

Factory Act, B.E. 2535 (1992)

Translation

BHUMIBOL ADULYADEJ REX.

Given on the 2nd day of April, B.E. 2535;

Being the 47th year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to revise the law on factory;

BE IT THEREFORE ENACTED BY THE KING, by and with the advice and consent of the National Legislative Assembly acting as the Parliament, as follows:

Section 1

This Act shall be called the "Factory Act, B.E. 2535 (1992)".

Section 2

This Act shall come into force as from the ninety days following the date of its publication in the Government Gazette.

Section 3

The following Acts shall be repealed.

- (1) The Factory Act, B.E. 2512
- (2) The Factory Act (No. 2), B.E. 2518
- (3) The Factory Act (No. 3), B.E. 2522

Section 4

The Act shall not apply to the Government factory run by the Government for the purpose of national security and safety provided that the engagement of such factory business shall be guided by the criteria and procedures relating to the engagement of a factory business under this Act.

Section 5

In this Act

"Factory" means a building, place, or vehicle which uses a machine from five horsing powers or an equivalent thereof or more or which employs seven workers or more with or without any machine for manufacturing, producing, assembling, filling, repairing, maintaining, testing, improving, altering, transporting, keeping, or destroying anything in accordance with the type or kind of factory as provided for in a ministerial rule.

"Establishing a Factory" means a construction of the buildings for the installation of machines for engaging in a factory business or installation of the machines for engaging in a factory business in the buildings, places, or vehicles to be engaged in such business.

"Machine" means a component of several pieces for generating energy, changing or altering energy or transmitting energy by the force of water, steam, wind, gas, electricity, or any other energy or energies combined and also includes fly-wheel equipment, pulleys, belts, axles, gears, or other things which work reciprocally.

"Worker" means a person who works in a factory but excluding a person working in an administrative staff.

"Grantor" means the Permanent Secretary of the Ministry or a person appropriately assigned by the Permanent Secretary of the Ministry.

"Permit" means a permit for the engagement in a factory business.

"Authority" means a person appointed by the Minister for the execution of this Act.

"Permanent Secretary" means the Permanent Secretary of the Ministry of Industry.

"Engagement in a factory business" means manufacturing, producing, assembling, filling, repairing, maintaining, testing, modifying, altering, transporting, keeping or destroying anything in accordance with the nature of the business of the factory but excludes the operation test of the machines.

"Minister" means the Minister who takes charge of this Act.

Section 6

The Minister of Industry shall take charge of the execution of this Act and shall have the power to appoint the authorities and to prescribe the ministerial rules fixing the fees of not higher than the rates attached herewith, exempting the fees and adopting other requirements for the execution of this Act.

The ministerial rules and announcements of the Minister prescribed pursuant to this Act, upon publication in the Government Gazette, shall become enforceable.

CHAPTER 1

Engagement in a Factory Business

Section 7

The Minister shall have the power to prescribe the ministerial rules in fixing the factory of any type, kind or size to be the group 1 factory, group 2 factory, or group 3 factory as the case may be by taking into consideration the necessity for the control, prevention of nuisance, prevention of damage, and prevention of danger in accordance with the gravity of impact on the public or environment by classifying as follows:

- (1) Group 1 factory is factory of the type, kind, and size as capable of engaging in a factory business immediately upon desire of a person engaging in a factory business.
- (2) Group 2 factory is factory of the type, kind, and size as, when engaging in a factory business, must be notified in advance to the Grantor.
- (3) Group 3 factory is factory of the type, kind, and size as to be granted a permit prior to the engagement.

Upon prescription of an announcement of the Minister pursuant to Section 32 (1), the factory designated in such announcement shall also be the group 3 factory.

Section 8

For the purpose of control of the engagement in a factory business, the Minister shall have the power to prescribe the ministerial rules with which any or all groups of factory under Section 7 must comply with respect to the following matters.

- (1) To adopt the criteria relating to the location of factory, environment of the factory, nature of the buildings of factory, or interior nature of the factory.
- (2) To adopt the nature, type, or kind of machines, equipment or such other things as to be used for the engagement in a factory business.
- (3) To adopt the requirements of specialized workers according to the type, kind, or size of factory to perform any duty for such factory.
- (4) To adopt the criteria to be followed, process of production and provision of other equipment or tools in order to prevent or stop or mitigate the dangers, injuries,

or troubles that may cause to the persons or property in the factory or its vicinity.

- (5) To adopt the standards and methods of controlling the discharge of wastes, pollutants or anything that affects the environment as a result of the engagement in a factory business.
- (6) To adopt the provision of required documents for the factory, for the purpose of controlling and inspecting the compliance with the laws.
- (7) To adopt the required information relating to the engagement in a factory business of which a person engaging in a factory business must inform from time to time or in a specified period.
- (8) To adopt any other requirements for the protection of safety in the operations in order to prevent or stop or mitigate the dangers or injuries that may result from the engagement in a factory business.

The ministerial rules under paragraph one may exempt the factory of any type, kind, or size from performing any matter and such ministerial rules may require the matters of technical details or of rapid changes according to the social conditions to be in accordance with the criteria prescribed by the Minister upon publication in the Government Gazette.

Section 9

In case where it is required to inspect the factory or machines for the execution of this Act, an individual may be designated to carry out the inspection and make a report of the result of the inspection in lieu of the performance of the duties of authorities subject, however, to the regulations prescribed by the Minister upon publication in the Government Gazette.

Section 10

A person engaging in, a factory business of group 1 must comply with the criteria provided for in the ministerial rules prescribed pursuant to Section 8 and the announcements of the Minister prescribed pursuant to the said ministerial rules.

Section 11

A person engaging in a factory business of group 2 must comply with the criteria provided in the Ministerial rules prescribed pursuant to Section 8 and the announcements of the Minister prescribed pursuant to the said ministerial rules and upon commencing the engagement in a factory business shall notify the authority in advance.

The forms and particulars to be notified and the form of notification receipt shall be in accordance with those provided for in the ministerial rules.

Upon receipt of the notification under paragraph one, the authority shall issue a notification receipt to the applicant as a proof of such notification on the date of receipt of the notification and the applicant shall engage in a factory business as from the date of receipt of such notification receipt.

In case where the authority finds out later that the notification under paragraph one is incorrect or incomplete, the authority shall have the power to order the applicant to correct or complete within seven days as from the date of receipt of such order.

The dissolution of business, the transfer, lease, or hire-purchase of group 2 factory shall be notified in writing by the person engaging in a factory business to the authority within thirty days as from the date of such action.

Section 12

A person engaging in a factory business of group 3 must obtain a permit from the Grantor and must comply with the criteria provided for in the ministerial rules prescribed pursuant to Section 8, the announcement of the Minister prescribed pursuant to the said ministerial rules and the announcements of the Minister prescribed pursuant to Section 32.

No person shall be allowed to establish a factory before obtaining a permit.

The application for a permit and the procedures of consideration and duration of such consideration for the issuance of a permit shall be in accordance with those provided for in the ministerial rules.

In case where the applicant requests for a certificate before a permit is issued, if a preliminary consideration suffices the grant in principle, the Grantor shall issue a certificate upon reservation on the unfinished part according to the criteria prescribed by the Minister upon publication in the Government Gazette.

In issuing a permit, the person having the power to grant a permit shall consider in accordance with the criteria provided for in the ministerial rules prescribed pursuant to Section 8, the announcements of the Minister prescribed pursuant to the said ministerial rules and the announcements of the Minister prescribed pursuant to Section 32. Where no criteria are provided for, it shall be considered by taking into account the safety of the persons or property in the factory or its vicinity or if it must be complied with the announcements of the Minister prescribed pursuant to Section 32, conditions may be provided in a permit to be followed specially by the person engaging in a factory business.

Section 13

A recipient of a permit under Section 12, if wishing to commence the engagement in any part of the factory business, must notify the authority not less than fifteen days prior to the commencing date of engagement in the factory business.

If there shall be any operation test of the machines before commencement of the engagement in a factory business under paragraph one, the recipient of a permit must also notify the authority of the day, time, and duration of such operation test not less than fifteen days.

The criteria and duration that may be applied to such operation test shall be in accordance with those provided for in the ministerial rules.

Section 14

A permit shall be valid until the last day of the fifth calendar year as from the year of commencement of the engagement in the business except in the case of moving of the factory under Section 27 or of dissolution of the engagement in the factory business, such permit shall be deemed to expire on the date of issuance of a new permit or of dissolution of the factory business.

If it is to appropriate to cease the engagement in the business in a near future, the Grantor, upon approval of the Minister may issue a permit of a shorter period than that provided for in paragraph one. The permit issued in this case may not be renewed.

Section 15

In renewing a permit, a recipient of a permit shall file an application prior to the expiration of a permit. Upon such application, the applicant shall be deemed to be the recipient of a permit until a final order refusing a renewal of a permit is given.

If the result of inspection indicates that the factory and machines are in compliance with Section 8, the announcements of the Minister prescribed pursuant to the said ministerial rules and the announcements of the Minister prescribed pursuant to Section 32 and the conditions provided for in a permit, the Grantor shall renew the permit. In case of incorrectness, the authority shall order a correction within the specified period. Upon such correction, a renewal shall be granted.

Failure to make correction within the specified period, the order refusing such renewal of the permit shall be given.

The application for renewal of a permit and grant of such renewal shall be in accordance with the criteria and procedures provided for in the ministerial rules.

A person who fails to file an application for a renewal of the permit within the period under paragraph one, if wishing to continue the engagement in the factory business and having already filed the application for renewal of the permit within the period of sixty days as from the date of expiration of the permit, shall be deemed to file the application within the

specified period and the engagement in the factory business during such period shall be deemed as that of the recipient of the permit. However, upon a grant of renewal of the permit, such person shall pay an additional fine of twenty percent of the renewal fee. Upon expiration of the sixty-day period, such person shall proceed as if it were a new application.

Section 16

The order refusing the issuance of a permit or the renewal thereof may be appealed by the applicant for such issuance or renewal to the Minister within thirty days as from the date of receipt of the order. The decision of the Minister shall be final.

Section 17

Any factory for which a person engaging in a business has been granted a permit, if it appears thereafter that such factory uses the machines of lower than five horse powers or employs less than seven workers, such factory shall be deemed to be the factory under this Act until notice of dissolution of the factory business is given or the permit expires.

Section 18

A recipient of a permit may not expand the factory unless permitted by the Grantor. Section 12, Section 13, and Section 16 shall apply *mutatis mutandis* to the application for expansion of the factory and the grant thereof including the appeal of the order refusing such expansion.

Expansions of the factory are:

- (1) an increase of a number, change or alteration of the machines in order to increase their aggregate powers from fifty percent or more in case where the original machines have their aggregate powers of not more than one hundred horse powers or an equivalent thereof of not more than one hundred horse powers or to increase from fifty horse powers or more in case the original machines have their aggregate powers of more than one hundred horse powers or an equivalent thereof of more than one hundred horse powers.
- (2) an increase or modification of any part of the factory buildings rendering any of their original foundations to carry more weight from five hundred kilograms or more.

A permit as to the expanded part shall be valid for the same period as that of the permit under Section 14.

Section 19

When the recipient of a permit increases a number, changes or alters the machines used for production, machines used for generating power or the energy of the machines to other forms but not amounting to the expansion of the factory or to the increase of the area of the factory building or to the new construction of the factory building for the direct benefits of the business of such factory rendering the area of the factory building to be increased from fifty percent or more in case where the area of the factory building does not exceed two hundred square meters or to be increased from one hundred square meters or more in case where the area of the factory exceeds two hundred square meters, the recipient of the permit shall notify in writing the authority within seven days as from the date of such increase, change or alteration of the machine or increase of the area of factory building or additional construction of the factory building as the case may be and must comply with the criteria and procedures relating to the increase of a number, change or alteration of the machines or increase of the area of the factory building or additional construction of the factory building as provided for in the ministerial rules.

Section 20

The conditions provided for in a permit under Section 12 paragraph five, if the Grantor deems it appropriate to cancel or change or add appropriate conditions to be followed by the recipient of the permit in engaging in a factory business, the Grantor shall so give a written order.

Any recipient of a permit who wants to cancel or change the conditions to be followed in engaging in a factory business shall file an application and explain the reasons to the Grantor.

The Grantor shall consider forthwith and give a written order immediately.

If the recipient of the permit does not agree with the opinions of the Grantor, he/she shall appeal to the Minister within the period of thirty days as from the date of receipt of the written order. The decision of the Minister shall be final.

Section 21

In case where the recipients of a permit transfers the factory business, leases or effects a hire-purchase of the factory, or sells the factory, such person shall be deemed to cease the engagement in the factory business as from the date of transfer of the factory business, lease or hire-purchase of the factory or sale of the factory.

The transferee of the factory business, lessee or hire-purchaser of the factory or purchaser of such factory shall apply for a permit within seven days as from the date the engagement of the factory business is deemed to have ceased under paragraph one without paying the permit fee.

Upon submission of such application, the engagement in a factory business shall be continued pending the receipt of a permit as if such applicant were the recipient of the permit.

The criteria, procedures, conditions for the acceptance of the transfer and issuance of a permit shall be in accordance with those provided for in the ministerial rules.

Section 22

In case of death of the recipient of a permit, the heir(s) or administrator(s) shall file an application to the Grantor for the acceptance of the transfer of a permit within ninety days as from the date of death of the recipient of a permit or within a period as extended by the Grantor as he deems necessary. Failure to file an application within the specified period, a permit shall be deemed to expire. If such person(s) wish to continue the engagement in a factory business, they shall undertake to reapply for a permit.

During the period under paragraph one, the heir(s) or administrator(s) engaging in a factory business shall be deemed as if they were the recipient(s) of a permit.

In case where the recipient of a permit is adjudged an incompetent person, the provisions of the two preceding paragraphs shall apply to the guardian *mutatis mutandis*.

The criteria, procedures, conditions for the acceptance of the transfer and issuance of a permit shall be in accordance with those provided for in the ministerial rules.

Section 23

The recipient of a permit must present the permit at the open and noticeable place in his/her factory.

Section 24

Upon changing of the name of the factory or of the name of the recipient of a permit, the recipient of a permit shall notify in writing the authority within fifteen days as from the date of such change.

Section 25

In case of loss or destruction of a permit, the recipient of the permit shall apply for a substitute to the authority within fifteen days as from the date of learning of the loss or destruction.

Section 26

The recipient of a permit wishing to move parts of the machines installed in the factory to another place for temporary engagement in a factory business shall file an application for permission to the Grantor together with the chart and other details articulating the reasons for consideration.

If the Grantor deems it appropriate, the Grantor shall grant the move of the machines to engage in a business as requested within the specified period but not later than one year as from the date of such order. In this respect, the conditions relating to the safety measures may be provided to be followed.

If the recipient of a permit needs to engage in such business beyond the period as permitted under paragraph two, an application for extension of such period shall be filed with the Grantor prior to the expiration of such period. If the Grantor deems it appropriate, the Grantor shall grant the extension of the period for not more than one year.

Section 27

Any recipient of a permit wishing to move the factory to another place shall proceed as establishing a new factory.

Section 28

Any recipient of a permit ceasing the engagement in a factory business shall notify in writing the Grantor within fifteen days as from the date of cessation of the factory business.

If the recipient of a permit wishes to change a group 3 factory to a group 1 factory or group 2 factory as the case may be, the recipient shall notify of the cessation of the factory business under paragraph one and upon continuation of the engagement in the factory business, the recipient shall proceed as provided for in this Act for the engagement in the said groups of factory business.

Section 29

In case where there are the ministerial rules under Section 7 or announcements of the Minister under Section 32 (1) rendering a group 1 factory or group 2 factory to be a group 3 factory, if a person engaging in a factory business applies for a permit under Section 12 within the period of thirty days as from the date of coming into force of the ministerial rules, such person shall continue the engagement in the factory business as if he/she were the recipient of the permit and the Grantor shall immediately issue a permit.

Section 30

The Minister shall have the power, upon publication in the Government Gazette, to designate any area to be an industrial zone.

The engagement in a business of group 2 factory or group 3 factory within the industrial zone under paragraph one or the industrial estate established pursuant to the law on industrial estates shall be exempted from the notification to the authority under Section 11 or permission under Section 12 as the case may be but such engagement in a factory business shall follow the criteria provided for in the ministerial rules prescribed pursuant to Section 8, announcements of the Minister prescribed pursuant to the said ministerial rules, announcements of the Minister prescribed pursuant to Section 32 (1) and other provisions relating to the control of engagement in a factory business under this Act provided that it shall be deemed as if he/she were the notifier or the recipient of the permit as the case may be.

Upon designation of any area as the industrial zone or establishment of the industrial estate under the law on industrial estates, the Minister may prescribe a ministerial rule designating a surrounding area of the industrial zone or estate within a specified limit to be an absolutely forbidden zone for factory business or allowing only the engagement in a business of certain type, kind or size of factory.

Section 31

For the purpose of effective public administration and of facilitation to the public, if any engagement in a factory business involves a matter which also requires a permission from the authority under other laws, the authority having the power to execute under this Act and the authority having the power to execute under such laws may adopt the procedures of undertaking for joint consideration.

The undertaking under paragraph one may be effected by joint application or by exemption of the required documents, the particulars or information to be presented, the place of which applications or documents must be submitted and steps of overlapping or similar considerations for permission or which is likely to create unnecessary obstacles for such joint consideration and if it is appropriate, the criteria or procedures will be adopted instead to be followed but such permission must be in accordance with the format provided for in the laws on such matters.

In a joint consideration, the authority having the power to inspect, having the power to consider any part of such permission or having the power to grant permission may delegate his/her power to other authorities involved in the consideration for permission to execute on his/her behalf as is appropriate.

The adoption and delegation under paragraph two, paragraph three, upon publication in the Government Gazette, shall become enforceable.

CHAPTER 2

Supervision of the Factory

Section 32

For the purposes of economy, conservation of environment, security, safety of the country or of the public, the Minister, upon approval of the Cabinet, shall have the power to adopt, upon publication in the Government Gazette, the following matters:

- (1) To adopt a number and sizes of each type or kind of factory to be established or expanded or to refuse the establishment or expansion thereof in any area.
- (2) To adopt the kinds, quality, ratio of the raw materials, sources of raw materials and/or factors or kinds of energy to be used or produced in the factory.
- (3) To adopt the kinds or quality of the products produced in the factory to be established or expanded.
- (4) To adopt the application of the produces of the factory to be established or expanded to certain types of industry or the exportation of all or part of tile produces.

Section 33

If the group 2 factory or group 3 factory cease their operations consecutively for more than one year, a person engaging in the business of group 2 factory or a recipient of a permit for the business of group 3 factory as the case may be must notify in writing the authority within seven days as from the day following the last date of one year.

If the said person under paragraph one wishing to continue the engagement in the factory business, such person shall notify in writing the authority prior to the commencement of the business and in case of group 3 factory, such person must first obtain a written permission from the authority before engaging in a factory business.

Section 15 paragraph two and Section 16 shall apply *mutatis mutandis* to the permission of continuation of the engagement in the business of group 3 factory.

Section 34

In case of accident in a factory caused by the factory or a machine thereof regardless of any group of factory, if such accident;

- (1) causes death, illness or injury to the persons who after seventy-two hours cannot perform their original duties, the person engaging in a factory business shall notify in writing the authority within three days as from the date of death or expiration of seventy-two hours as the case may be;
- (2) causes the operations of the factory to be stopped for more than seven days, the person engaging in the factory business shall notify in writing the authority within ten days as from the date of accident.

When the accident occurs under paragraph one, the authority shall inspect the factory and the machines and consider proceeding under Section 37 or Section 39 as the case may be.

Section 35

For the implementation this Act, the authority shall have the following powers.

- (1) To enter a factory or building, place or vehicle, suspected to engage in a factory business, during the period from sunrise to sunset or during the working hours of the said place to inspect the condition of the factory, building, place or vehicle, the condition of the machines or any act that may violate the provisions of this Act.
- (2) To take the specimens of products suspected of their quality in a reasonable quantity for inspection of their quality together with relevant documents.
- (3) To inspect, search, detain, seize or attach the products, containers, book accounts, documents or any relevant articles in case where there is a reasonable ground to suspect that engagement in a business of the factory may cause harms to the persons or property in the factory or its vicinity or an offence under this Act has been committed.
- (4) To summon in writing any person to testify or to submit any document or object for consideration.

Section 36

When it appears that any person has committed an offence under this Act or is suspected to have so committed, the authority appointed from the government officials not lower than level 4 of position classification shall have the power to arrest such person in order to hand over to an inquiry official for further legal action.

Section 37

In case where the authority finds out that any person engaging in a factory business violates or fails to comply with this Act or engages in a factory business in such a manner as to cause harms, injuries or troubles to the persons or property in the factory or its vicinity, the authority shall have the power to order such person to stop such violating act or to correct or improve or conform correctly or properly within the specified period.

If the authority deems it appropriate, upon approval of the Permanent Secretary or a person assigned by the Permanent Secretary, the authority shall have the power to bind and stamp on the machines to prevent them from operating during the compliance with the order of the authority under paragraph one.

Section 38

For the service of an order under this Act, the authority shall serve at the domicile or factory of the person specified in the order during the period from sunrise to sunset or during the working hours of such person(s) or may send by a registered reply mail.

In case where the order has been served by the authority but the person specified in the order refuses to receive such order, the authority shall ask an administrative official or police to accompany as a witness for the leaving of the order at such a place. If, however, the person specified in the order is not found at the domicile or a place of business of such person, a service may be made to any person of sui juris who is or works in such a place and if no person is found or if found but refuses to accept on behalf of the specified person, the order shall be posted at a noticeable place at such domicile or factory in the presence of an administrative official or police accompanying as a witness.

Upon execution by the authority under paragraph one or paragraph two, the person specified in the order shall be deemed to have received such order. If, however, the order is sent by a registered reply mail or posted, such order shall be deemed to have been received upon the expiration of fifteen working days as from the date of sending by a postman or of posting such order as the case may be.

Section 39

In case where a person engaging in a factory business intentionally fails to comply with the order of the authority under Section 37 without reasonable ground or in case where it appears that the engagement in a business of any factory may cause serious harms, injuries or troubles to the persons or property in the factory or its vicinity, the Permanent Secretary or a person assigned by the Permanent Secretary shall have the power to order such person to stop temporarily engaging in all or part of the factory business and to modify such factory or to conform within the specified period.

If the person engaging in the factory business has modified the factory or conformed within the specified period, the Permanent Secretary or a person assigned by the Permanent Secretary shall order a continuation of the factory business.

If the person engaging in the factory business fails to modify the factory or to conform within the specified period, the Permanent Secretary or a person assigned by the Permanent Secretary shall have the power to order a closure of the factory and in case of group 3 factory, the order closing the factory shall also have the effect of revoking the permit.

Section 40

The order to stop engaging in the business or to close the factory shall be posted by the authority at three noticeable places at least at such factory provided that statements prohibiting the persons performing their duties in the factory, workers or every person involved to work in the factory for the continuation of the business after the order stopping the engagement in the business or closing the factory has been given shall be provided.

Section 41

The order of the authority under Section 37 or the order of the Permanent Secretary or a person assigned by the Permanent Secretary to stop the engagement in the factory business under Section 39 paragraph one or the order to close the factory under Section 39 paragraph three shall be appealed to the Minister within thirty days as from the date of receipt of the order. The decision of the Minister shall be final.

The appeal under paragraph one shall not ease the compliance with the order of the authority or the order to stop engaging in the factory business or the order to close the factory unless otherwise ordered by the Minister.

Section 42

In case where the person engaging in the factory business fails to comply with the order of the authority under Section 37, if there is a ground for the Government to take over the operations, the Permanent Secretary or a person assigned by the Permanent Secretary shall have the power to order the authority or to assign any person to rectify for the implementation of such order. In this respect, the person engaging in the factory business must bear the expenses for such takeover for the amount actually paid together with the penalty at the rate of thirty percent per annum of the said amount.

If the Government has undertaken to solve the pollution problem or the impact on the environment caused by the factory, it shall request a subsidy from the Environment Fund under the law on the Enhancement and Conservation of National Environmental Quality Act to pay for its operations and upon receipt of the money under paragraph one from the person engaging in the factory business, the government shall reimburse for the subsidy obtained to the Environment Fund accordingly.

Section 43

The persons engaging in a business of group 2 factory and group 3 factory must pay the annual fees in accordance with the criteria, procedures, and rates as provided for in the ministerial rules throughout the period of engagement in the business. Failure to pay the fees within the specified period shall result in the payment of additional money at five percent per month and if they still refuses to pay the fees without reasonable ground, the authority shall have the power to order such person to stop the engagement in the

business until the fees and additional money have been paid in full and Section 39, Section 40 and Section 41 shall apply *mutatis mutandis*.

Section 44

In performing the duties, the authority must present the identity card upon request of the persons involved.

The identity card of the authority shall be in accordance with the form specified by the Minister upon publication in the Government Gazette.

CHAPTER 3

Penalties

Section 45

Any person violating or failing to comply with the ministerial rules prescribed pursuant to Section 8 (1) (2) (3) (4) (5) or (8) or announcements of the Minister prescribed pursuant to the said ministerial rules shall be subject to a fine not exceeding two hundred thousand Baht.

Section 46

Any person violating or failing to comply with the ministerial rules prescribed pursuant to Section 8 (6) or (7) or announcements of the Minister prescribed pursuant to the said ministerial rules shall be subject to a fine not exceeding twenty thousand Baht.

Section 47

Any person producing a false result of the inspection under Section 9 shall be subject to an imprisonment not exceeding two years or a fine not exceeding two hundred thousand Baht or both.

Section 48

Any person engaging in a business of group 2 factory without notifying the authority under Section II paragraph one shall be subject to an imprisonment not exceeding six months or a fine not exceeding fifty thousand Baht or both.

Section 49

Any person engaging in a business of group 2 factory notifying of the engagement in the business incorrectly or incompletely as provided for in the ministerial rules under Section 11 paragraph two or failing to comply with Section 11 paragraph five or Section 33 shall be Subject to a fine not exceeding twenty thousand Baht.

Section 50

Any person engaging in a business of group 3 factory without a permit under Section 12 paragraph one or establishing a factory without a permit under Section 12 paragraph two shall be subject to an imprisonment not exceeding two years or a fine not exceeding two hundred thousand Baht or both.

In case where the factory under paragraph one is that of the type or kind of which a number or sizes are specified in order to grant or deny an establishment in any area in accordance with the announcements prescribed pursuant to Section 32 (1), such offender shall be subject to an imprisonment not exceeding four years or a fine not exceeding four hundred thousand Baht or both.

Section 51

Any recipient of a permit failing to comply with Section 13 paragraph one or paragraph two, Section 19, Section 28 or Section 33 shall be subject to a fine not exceeding twenty thousand Baht.

Section 52

Any recipient of a permit expanding the factory without a permit for factory expansion under Section 18 shall be subject to an imprisonment not exceeding two years or a fine not exceeding two hundred thousand Baht or both.

In case where the factory under paragraph one is that of the type or kind of which a number or sizes are specified in order to grant or deny an expansion in any area in accordance with the announcements prescribed pursuant to Section 32(1), such offender shall be subject to an imprisonment not exceeding four years or a fine not exceeding four hundred thousand Baht or both.

Section 53

Any recipient of a permit failing to comply with Section 23, Section 24 or Section 25 shall be subject to a fine not exceeding five thousand Baht.

Section 54

Any person engaging in a factory business failing to comply with Section 34 paragraph one shall be subject to a fine not exceeding twenty thousand Baht.

Section 55

Any person engaging in a factory business during the order to stop engaging in a factory business or after the order to close the factory shall be subject to an imprisonment not exceeding two years or a fine not exceeding two hundred thousand Baht or both and an additional fine of five thousand Baht daily until the cessation of the engagement in the business.

Any architect or engineer still working in the factory only in the part against which the order to stop engaging in the business has been given or still working in the factory against which the order to close has been given in order to continue the engagement in the business of the factory shall be subject to the same penalties as those for the person engaging in a factory business under paragraph one.

Any person working in a factory or any worker still working in the factory only in the part against which to order to stop engaging in the business has been given or still working in the factory against which the order to close has been given shall be presumed to be the accomplice or supporter of the offence under paragraph one as the case may be but the court may inflict the penalty to the least extent possible by taking into account the status, responsibility for the family, intention to violate the law and the substantial participation in the act.

Section 56

Any person obstructing or failing to facilitate the authority who performs the duties under Section 35 shall be subject to an imprisonment not exceeding one month or a fine not exceeding twenty thousand Baht or both.

Section 57

Any person failing to comply with the order of the authority given under Section 37 paragraph one shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both and an additional fine not exceeding five thousand Baht throughout the period of violation or noncompliance.

Section 58

Any person doing any act to reactivate the machine(s) bound and stamped by the authority under Section 37 paragraph two shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

Section 59

Any person obstructing or failing to facilitate a person assigned by the Permanent Secretary or by a person assigned by the Permanent Secretary undertaking the execution

of the order under Section 42 shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

Section 60

Any person doing any act causing defect or damage to the order to stop engagement in the factory business or to close the factory shall be subject to an imprisonment not exceeding six months or a fine not exceeding fifty thousand Baht or both.

Section 61

In case where a person engaging in a factory business committing an offence under this Act, the architect or engineer working in the factory and responsible for the part of work in which such offence has been committed shall be deemed to take part in or know of the commission with the person engaging in the factory business and shall be subject to the same penalties as those for the person engaging in the factory business unless it is proved that such person does not know of or consent to the commission of such offence.

Apart from the penalties under paragraph one, the Permanent Secretary shall notify the Board on the Control of Architectural Profession or the Board on the Control of Engineering Profession of the name and commission of such person in order to proceed under the laws on architectural profession or on engineering profession accordingly.

Section 62

Any person once punished for the commission of the offence under this Act, if again committed the same offence for which he/she has been punished, the court shall consider increasing the punishment for such persons at least one-third of the imprisonment penalty or increasing the punishment for another one-half of the fine penalty for such offence.

Section 63

In case where a partnership, company or other juristic persons commit an offence under this Act, the directors, managers or any person responsible for such commission shall also be subject to the penalties provided for such offence unless it is proved that such offence has been committed without their knowledge or consent.

Section 64

In case where an offence is committed under this Act, a person residing near or adjacent to the factory in which the offence is committed or a person whose living is affected as a result of commission of the offence shall be deemed to be the injured person under the Criminal Procedure Code.

Section 65

There shall be the committees for effecting the cases in Bangkok and provincial areas as is appropriate.

Each committee for effecting the cases shall be appointed by the Minister from three legal scholars whose term of office shall be two years but upon retiring from office may be re-appointed.

The vacancy from office before the term, meetings and procedures of the committees for effecting the cases shall be in accordance with the regulations prescribed by the Minister upon publication in the Government Gazette.

All offences under this Act except those under Section 50 paragraph two or Section 52 paragraph two may be effected by a fine by the committees for effecting the cases, if it is regarded that the accused should not be prosecuted or inflicted with an imprisonment penalty and upon paying a fine by the accused as effected within thirty days as from the date of such effect, the case shall be deemed to be settled under the Criminal Procedure Code.

In case where the inquiry official finds out that any person committing the offence under paragraph four and such person agrees to be effected by a fine, the inquiry official shall submit the file to the committee for effecting the cases within seven days as from the date of consent of such person to be effected by a fine.

Transitory Provisions

Section 66

Any application filed and any permission granted and pending the consideration of the Grantor or performance of the applicant as granted as the case may be shall be deemed as the application or permission under this Act *mutatis mutandis*. In case where such application or permission is different from the application or permission under this Act, the Grantor shall have the power to order an amendment as is necessary for the implementation of this Act.

Section 67

A permit for engineering in a factory business issued to any person pursuant to the law on factory prior to the coming into force of this Act shall remain valid until expiration of its specified period.

A permit for establishing a factory under the law on factory prior to the coming into force of this Act shall be deemed as the permit for engaging in a factory business under this Act and the recipient of such permit shall have the duty to proceed under this Act.

Section 68

All ministerial rules and announcements prescribed pursuant to the law on factory shall remain in force insofar as they do not conflict or contradict with the provisions of this Act.

Countersigned by

Mr. Anand Panyarachun

Prime Minister

Fees

- Application 100 Baht each
- Permit or permit for expanding a factory 100,000 Baht each
- Substitute for a permit 1,000 Baht each
- Renewal of permit shall be in accordance with the rate in (2)
- Fee for engaging in a factory business 30,000 Baht annually In prescribing a ministerial rule fixing the fees, different rates of the fees may be adopted by taking into account the size and business the factory involved.

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