

Conflict of Laws Act, B.E. 2481 (1938)

Translation

IN THE NAME OF HIS MAJESTY KING ANANDA MAHIDOL
THE COUNCIL OF REGENCY
(By notification of the President of the House of Representatives
dated 4th August, B.E. 2480)
ADITYA DIBABHA GEN. CHAO PHYA BIJAYENDRA YODHIN
Enacted on the 10th Day of March, B.E. 2481;
Being the 5th Year of the Present Reign.

Whereas the House of Representatives has passed a resolution that it is expedient to enact Conflict of Laws Act.

Be it, therefore, enacted by the King, by and with the advice and consent of the House of Representatives, as follows:

Section 1

This Act shall be called the "Conflict of Laws Act; B.E. 2481 (1938)"

Section 2

This Act shall come into force on and from the date of its publication in the Royal Gazette.*

Part 1

General Provisions

Section 3

Whenever there is no provision in this Act or in any other laws of Siam to govern a case of conflict of laws, the general principles of private international law shall apply.

Section 4

Whenever the law of a foreign country is to govern and under that law it is the law of Siam which shall be applied, the internal law of Siam governs, and not the Siamese rules on conflict of laws.

Section 5

Whenever the law of a foreign country is to govern, it shall be applied in so far as it is not contrary to the public order or good morals of Siam.

Section 6

Whenever the law of nationality is to govern, and a person has two or more nationalities acquired successively, the law of nationality last acquired shall govern.

Whenever the law of nationality is to govern, and a person has two or more nationalities acquired simultaneously, the law of nationality of the country where such person has his domicile shall govern; if such person has his domicile in a country other than any such country, the law of his domicile at the time of the institution of action shall govern; if the domicile of such person is unknown, the law of the country where he has his residence shall govern.

In any cases of conflict as regards the nationality of a person, where one of the nationalities in conflict is Thai, the law of nationality, which shall govern, is the law of Siam.

As regards a person who has no nationality, the law of his domicile shall govern; if his domicile is unknown, the law of the country where he has his residence shall govern.

Whenever by application of the law of nationality, the local law, the communal law or the religious law, as the case may be, is to apply, such law shall govern.

Section 7

In case of conflict as regards the nationality of a juristic person, the nationality of such person is that of the country where it has its principal office or establishment.

Section 8

In case where foreign applicable law is to govern is not proved to the satisfaction of the Court, the internal law of Siam shall apply.

Section 9

Unless otherwise provided by this Act or other laws of Siam, the form required for validity of a juristic act shall be governed by the law of the country where such act is made.

However, the law of the country where a property is situated shall govern the form required for the validity of a contract, documents or other juristic acts relating to immovable property.

Part 2

Status and Capacity of a Person

Section 10

The capacity or incapacity of a person shall be governed by the law of nationality of such person.

But if an alien does a juristic act in Siam for which he would have no capacity or limited capacity under the law of his nationality, he is deemed to have capacity for it in so far as he would be capable under the Siamese law. This provision shall not apply to any juristic acts under the family law and succession law.

In case of a juristic act relating to immovable property, the capacity of a person to enter into such juristic act shall be governed by the law of the place where such immovable property is situated.

Section 11

If an alien in Siam has left his domicile or residence in the condition specified in Section 53 and Section 54 of the Civil and Commercial Code, the provisional measures as the Siamese Court may think it necessary to be taken shall be governed by the Siamese law.

The adjudication of disappearance of such alien and the effects of the adjudication, as far as the immovable property situated in Siam is not concerned, shall be governed by the law of nationality of such alien.

Section 12

The causes for which the Siamese Court shall adjudge an alien who has his domicile or residence in Siam to be placed under guardianship or curatorship shall be governed by the law of nationality of such person. However, the Siamese Court shall not place such person under guardianship or curatorship for a cause not allowed by the Siamese law.

The effects of such guardianship or curatorship shall be governed by the law of the country to which the Court adjudging such person incompetent or quasi-incompetent belongs.

Part 3

Obligations

Section 13

The question as to what law is applicable to the essential elements or effects of a contract is determined by the intention of the parties thereto. In case where such intention, express or implied, cannot be ascertained, if the parties have the same nationality, the law applicable is the law of common nationality of the parties. If the parties have different nationalities, the law of the place where the contract is made shall govern.

Where a contract is made between persons at a distance, the place where the contract is deemed to be made is the place where the notice of the acceptance reaches the offeror. If such place cannot be ascertained, the law of the place where the contract is to be performed shall govern.

A contract shall not be void when made in accordance with the form prescribed by the law, which governs the effects of such contract.

Section 14

An obligation arising out of the management of affairs without mandate or of the undue enrichment shall be governed by the law of the place where the facts from which such obligation has arisen took place.

Section 15

An obligation arising out of a wrongful act shall be governed by the law of the place where the facts constituting such wrongful act have taken place.

The foregoing paragraph shall not be applicable to the facts, which having taken place in a foreign country, do not constitute a wrongful act according to the Siamese law.

In no case shall the injured party claim compensation or remedies other than those allowed by the Siamese law.

Part 4 Property

Section 16

Movable and immovable property shall be governed by the law of the place where the property is situated.

However, in case of exportation of movable property, the law of nationality of its owner shall govern such property from the time of exportation.

Section 17

Movable property, the situation of which is changed during a pending action relating to such property, shall continue to be subject to the law of the place where such property was situated at the time of the institution of the action.

Part 5 Family

Section 18

The capacity for affecting a betrothal or for canceling a betrothal shall be governed by the law of nationality of each party. The effects of the betrothal shall be governed by the law of the country to which the Court trying and adjudicating the case belongs.

Section 19

The conditions of marriage shall be governed by the law of nationality of each party.

Section 20

A marriage made in accordance with the form prescribed by the law of the country where such marriage takes place shall be valid.

A marriage between Siamese subjects or between a Siamese subject and an alien, taken place in foreign territory in accordance with the form prescribed by the Siamese law shall be valid.

Section 21

If both spouses have the same nationality or if the wife has acquired by marriage the nationality of her husband, the law of common nationality of both spouses shall govern the relationship between husband and wife.

In case where the wife has not acquired by marriage the nationality of her husband, the law of nationality of the husband shall govern the relationship between husband and wife.

Section 22

As regards the property of husband and wife, if there is no ante-nuptial agreement, the law of nationality shall govern.

If the husband and the wife have different nationalities, the property of husband and wife shall be governed by the law of nationality of the husband.

However, as regards immovable property, the law of the place where such property is situated shall govern.

Section 23

The effects of marriage as governed by the two foregoing sections shall not be affected if, after marriage, either or both spouses acquire a nationality different from the nationality possessed or acquired at the time of marriage.

Section 24

As regards the property of husband and wife, if an ante-nuptial agreement is made, the capacity for making such agreement shall be governed by the law of nationality of each party.

Section 25

If the parties have the same nationality, the essential elements and effects of an ante-nuptial agreement shall be governed by the law of common nationality of the parties. If they have different nationalities, such essential elements and effects shall be governed by the law under which the parties intended or may be presumed to have intended to submit themselves; in the absence of such intention, the law of the first matrimonial domicile shall govern.

However, as regards immovable property, the law of the place where such property is situated shall govern.

Section 26

A Divorce by mutual consent shall be valid if it is permitted by the law of nationality of husband and wife.

Section 27

A Divorce cannot be granted by the Siamese Court unless it is permitted by the law of nationality of husband and wife.

The grounds for divorce shall be governed by the law of the place where the action is instituted.

Section 28

The cancellation of marriage shall be governed by the law, which governs the conditions of marriage.

However, mistake, fraud or duress as causes for cancellation of marriage shall be governed by the law of the place where the marriage has taken place.

Section 29

The legitimacy of a child shall be governed by the law of nationality of the husband of the mother at the time of his birth. If at such time the husband happens to be dead, such legitimacy shall be governed by the law of nationality of the husband at the time of his death.

The same law governs an action to repudiate a child.

Section 30

The rights and duties of parents and a legitimate child shall be governed by the law of nationality of the father.

If a child is born of a woman who is not married to a man, the rights and duties of the mother and child shall be governed by the law of nationality of the mother.

Section 31

The legitimation of a child shall be governed by the law of nationality of the father at the time of legitimation; if at such time, the father happens to be dead, the law of nationality of the father at the time of his death shall govern.

Section 32

The placement of a minor who has no parent exercising parental power under guardianship, the duties and the power of the guardian or the termination of the guardianship, as the case may be, shall be governed by the law of nationality of such minor. However, as regards immovable property, the power of the guardian to deal with such property shall be governed by the law of the place where such property is situated.

A minor with foreign nationality who has domicile or residence in Siam may be placed under guardianship in accordance with the Siamese law if it appears that, under the circumstances of the case, the organization and management of guardianship under the foreign law cannot provide reasonably effective protection of the interests of such minor

Section 33

The deprivation of parental power shall be governed by the law of the country to which the court ordering such deprivation belongs.

Section 34

The right of action against ascendants, either civil or criminal, shall be governed by the law of nationality of the descendant.

Section 35

If the adopter and the adopted have the same nationality, the adoption shall be governed by their law of nationality.

If the adopter and the adopted have different nationalities, the capacity and conditions for adoption shall be governed by the law of nationality of each party. However, the effects of adoption of the adopter and the adopted shall be governed by the law of nationality of the adopter.

The rights and duties of the adopted and his family to which he belongs by birth shall be governed by the law of nationality of the adopted.

Section 36

The obligation to maintain shall be governed by the law of nationality of the person from whom such maintenance is claimed.

However, the person entitled to maintenance cannot make claims in excess of what is permitted by the Siamese law.

Part 6
Succession

Section 37

Succession as regards immovable property shall be governed by the law of the place where such property is situated.

Section 38

Succession as regards movable property, either by statutory rights or by will, shall be governed by the law of domicile of the deceased at the time of his death.

Section 39

The capacity of a person to make a will shall be governed by the law of nationality at the time when the will is made.

Section 40

A person may make a will either in accordance with the form prescribed by the law of nationality or in accordance with the form prescribed by the law of the country where the will is made.

Section 41

The effects and interpretation of a will as well as the nullity of a will or of a clause in a will shall be governed by the law of domicile of the testator at the time of his death.

Section 42

The revocation of a will or of a clause in a will shall be governed by the law of domicile of the testator at the time when the revocation is made.

The lapse of a will or of a clause in a will shall be governed by the law of domicile of the testator at the time of his death.

Countersigned by

P. Pibulsonggram

Prime Minister

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