

Alien Business Act B.E. 2542 (1999)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 24th Day of November 1999 (B.E. 2542)

Being the 54th Year of the Present Reign.

Whereas it is deemed appropriate to amend the law governing the business operations of aliens.

This Act contains certain provisions relating to the restriction of the rights and liberty of a person which Section 29 in conjunction with Section 35 and Section 50 of the Constitution of the Kingdom of Thailand prescribes can be done by virtue of law.

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Assembly, as follows:

Section 1

This Act shall be called the "Alien Business Act B.E. 2542 (1999)".

Section 2

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

Section 3

The following shall be repealed:

- (1) the Announcement of the National Executive Council No. 281 dated 24 November B.E. 2515;
- (2) the Act Amending the Announcement of the National Executive Council No. 281 dated 24 November B.E. 2515, B.E. 2521;
- (3) the Act Amending the Announcement of the National Executive Council No. 281 dated 24 November 2515 (No. 2), B.E. 2535.

Section 4

In this Act:

"Alien" means:

- (1) a non-Thai natural person;
- (2) a juristic person not registered in Thailand;
- (3) a juristic person registered in Thailand and having the following characteristics:
 - (a) a juristic person at least one-half of whose share capital is held by persons under (1) or (2), or a juristic person at least one-half of whose total amount of capital is invested by persons under (1) or (2);
 - (b) a limited partnership or a registered ordinary partnership whose managing partner or manager is a person under (1).
- (4) A juristic person registered in Thailand at least one-half of whose share capital is held by persons under (1), (2) or (3), or a juristic person at least one-half of whose total amount of capital is invested by persons under (1), (2) or (3).

For the purpose of this definition, shares of a private limited company that has bearer certificates shall be regarded as shares of aliens, unless otherwise provided by ministerial regulations.

"capital" means the registered capital of a private limited company or the paid up capital of a public limited company, or the amount of money contributed by the partners or members in such partnership or juristic person.

"minimum capital" means the capital of an alien in the case where such alien is a juristic person registered in Thailand and in the case where an alien is a juristic person not registered in Thailand or a natural person shall mean foreign currency used by the alien at the commencement of engaging in business in Thailand.

"business" means engaging in trade enterprises in agriculture, industry, handicraft, commerce, services or other enterprises.

"permit" means a business operation permit.

"permit holder" means an alien who has been granted a permit.

"certificate" means a business operation certificate.

"certificate holder" means an alien who has been granted a certificate.

"Committee" means the Alien Business Committee.

"officer" means a person appointed by the Minister for the implementation of this Act.

"Registrar" means a person appointed by the Minister as the Registrar for the business of aliens.

"Director-General" means the Director-General of the Department of Commercial Registration.

"Minister" means the Minister who is in charge and control of the execution of this Act.

Section 5

In granting permission for aliens to engage in business under this Act, the benefits of and detriment to national safety and security, economic and social development, public order or the good morals of the people, national art, culture and tradition, preservation of natural resources, energy and environment, consumer protection, size of the enterprise, employment, technology transfer and research and development shall be taken into account.

Section 6

The following aliens are prohibited from engaging in business in the Kingdom:

- (1) aliens who have been deported or are pending deportation pursuant to the law;
- (2) aliens who have entered into the Kingdom without permission pursuant to the law governing immigration or other laws.

Section 7

The aliens set out below may engage in business upon obtaining a permit from the Director-General, and shall engage in only the type of business and in the locality announced in the Government Gazette by the Minister with the approval of the Cabinet. In the announcement, the Minister may prescribe any conditions as deemed appropriate.

- (1) Aliens who were born in the Kingdom but have not received Thai nationality pursuant to the law governing nationality or other laws.
- (2) Aliens whose nationality has been revoked pursuant to the law governing nationality or other laws.

The application for a permit, issuance of a permit and duration of permission shall be in accordance with the rules and procedures prescribed in ministerial regulations.

If the Director-General does not grant permission to an alien under the first paragraph to engage in business, the alien is entitled to file an appeal with the Minister and the provisions in the first and third paragraphs of Section 20 shall apply *mutatis mutandis*.

Section 8

Subject to Section 6, Section 7, Section 10 and Section 12,

- (1) aliens are prohibited from engaging in businesses in which aliens are not permitted to engage for the special reasons prescribed under Annex One;
- (2) aliens are prohibited from engaging in businesses relating to national safety or security, businesses affecting arts and culture, tradition and local handicrafts, or businesses affecting natural resources or the environment as prescribed under Annex Two, unless permission is obtained from the Minister with the approval of the Cabinet.
- (3) aliens are prohibited from engaging in businesses in which Thai people are not ready to compete with aliens as prescribed under Annex Three, unless permission is obtained from the Director-General with the approval of the Committee.

Section 9

Adjustment to or amendment of the types of businesses under the Annexes attached to this Act shall be made by a Royal Decree, except for the businesses under Annex One or Chapter 1 of Annex Two which shall be made by an Act.

The Committee shall consider and review the types of businesses under the Annexes attached to this Act at least once every year from the date this Act comes into force, and shall propose its opinion to the Minister.

An alien who engages in a business that is not set out in the Annexes attached to this Act before the adjustment to or amendment of the types of businesses under the first paragraph, if that business subsequently becomes a business which requires a permission under this Act and the alien wishes to continue to engage in that business, the alien shall notify the Director-General in order to apply for a certificate in accordance with the rules and procedures prescribed in Section 11.

While the alien is proceeding in accordance with the third paragraph and the certificate has not yet been obtained, the alien shall not be regarded as engaging in a business without permission under this Act.

Section 10

The provisions of Section 5, Section 8, Section 15, Section 17 and Section 18 shall not apply to an alien who has been granted permission from the Government of the Kingdom of Thailand to engage in business under the Annexes attached to this Act for a definite period.

An alien who engages in a business under the Annexes attached to this Act by virtue of a treaty to which Thailand is a party or under which it is bound by obligations shall be exempted from the application of the Sections prescribed in the first paragraph and shall act in accordance with the terms and conditions of that treaty, which may include conferring rights on Thai nationals and Thai enterprises to engage in business in the country of nationality of that alien on a reciprocal basis.

Section 11

If an alien under Section 10 wishes to engage in a business under the Annexes attached to this Act, the alien shall notify the Director-General in accordance with the rules and procedures prescribed in the ministerial regulations in order to apply for a certificate. The Director-General shall promptly issue a certificate to the alien but no later than thirty days from the date of receipt of written notice from the alien, unless the Director-General considers that the notice is not in accordance with the rules and procedures prescribed in the ministerial regulations or Section 10, in which case the Director-General shall notify the alien promptly but no later than thirty days from the date of receipt of written notice from the alien.

The certificate shall specify the conditions prescribed by the Government or as prescribed in the treaty.

Section 12

If the business of an alien has been granted investment promotion pursuant to the law governing investment promotion or has obtained written permission to engage in an industrial or a trading business for export pursuant to the law governing the Industrial Estate Authority of Thailand or other laws and is a business under Annex Two or Annex Three attached to this Act, the alien shall notify the Director-General in order to apply for a certificate. When the Director-General or the assigned officer has examined the accuracy of that investment promotion certificate or written permission, the Director-General shall issue a certificate without delay no later than thirty days from the date of receipt of the notice granting the investment promotion certificate or the written permission, as the case may be. In such case, the alien shall be exempted from the application of this Act, except for Section 21, Section 22, Section 39, Section 40 and Section 42, throughout the period for which the business has obtained investment promotion or permission to engage in industrial or trading business for export, as the case may be.

The issuance of the certificate under the first paragraph shall be in accordance with the rules and procedures prescribed by the Director-General.

Section 13

If there are other laws prescribing in any manner provisions on shareholdings, partnerships or investment of aliens, the granting of permission or prohibition of aliens from engaging in certain types of businesses, or the prescribing of rules relating to engaging in business by aliens, these matters shall be governed by those laws, and the provisions in this Act shall not apply to the extent specifically prescribed by those other laws.

Section 14

The minimum capital which an alien uses for commencing business in Thailand shall not be less than the amount prescribed in the ministerial regulations, which shall not be less than Baht two million.

If the business of the alien under the first paragraph is a business which requires permission under the Annexes attached to this Act, the minimum capital to be prescribed in the ministerial regulations for each business shall not be less than Baht three million.

Ministerial regulations issued in accordance with this Section may also prescribe the time period during which the minimum capital shall be brought or remitted into Thailand.

The provisions of this Section shall not apply to cases where an alien who has brought money or property derived from income from an existing business previously engaged in Thailand for use in commencing another business, or to contribute to or to invest in other enterprises or juristic persons.

Section 15

An alien who may engage in a business under Annex Two shall have Thai persons or juristic persons who are not aliens under this Act holding shares representing not less than forty percent of the capital of that alien juristic person, except where there is an appropriate reason where the Minister with the approval of the Cabinet may allow such shareholding proportion to be lower but not less than twenty five percent, and at least two-fifths of the total number of directors shall be Thai directors.

Section 16

An alien who applies for a permit shall possess the qualifications and shall not possess the prohibited characteristics as follows:

- (1) not being less than twenty years of age;
- (2) having a place of residence in the Kingdom or having been permitted to enter into the Kingdom temporarily pursuant to the law governing immigration;

- (3) not being an incompetent or quasi-incompetent person;
- (4) not being a bankrupt;
- (5) not having been punished by a court judgment or having been fined for an offence committed under this Act or the Announcement of the National Executive Council No. 281 dated 24 November B.E. 2515, unless a period of at least five years has elapsed before the date of applying for a permit;
- (6) not having been sentenced to a term of imprisonment by a court judgment for an offence of fraud, cheating against creditors, embezzlement, an offence in connection with trade under the Penal Code, an offence under the law on borrowing money which is a public fraud or an offence under the law governing immigration, unless a period of at least five years has elapsed before the date of applying for a permit;
- (7) not having its permit cancelled under this Act or under the Announcement of the National Executive Council No. 281 dated 24 November B.E. 2515 during a period of five years before the date of applying for a permit.

If the applicant is a juristic person, its directors, managers or the persons responsible for the operations of the juristic person who are aliens shall also possess the qualifications and shall also not possess any of the prohibited characteristics prescribed above.

Section 17

In applying for permission to engage in business, an alien shall submit an application to engage in business to the Minister or the Director-General in accordance with the rules and procedures prescribed in the ministerial regulations.

The Cabinet, for a business under Annex Two, or the Director-General, for a business under Annex Three, shall consider granting approval or permission, as the case may be, within sixty days after the date of filing the application. In considering the granting of approval of the Cabinet, if there are necessary reasons whereby the Cabinet may not complete its consideration within such prescribed time, the period of time for consideration can be extended as necessary but for not more than sixty days from the lapse of such period.

When the Cabinet has approved or the Director-General has granted permission under the first paragraph, the Minister or the Director-General shall issue a permit within fifteen days from the date when the Cabinet granted approval or when the Director-General granted permission.

In granting permission the Minister may prescribe conditions as determined by the Cabinet or as prescribed in the ministerial regulations issued pursuant to Section 18 for a business under Annex Two, or the Director-General may prescribe conditions as prescribed in the ministerial regulations issued pursuant to Section 18 for a business under Annex Three.

If the Cabinet does not grant an approval for an alien to engage in a business under Annex Two, the Minister shall notify the alien in writing within thirty days and shall clearly specify the reasons for not granting the approval.

If the Director-General does not grant permission to an alien to engage in a business under Annex Three, the Director-General shall notify the alien in writing within fifteen days and shall clearly specify the reasons for not granting the permission. The alien is entitled to file an appeal with the Minister against the Director-General's order refusing permission, and the provisions of Section 20 shall apply *mutatis mutandis*.

Section 18

The Minister, on the recommendation of the Committee, is empowered to issue ministerial regulations prescribing any conditions for compliance by the alien permit holder as follows:

- (1) the ratio of the capital to loans to be used for engaging in a permitted business;

- (2) the number of directors who are aliens that shall have their domicile or reside in the Kingdom;
- (3) the amount and duration for maintaining the minimum capital in the country;
- (4) technology or property;
- (5) other necessary conditions.

Section 19

If it appears that any permit holder or certificate holder:

- (1) has violated the conditions prescribed by the Minister under the first paragraph of Section 7;
- (2) has not complied with the conditions under the second paragraph of Section 11 or the third paragraph of Section 17;
- (3) has violated Section 15;
- (4) lacks the qualifications or possesses the prohibited characteristics under Section 16;
- (5) has committed an offence under Section 35;

In the case of paragraphs (1), (2) and (3), the Director-General shall issue a written notice to the permit holder or the certificate holder requiring compliance with the conditions under the first paragraph of Section 7, the second paragraph of Section 11, or the third paragraph of Section 17, or to duly comply with Section 15, as the case may be, within the period of time the Director-General deems appropriate. If the permit holder or the certificate holder does not comply with the Director-General's written notice without appropriate reasons, the Director-General is empowered to order a suspension of the use of the permit or a suspension of the business operation for a period as the Director-General deems appropriate, which shall not be more than sixty days from the date of the order. Upon completion of such period, if the alien is still not in full compliance, the Director-General shall consider canceling the permit or certificate or propose to the Minister to consider canceling the permit, as the case may be.

In the case of paragraphs (4) and (5), the Director-General shall consider canceling the permit or propose to the Minister to consider canceling the permit, as the case may be.

Section 20

If the Director-General orders a temporary suspension of the use of the permit or the business operation, or the cancellation of the permit or the certificate under the second paragraph of Section 19, the permit holder or the certificate holder is entitled to file an appeal in writing with the Minister within thirty days from the date of receipt of the order.

An appeal shall not stay the enforcement of the order of the Director-General, except when the Minister upon recommendation of the Committee orders a stay.

The Minister shall complete his decision on an appeal within thirty days from the filing date of the appeal. The decision of the Minister shall be final.

Section 21

Subject to Section 7, Section 19 and Section 20, a permit shall be valid until the permit holder ceases its permitted business operation. A certificate shall be valid for the period granted by the Government of the Kingdom of Thailand or as prescribed by the treaty for engaging in such business, or during the period in which that business receives investment promotion or permission to engage in industrial business or trading for export, as the case may be, unless the certificate holder ceases its business operation before such period expires, in which case the certificate shall be valid until then.

The permit holder or the certificate holder shall display the permit or the certificate openly at the business premises of the alien.

If the permit or the certificate is damaged or lost, an application for a substitute shall be filed with the Registrar within fifteen days from the date when the damage or loss has become known.

The application for and the issuing of the substitute permit or certificate shall be in accordance with the form and procedures prescribed by the Minister. The issuing of the substitute shall occur not later than thirty days from the date of receipt of the application. The substitute shall be deemed a document used in place of the permit or certificate until the alien has obtained a new permit or certificate.

Section 22

When the permit or certificate holder ceases its business operation or relocates its office or business premises, such cessation or relocation shall be notified to the Registrar within fifteen days from the date of the cessation or relocation in accordance with the form and procedures prescribed in the ministerial regulations.

Section 23

There shall be an Alien Business Committee comprising the Permanent Secretary of the Ministry of Commerce acting as Chairman of the Committee, a representative of the Office of the National Economic and Social Development Board, a representative of the Office of the Board of Investment, a representative of the Ministry of Defense, a representative of the Ministry of Finance, a representative of the Ministry of Foreign Affairs, a representative of the Ministry of Agriculture and Co-operatives, a representative of the Ministry of Transport and Communications, a representative of the Ministry of Interior, a representative of the Ministry of Labor and Social Welfare, a representative of the Ministry of Science, Technology and Environment, a representative of the Ministry of Industry, a representative of the Ministry of Education, a representative of the Ministry of Public Health, a representative of the Office of Consumers Protection Board, a representative of the National Police Office, a representative of the Board of Trade of Thailand, a representative of the Federation of Thai Industries, a representative of the Thai Bankers Association and not more than five qualified persons appointed by the Minister as members of the Committee. The Director-General of the Department of Commercial Registration shall be a member and the secretary of the Committee.

The qualified persons shall possess knowledge and expertise in economics, law, commerce, science, technology, environment, trade, investment, business management or industry and shall be neither an advisor to a political party nor hold a political office.

For representatives under the first paragraph, if from a government agency, the position of the representatives shall not be lower than Director-General or equivalent; and if from the Board of Trade of Thailand, the Federation of Thai Industries or the Thai Bankers Association, the position of the representatives shall not be lower than a director of that Board, Federation or Association.

Section 24

A qualified member of the Committee shall hold office for a term of two years.

If a member vacates office before his term expires or if the Minister appoints an additional member during the term of office of the appointed member, the person appointed to replace the member or the person appointed to be an additional member shall be in office for a term equal to the remainder of the term of office of the member who was originally appointed.

A qualified member of the Committee who vacates office may be re-appointed but in total shall not exceed two consecutive terms of office.

Section 25

Apart from the vacation of office upon expiration of the term of office under Section 24, a qualified member of the Committee shall vacate office upon:

- (1) death;

- (2) resignation;
- (3) dismissal by the Minister due to misconduct, dishonesty or impropriety in performance of duty or being deficient in ability;
- (4) being a bankrupt;
- (5) becoming an incompetent person or quasi-incompetent person;
- (6) having been sentenced to imprisonment by a final court judgment except for a penalty for an offence committed due to negligence or petty offences;
- (7) not having the qualifications or having the prohibited characteristics prescribed under the second paragraph of Section 23.

Section 26

The Committee shall have the powers and duties prescribed in this Act and shall have the following duties:

- (1) to give advice, make recommendations or opinions to the Minister in relation to the enactment of Royal Decrees and the issuing of ministerial regulations pursuant to this Act, or the prescription of the type of businesses and locality where the alien shall engage in its business operation under Section 7, or the application for approval from the Cabinet under Section 8 (2);
- (2) to study, compile and prepare reports on the business operations of aliens in the Kingdom, including the impact and suitability of such matters to be proposed to the Minister from time to time but not less than once a year;
- (3) to give advice, make recommendations or give opinions to the Minister on other matters assigned by the Minister.

Section 27

Meetings of the Committee shall be attended by not less than half of the total number of members of the Committee to form a quorum. If the Chairman does not come to the meeting or the Chairman is unable to perform his duty, members of the Committee present at the meeting shall elect one member to act as the Chairman of the meeting.

The decision of the meeting shall be made by a majority vote. One member of the Committee shall have one vote. If there is a tie, the Chairman shall have a casting vote.

Section 28

The Committee shall have power to appoint a sub-committee to consider or to perform any acts as may be assigned by the Committee and Section 27 shall apply to the meetings of the sub-committee *mutatis mutandis*.

Section 29

The Department of Commercial Registration, Ministry of Commerce shall act as the Office of the Secretary of the Committee and shall have the following powers and duties:

- (1) to implement the resolutions of the Committee or as assigned by the Committee;
- (2) to consider and give opinions to the Committee in relation to the business operation of aliens in the Kingdom for the benefit of conducting studies, compiling information and preparing reports to submit to the Minister;
- (3) to perform the general administrative duties of the Committee.

Section 30

The Registrar and the officer shall have the powers to:

- (1) issue a written notice inquiring of, or summon any person to explain, any facts and to submit necessary documents or evidence to verify facts;

- (2) enter the business place of an alien during working hours for inspection in order to ensure compliance with this Act, provided that prior written consent of the Director-General shall first be obtained, except for absolute emergency and necessary reasons. In performing this duty, the Registrar or the officer shall have the power to inquire into facts or demand any documents or evidence from persons who are present at that place which are absolutely necessary for verifying the facts.

In performing the duties under (2), the owner or the person in possession of the place shall provide reasonable co-operation to the Registrar or the officer. The Registrar or the officer shall not do any act in a threatening manner or conduct a search under the Criminal Procedure Code and shall give at least three business days prior written notice to the owner or the person in possession, except for absolute emergency and necessary reasons. Upon completing the duties, a report in writing on the results of the performance shall be given to the Minister without delay.

Section 31

If any person applies for inspection or a copy of a document, or applies to the Registrar for a certified copy or a photocopy of a document together with a certification, or applies for issuance of a certificate of particulars kept by the Registrar, the Registrar shall grant permission without delay, except where the nature of such document is prohibited from disclosure pursuant to the laws governing official information or pursuant to other laws. The applicant shall pay a fee in the amount prescribed in the ministerial regulations.

Section 32

An officer shall have an identity card issued in accordance with the form prescribed in the ministerial regulations. In the performance of duties, the officer shall produce his identity card to the persons concerned.

Section 33

In the performance of duties under this Act, the members, the Director-General, the Registrar and the officer shall be officials under the Penal Code.

Section 34

Any alien who has obtained a permit or certificate, which permit is suspended or cancelled, or whose business operation under the certificate is suspended and the right of appeal has lapsed, or the Minister has issued a final decision to suspend or cancel the permit or suspend the business operation, but continues to engage in that business, shall be punished by imprisonment for not more than three years or a fine from Baht one hundred thousand to Baht one million, or both, and an additional fine of Baht ten thousand per day throughout the violation period.

Section 35

An alien who has obtained a permit to engage in any business under this Act and jointly engages in a business belonging to another alien who is not permitted to engage in business under this Act, or in a business which is jointly owned by the other alien by showing that the alien is the sole owner of the business so that such other alien can evade or violate the provisions prescribed in this Act, shall be punished by imprisonment for not more than three years or a fine from Baht one hundred thousand to Baht one million, or both, and the Court shall order the termination of that joint business operation or the business operation. If the alien violates the Court's order, the alien shall be liable to a fine from Baht ten thousand to Baht fifty thousand per day throughout the violation period.

Section 36

A Thai national or a juristic person who is not an alien under this Act who assists, supports or jointly engages in a business prescribed in the Annexes belonging to an alien and in which business the alien is not permitted to engage, or jointly engages in the business of an alien by showing that the person is the sole owner of the business, or holds shares on

behalf of an alien in any partnership or private limited company or any juristic person so that the alien can evade or violate the provisions prescribed in this Act, including an alien who allows a Thai national or a juristic person which is not an alien under this Act to conduct such acts, shall be punished by imprisonment for not more than three years or a fine from Baht one hundred thousand to Baht one million or both, and the Court shall order the termination of the assistance or support, or the termination of the joint business operation, or the termination of the holding of shares or being a partner in the partnership, as the case may be. If the alien violates the Court's order, the alien shall be liable to a fine from Baht ten thousand to Baht fifty thousand per day throughout the violation period.

Section 37

Any alien who engages in a business in violation of Section 6, Section 7 or Section 8 shall be punished by imprisonment for not more than three years or a fine from Baht one hundred thousand to Baht one million, or both, and the Court shall order the termination of the business operation or the enterprise or of being a shareholder or partner, as the case may be. If the alien violates the Court's order, the alien shall be liable to a fine of Baht ten thousand to Baht fifty thousand per day throughout the violation period.

Section 38

Any alien who engages in a business in violation of Section 14 or the conditions under Section 18 (3) shall be liable to a fine from Baht one hundred thousand to Baht one million, and a fine from Baht ten thousand to Baht fifty thousand per day throughout the violation period.

Section 39

Any person who obtains a permit or certificate and fails to comply with paragraph two or three of Section 21, or violates Section 22 shall be liable to a fine of not more than Baht five thousand.

Section 40

Any person who fails to comply with a written notice of inquiry or a summons of the Registrar or the officer, or who does not give facts, or fails to submit documents or evidence upon the request or summons of the Registrar or the officer, or who does not provide the Registrar or the officer with co-operation under Section 30 without appropriate reason shall be liable to a fine of not more than Baht five thousand.

Section 41

If a juristic person commits an offence under Section 34, Section 35, Section 36 or Section 37, the directors, partners or persons who are authorized to act on behalf of that juristic person who connived in the commission of such offence or did not take appropriate steps to prevent the committing of the offence shall be punished by imprisonment for not more than three years or a fine from Baht one hundred thousand to Baht one million, or both.

Section 42

For the offences under Section 39 and Section 40, the Director-General or the person authorized by the Director-General shall have the power to impose a fine. When the accused person has paid the fine in the amount prescribed by the Director-General or the authorized person within thirty days from the date when the fine was imposed, the case shall be dismissed.

Section 43

All Royal Decrees, ministerial regulations, notifications and orders in force on the date when this Act comes into force shall continue to be in force to the extent that they are not contrary to or inconsistent with the provisions of this Act until a Royal Decree, ministerial regulation, notification or order issued in accordance with this Act comes into force.

Section 44

An alien who is entitled to or has obtained permission to engage in business under the Announcement of the National Executive Council No. 281 dated 24 November B.E. 2515 before this Act comes into force shall continue to be entitled or permitted to engage in such business according to the conditions and for the duration of such right or permission.

Section 45

If an alien who is already engaging in a type of business prescribed in the Annexes attached to this Act on the date when this Act comes into force and such business is not prescribed in the Annexes attached to the Announcement of the National Executive Council No. 281 dated 24 November B.E. 2515 wishes to continue to engage in the business, the alien shall notify the Director-General in order to apply for a certificate according to the rules and procedures prescribed in Section 11 within one year from the date this Act comes into force and, while the certificate has not yet been obtained, the alien shall not be regarded as engaging in business without permission under this Act.

Section 46

The Minister of Commerce shall be in charge and control of this Act and shall have the power to appoint the Registrar and the officers and to issue ministerial regulations prescribing fees not exceeding the rates attached to this Act, and to exempt fees and prescribe other matters for compliance with this Act.

Ministerial regulations shall come into force upon their publication in the Government Gazette.

Countersigned by
Mr. Chuan Leekpai
Prime Minister

FEE

1. Application for Permit
 - (a) Application for permit under Section 7 = Baht 1,000
 - (b) Application for permit under Section 17 = Baht 2,000
 - (c) Application for certificate under Section 11 or Section 12 = Baht 2,000
2. Permit:
 - (a) Permit under Section 7 = Baht 5,000
 - (b) Permit for businesses under Annex Two
 - (1) natural person = Baht 40,000
 - (2) juristic person = Baht 10 per each Baht 1,000 of registered capital, but not less than Baht 40,000 and not more than Baht 500,000. A fraction of Baht 1,000 shall be taken as Baht 1,000.
 - (c) Permit for businesses under Annex Three
 - (1) natural person = Baht 20,000
 - (2) juristic person = Baht 5 per each 1,000 Baht of registered capital, but not less than Baht 20,000 and not more than Baht 250,000. A fraction of Baht 1,000 shall be taken as Baht 1,000.
3. Certificate = Baht 20,000
4. Substitute permit or certificate = Baht 5,000
5. Appeal
 - (a) Appeal against an order not granting permission under Section 7 = Baht 1,000
 - (b) Appeal against an order not granting permission under Section 17 = Baht 2,000
 - (c) Appeal against an order to suspend or cancel the permit or certificate under Section 20 = Baht 2,000
6. Notification of the dissolution or relocation of the office or place of business operation = Baht 1,000
7. Application for amendment of the particulars of the register, permit or certificate = Baht 1,000
8. Inspection or copying of documents = Baht 200 per entity
9. Application for certified copy or photocopy = Baht 100 per page
10. Issuing a certification of the particulars in the register = Baht 100 per subject

ANNEXES ATTACHED TO THE ALIEN BUSINESS ACT B.E. 2542 (1999)

ANNEX ONE

Businesses not permitted to be operated by aliens for special reasons.

- (1) Newspaper publication business, radio broadcasting station business or television broadcasting station business.
- (2) Rice farming, farming or gardening.
- (3) Livestock raising.
- (4) Forestry and wood processing from natural forests.
- (5) Fisheries, specifically the catching of marine life in Thai territorial waters and in the exclusive economic zone of Thailand.
- (6) Extraction of Thai herbs.
- (7) Trading and selling by auction of Thai antiques or objects of historical value of the country.
- (8) Manufacturing or casting of Buddha images and alms-bowls.
- (9) Buying and selling land.

ANNEX TWO

Businesses relating to national safety or security, or affecting arts, culture, tradition, local handicrafts or natural resources and environment.

Chapter 1 Businesses relating to national safety and security

- (1) Manufacturing , selling and repairing of:
 - (a) firearms, ammunition, gunpowder, explosives;
 - (b) components of firearms, ammunition and explosives;
 - (c) armaments, military ships, aircrafts or vehicles;
 - (d) equipment or components of warfare equipment of all types.
- (2) Domestic transportation by land, water or air including domestic aviation business.

Chapter 2 Businesses affecting art, culture, tradition and local handicrafts

- (1) Trading of antiques or artifacts which are Thai artworks or handicrafts.
- (2) Manufacturing of wood carving products.
- (3) Silkworm raising, manufacturing of Thai silk threads, Thai silk weaving or Thai silk design printing.
- (4) Manufacturing of Thai musical instruments.
- (5) Manufacturing of products from gold, silver, neillo, bronze or lacquer.
- (6) Manufacturing of crockery or earthenware which are Thai cultural arts.

Chapter 3 Businesses affecting natural resources or environment

- (1) Manufacturing of sugar from sugar cane.
- (2) Salt farming, including rock salt farming.
- (3) Rock salt mining.
- (4) Mining, including rock blasting or processing.
- (5) Wood processing to make furniture and utensils.

ANNEX THREE

Businesses in which Thai nationals are not ready to compete with aliens.

- (1) Rice milling and manufacturing of flour from rice and crops.
- (2) Fisheries, specifically marine life farming.
- (3) Forestry from reforestation.
- (4) Manufacturing of plywood, veneer, chip-board or hard-board.
- (5) Manufacturing of lime.
- (6) Accounting services.
- (7) Legal services.
- (8) Architectural services.
- (9) Engineering services.
- (10) Construction, except:
 - (a) the construction of public service infrastructure public utilities or transportation where special equipment, machinery, technology or expertise in construction is required, with minimum capital of the aliens of Baht 500 million or more;
 - (b) other types of construction as prescribed in the Ministerial Regulations.
- (11) Brokerage or agency business, except:
 - (a) being broker or agent for trading of securities, or for providing services relating to forward sales and purchases of agricultural products, financial instruments or securities;
 - (b) being broker or agent for the sale and purchase or procurement of goods or services necessary for manufacturing or providing services of affiliated enterprises;
 - (c) being broker or agent for trading, purchasing, distributing or procuring markets both inside and outside the country for the sale of goods manufactured in the country or imported from abroad with the nature of operating international businesses with minimum capital of the aliens of Baht 100 million or more;
 - (d) being other types of broker or agent as prescribed in the Ministerial Regulations.
- (12) Sale by auction, except:
 - (a) sale by auction in the nature of international bidding other than bidding for the sale and purchase of antiques or historical objects or artifacts which are Thai artistic works, handicrafts or those with historical value to the country;
 - (b) other types of auction as prescribed in the Ministerial Regulations.

- (13) Internal trading in local agricultural products or produce not yet prohibited by laws.
- (14) Retailing of all types of products with minimum capital totaling less than Baht 100 million or with minimum capital for each shop of less than Baht 20 million.
- (15) Wholesaling of all types of products with minimum capital for each shop of less than Baht 100 million.
- (16) Advertising business.
- (17) Hotel business, except for hotel management services.
- (18) Tourism.
- (19) Sale of food or beverages.
- (20) Business in plant breeding, reproduction or improvement of plant species.
- (21) Other service businesses, except for the service businesses prescribed in the Ministerial Regulations.

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