedure Code relating to Pardon, Commutation and Reduction of Punishment; under Section 34 of the Penitentiary Act, 1936; and under Items 120 to 126 of the Ministerial Regulation of the Ministry of Interior.

Pardons are generally only granted to those who have strong medical grounds (such as having HIV/Aids or a terminal illness). Although the Embassy can provide information about making a pardon application, they do not provide official support for any application unless there are compelling compassionate grounds to do so, such as in the following circumstances:

- the detainee is under 18 years of age
- the detainee, or a close family member, is suffering from a serious or terminal illness
- the detainee is at risk of death or serious illness if they remain in prison
- the death of a partner will leave young children with no-one to care for them
- strong evidence can be provided that a miscarriage of justice has occurred, or justice has been denied, and all attempts to put this right have failed (although in such cases, the FCO would not state this as the reason for supporting your application).

Please note that we have not been made aware of anyone who has successfully paid to receive a positive pardon application. We would not recommend payments to be made to those who lead you to believe that they can help you with a pardon, apart from engaging a lawyer, as described below.

2.1 What is a Petition?

The petition is the term used to describe a pardon application. At the time of writing there was no official “form” which needs to be completed, but the petition must consist of a covering letter addressed to the King; this is essential for all Pardon applications.

A petition can be completed in three ways:

- signed by the detainee themselves (the Petition can be prepared inside prison, or a member of family or a lawyer can prepare it and then deliver it to the detainee for signature)
- signed by a member of the person’s family
- signed by the detainee with a request to maintain the confidentiality of the contents, as per item 125 of the Ministerial Regulations.

2.2 Preparing a Petition

At the time of writing the British Embassy in Bangkok has an example of a “Draft Pardon Application” letter which gives you an idea of what kind of information could be included in your petition and how to structure it. An application can also be supported with letters from family members, friends, employers, and any professionals you can call on (for example, a doctor). Prisoners Abroad is also able to provide a standard letter which advises the authorities what help and assistance is available from our organisation to those who are returning to the UK upon release from their overseas prison sentence. Early advice should be taken from the British Consulate in Bangkok or the Foreign and Commonwealth Office in London about when you are eligible to submit an application.

All documents must be translated into Royal Thai. Royal Thai is the language that must be used when addressing members of the Royal Household in Thailand and uses specialized vocabulary and honorific terminology. You will need to locate a translator competent in Royal Thai and pay for these translations. Although the Embassy does not recommend which translation company to use, you could ask if they are able to provide details of a company.

A good deal of paperwork is involved, so you may find it useful to engage a Thai lawyer who can help you to arrange what is required and provide guidance about what to include as well as following up the application with the Department of Corrections. Neither the British Embassy or Prisoners Abroad can help you to prepare your petition, arrange for translations, provide legal advice or act as a substitution for a lawyer. Prisoners Abroad does not have access to a volunteer Royal Thai translator who can translate your documents free of charge. However, if it would help to discuss your application with us, or if you would like us to read over your petition, please let us know.

2.3 What should the Petition include?

The petition **must** include the following:

- i) Petition statement addressed to the King giving details about the background of the applicant’s life, indicating reasons why the applicant became involved in criminal activities, what has been learned from the punishment and how the person has changed as a result of the experience
- ii) Copies of court verdicts of every case from each court involved, certified by the Chief Clerk of each concerned court. To get the court documents the applicant will need to make a request for these from the court/or courts concerned. Such requests should quote the case number/numbers. If these are not known, a request will need to be made to a prison official to get the number/numbers. There is a fee to be paid to the Court for this service.
- iii) A guarantee letter from the British Embassy stating that the repatriation costs can be met. This letter will only be provided if the money for the flights home and other associated costs has already been deposited with the Embassy.
- iv) Letters of references supporting the pardon application. These can be from family members, friends, previous employers, future employers, teachers, professional people, doctors (vital if one of the grounds of the application is for medical reasons).
- v) Medical reports, if a medical condition is one of the reasons for seeking a pardon.

2.4 What happens once the application has been prepared?

At the time of writing, the British Embassy in Bangkok will submit completed applications to the correct authority on behalf of any prisoner registered for their services – Prisoners Abroad would recommend that applications are submitted in this way.

The petition will firstly be reviewed by the Ministry of Interior who will make recommendations as to whether or not a Pardon should be granted. The Petition will then be forwarded to the offices of the Royal Palace for the consideration of the Privy Council. The prisoner will normally be notified of the outcome through a prison official. **It can take up to three years** before a decision is reached. If the Petition is rejected, you must wait at least two years before trying again.

The information provided in this factsheet is intended for information purposes only. It is not intended to constitute, nor does it constitute legal advice. Prisoners Abroad recommend that professional legal advice should always be sought. The information contained in this factsheet is subject to change and may not be up-to-date or accurate. Prisoners Abroad gives no warranty and makes no representation regarding the accuracy or completeness of the information provided. Prisoners Abroad will not be held responsible for any loss or damage arising from the use of the information provided.

If you spot any errors or inaccuracies in this factsheet please let us know by emailing info@prisonersabroad.org.uk. Thank you.

If you require this leaflet in a large print format, please contact us. Our details are below.

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