

Unofficial Translation*

THE LICENSING FACILITATION ACT

B.E.2558

BHUMIBOL ADULYADEJ, REX.

Given on the 16th Day of January B.E. 2558;

Being the 70th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to have a law governing the licensing facilitation.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the National Legislative Assembly, as follows:

Section 1 This Act shall be called the “Licensing Facilitation Act B.E. 2558”.

Section 2¹ This Act shall come into force when a period of one hundred and eighty days as from the date following the date of its publication in the Government Gazette has been elapsed, except that Section 17 shall come into force as from the date following the date of its publication in the Government Gazette.

Section 3 This Act shall apply to all licensing, registration or notifications that are required by laws or rules to apply for licenses, registration or notification prior to any action to be taken.

Any provisions contained in laws or rules are contrary to or inconsistent with this Act shall be superseded by the provisions contained in this Act.

Section 4 In this Act:

“Official” means an official under the law governing administrative procedures.

“Licensing” means the authorization to be granted by the official to any person before taking any action as prescribed by laws, including the issuing of licenses, approvals, registration, acceptance of notification and issuing of concession certificates and licenses.

¹ The Government Gazette, Volume 132 Section 4 (A) Page 1 dated 22nd January 2015.

“Licensor” means the person prescribed by law with powers of licensing.

“Competent Official” means the competent official under the law governing licensing.

“Law Governing Licensing” means all laws with provisions requiring that any action or business operation may not be taken unless receiving a prior approval to do so.

“Application” means an application for license.

Section 5 This Act shall not apply to:

- (1) The Parliament and the Cabinet
- (2) The Court’s proceedings and judgment and operations of officials in accordance with the proceedings, execution and property deposit
- (3) Operation under the administration of criminal justice
- (4) Licensing as per the law governing natural resources and environment
- (5) Licensing relating to strategic military operations, including law governing arms control and the law governing private armory.

The exemption of application of provisions contained in this Act to any business operation or to any agencies other than those prescribed in Paragraph 1 shall be enacted as the Royal Decree.

Section 6 In every five years as from the date when this Act has come into force, the Licensor shall review the law empowering the licensing whether it is expedient to revise such law for cancellation of licensing or for provision of other measures in lieu of the licensing; provided that, in case of necessity, the Licensor may consider reviewing the law or providing other measures sooner than the expiry of such time limit.

The Licensor shall submit the results of such review under Paragraph 1 to the Cabinet for consideration of cancellation of licensing or for provision of other measures in lieu of the licensing. For this purpose, the Cabinet shall take account of opinions of the Law Development Commission as per the law governing the Council of State.

Section 7 In case, it is prescribed by law that any action shall be granted with permission, the Licensor shall prepare manuals for the general public which shall at least consist of the criteria, methods and conditions (if any) relating to the submission of application, processes and period of time for consideration of licensing and the list of documents or evidences to be submitted, by the applicant, with the application via electronic media in lieu of submission of application by hand.

Manuals for the general public under Paragraph 1 shall be posted up at the venue designated for submission of application and shall be disseminated through electronic media; and upon request, by the general public, for copies of such manuals, the competent official shall provide copies thereof with reasonable expenses to be collected. In such case, such expenses shall be specified in the manuals for the general public.

The Bureaucratic Development Commission shall be obliged to audit the processes and period of time for consideration of licensing as prescribed under Paragraph 1 whether they are duly in accordance with the criteria and the principle of good governance or not. In case, it is agreed

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that such processes and period of time may cause unreasonable delay, the Bureaucratic Development Commission shall propose such matter to the Cabinet for consideration and command to the Licensor to take immediate and proper action for revision thereof.

For the purpose of public facilitation, the government agency shall establish a joint service center to accept applications and to clarify details relating to licensing as per the law governing licensing at the same venue as per guidelines prescribed by the Bureaucratic Development Commission.

Section 8 The competent official responsible for accepting applications shall be obliged to verify the correctness and completeness of applications and lists of documents and evidences attached thereto. In case, it is agreed that such application is incorrect or incomplete or requiring any additional documents or evidences, the competent official shall notify the same to the applicant immediately. In case, it can be amended for the time being, the competent official shall notify the applicant to make such amendment thereof or to fully submit any additional documents or evidences. In case, such amendment may not be made for the time being, the competent official shall record the deficiency and the list of additional documents or evidences to be submitted and shall specify the time limit for the applicant to make such amendment or to submit additional documents or evidences thereof in such record to be signed by the competent official and the applicant.

The competent official shall give the applicant a copy of such record under Paragraph 1 as evidence.

In case, the applicant has correctly prepared an application and fully attached documents or evidences as specified in the manuals for the general public under Section 7, or has amended or fully submitted additional documents or evidences as recommended by the competent official or as specified in the record under Paragraph 1, the competent official shall no longer demand any other additional documents or evidences and shall not refuse the consideration of such application on the ground of invalidity of such application or incompleteness of documents or evidences, except that such invalidity or incompleteness thereof is caused by negligence or bad faith of the competent official and resulted in the failure of licensing. In this case, the Licensor may command as it may think fit and may take disciplinary actions or legal actions against the related competent official without delay.

Section 9 In case, the applicant fails to make amendment of such application or failing to submit additional documents or evidences as notified by the competent official or as specified in the record prepared under Section 8 Paragraph 1, the competent official shall return such application to the applicant, together with a written clarification for such return thereof

The applicant may appeal the order for return of application under Paragraph 1 as per the law governing administrative procedures or may resubmit an application; however, in case, it is

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required by law to submit any application within the prescribed time limit, the applicant shall resubmit an application within such time limit.

Section 10 The Licensor shall take actions completely within the time limit specified in the manuals for the general public under Section 7 and shall notify the same to the applicant within seven days as from the date of complete consideration thereof.

Upon the expiry of the time limit specified in the manuals for the general public under Section 7, in case, the Licensor fails to complete its consideration thereof, the Licensor shall give a written notice to the applicant specified with a reason of such delay in every seven days until the consideration thereof shall be complete and shall always submit a copy of such notice to the Bureaucratic Development Commission.

In case, the Bureaucratic Development Commission has considered that such delay is unreasonable or resulted from inefficient operation of the Licensor, the Bureaucratic Development Commission shall report the same to the Cabinet and to recommend any development or improvement of such unit or the bureaucratic development of such unit.

In case of failure of notification under Paragraph 1 or Paragraph 2, it shall be regarded that the Licensor has taken actions or omissions causing damage to the third parties, unless caused by force majeure.

Section 11 In case, any laws, rules or regulations have come into force and resulted in amendment of criteria, methods, conditions or any other details as specified in the manuals for the general public under Section 7. Such amendment shall not apply to an application duly submitted prior to the effective date of such laws, rules or regulations, unless otherwise provided by such laws; however, such rules or regulations may otherwise be provided only in case of amendment in favour of the applicant.

Section 12 In case, the term of a license is prescribed by law; and business or activity under such license shall be operated by the licensee uninterruptedly, the Cabinet may require the licensee to pay the license renewal fees as prescribed by such law in lieu of submission of an application for license renewal; and upon receiving such fees, the licensing agency shall issue evidence of license renewal to the licensee promptly; and it shall be regarded that the licensee has received the license renewal under such law.

Provisions requiring the licensee to pay the license renewal fees in lieu of submission of an application for license renewal under Paragraph 1 shall be enacted as the Royal Decree; and in such Royal Decree, it shall be specified with the name of the Act and types of licenses under such Act that the licensee may take actions under Paragraph 1.

Prior to the enactment of the Royal Decree under Paragraph 2, the Cabinet shall submit a draft of such Royal Decree to the House of Representatives and to the Senate for not less than thirty days. After such time limit has been elapsed, in case, the House of Representatives or the

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Senate has not passed its resolution to object such draft thereof, such draft of the Royal Decree shall be submitted to and enacted by His Majesty the King.

The Office of the Bureaucratic Development Commission shall be obliged to discuss with the agencies in connection with the licensing so as to give advice to the Cabinet for actions under Paragraph 1 and Paragraph 2.

Section 13 The Licensor shall be obliged to determine the criteria and guidelines for audit of business operation or activity under such license of the licensee to be in accordance with the law governing licensing; and the competent official and the Licensor shall be obliged to conduct such audit in accordance with such criteria and guidelines.

In case, business operation or activity under such license of the licensee has caused any trouble, nuisance or damage to any person as eyewitnesses by the competent official or as evidenced by complaints, the competent official shall be obliged to conduct such audit and to issue commands under his powers and duties promptly.

Section 14 In case, it is necessary and expedient for the purpose of public facilitation, the Cabinet shall issue its resolution to establish a one-stop service center to receive applications under the law governing licensing.

The one-stop service center under Paragraph 1 shall be functioned as a government agency under Section 18 Paragraph 4 of the National Government Organization Act B.E.2534 as amended by the National Government Organization Act (No.5) B.E.2545 under the attentive supervision of the Office of the Prime Minister; and branch offices of such one-stop service center may be established in any ministry or province.

The establishment of a one-stop service center under Paragraph 1 shall be enacted as the Royal Decree; and in such Royal Decree, it shall be specified with the name list of the law governing licensing which shall be subject to operations of the one-stop service center.

Regarding operations on the receipt of applications, it may be prescribed in the Royal Decree that applicants shall submit their applications via electronic media.

Section 15 Upon the establishment of the one-stop service center under Section 14, actions shall be taken with the following results:

(1) In case, it is prescribed by law governing licensing or by rules issued in accordance with such law that an applicant shall submit applications or documents or evidences or any fees at any venue; and if submitted to the one-stop service center, it shall be regarded that such applications, documents, evidences or fees have duly been submitted according to the law governing licensing.

(2) All fees or any other monies received by the one-stop service center under (1) shall be remitted by the one-stop service center as the state revenue on behalf of the Licensor's agency or shall be remitted to a local administrative organization, as the case may be; then, it shall be notified to the Licensor's agency for acknowledgment.

(3) In case, the Licensor's agency is entitled to deduct expenses from monies to be remitted as the state revenue, the one-stop service center shall deduct such monies on behalf of

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the Licensor's agency and to remit such deducted monies to the Licensor's agency; whereas, the one-stop service center shall be entitled deduct its expenses as per the rates to be agreed with the Licensor's agency.

(4) The period of time under Section 10 shall commence as from the date when the one-stop service center has forwarded the matter to the Licensor. For this purpose, the one-stop service center shall forward the matter to the Licensor within a period of no later than three working days; provided that the provisions contained in Section 10 Paragraph 4 shall, *mutatis mutandis*, apply.

(5) The Licensor shall be obliged to send the updated manuals for the general public under Section 7 to the one-stop service center in a proper quantity thereof and to organize training or clarification to staff members of the one-stop service center for expertise in their performance of duties.

(6) Staff members of the one-stop service center shall be obliged to take actions under Section 8 and to assume responsibilities similar to those of the competent official as provided in Section 8.

Section 16 The one-stop service center shall have its duties as follows:

(1) Receive applications and fees, including appeals under the law governing licensing.

(2) Provide data, clarifications and recommendations to applicants or the general public on the criteria, methods and conditions of application, including the needs for submission of any other applications required to be in accordance with the law governing licensing for any business operation or activity under such license.

(3) Forward applications or appeals received from applicants or appellants, together with the related documents or evidences to the relevant agencies and follow up the aforesaid agencies for correct operation within the period of time prescribed under this Act and the manuals for the general public under Section 7 or under the law governing the entitlement to appeal.

(4) Give recommendations to the Cabinet to command the related agencies to revise the criteria or methods relating to the submission of applications, in case, it is agreed that such criteria or methods relating thereto contain unnecessary details or requirements or causing unnecessary burden to the general public.

(5) Gather problems and obstacles from licensing and operations of the one-stop service center to be submitted to the Bureaucratic Development Commission for reporting of the matter to the Cabinet in order to consider the matter and to command the relevant agencies to conduct proper revisions thereof.

(6) Give recommendations on the development or improvement of procedures, processes, period of time relating to the licensing, including recommendations on the issuance of laws, rules, regulations or determination of criteria on licensing for the purpose of public facilitation.

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Section 17 The Licensor shall prepare manuals for the general public under Section 7 completely within one hundred and eighty days as from the date of publication of this Act in the Government Gazette.

Section 18 The Prime Minister shall take charge under this Act

Counter-Signature:

General Prayut Chan-O-Cha

Prime Minister

Office of Justice Affairs

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Note:- Reason for promulgation of this Act: Whereas, at present, there are a lot of laws governing licensing and the business operation of the general public requires prior permission and licenses from several government agencies; and some laws in relation to the licensing have not prescribed the period of time and necessary documents and evidences, including processes of consideration, causing obstacles to the general public relating to the submission of application for licenses; therefore, in order to have a central law which shall determine processes and period for licensing and establishment of a joint service center to accept applications and a one-stop service center to provide clear data relating to application for licenses for the purpose of public facilitation; therefore, it is necessary to enact this Act.

Prepared by: Preeyanuch
26th January 2015

Checked by: Vichapong
29th January 2015

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