

Hazardous Substance Act, B.E. 2535 (1992)

As amended until No.3 act, B.E. 2551 (2008)

Translation

BHUMIBIIOL ADULYADEJ REX.

Given on the 29th day of March, B.E. 2535;

Being the 47th year of the Present Reign.

His Majesty king Bhumibhol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to revise the law on hazardous substance;

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 "Hazardous Substance Act, B.E. 2535 (1992)"

Section 2

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

Section 3

The following Acts shall be repealed:

- (1) The Toxic Substance Act, B.E. 2510 (1967).
- (2) The Toxic Substance Act (No. 2), B.E. 2510 (1967).

Section 4

In this Act, "Hazardous Substance" means the following substance.

- (1) Explosives
- (2) Flammable Substance.
- (3) Oxidizing agent and peroxide.
- (4) Toxic substance.
- (5) Substance causing diseases.
- (6) Radioactive substance.
- (7) Mutant causing substance.
- (8) Corrosive substance.
- (9) Irritating substance.
- (10) Other substance either chemicals or otherwise which may cause injury to the persons, animals, plants, property, or environments.

"Produce" means to make, culture, blend, mix, alter, modify, contain separately or contain collectively.

"Import" means to bring or order into the Kingdom or to transit.

"Export" means to send or undertake to send out of the Kingdom.

"Sale" means a disposal, dispensation, or distribution for commercial purposes and also includes having in possession for sale.

"Having in possession" means having in possession whether for oneself or for others and regardless of whether having in possession for sale, for transport or for use or for other purposes and also includes leaving or existing in the area under possession.

"Label" means a picture, logo, or any statement shown on the hazardous substance, containers, or packages, or inserted or included in the hazardous substance or containers or packages and also includes a document or manual for the hazardous substance.

"Convention on the Prohibition of Chemical Weapons" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction having been opened for signature since 13th January B.E. 2536^(2.1);

"Committee" means the Committee on Hazardous Substance.

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

"Responsible Minister" means the line Minister of any agency assigned to take charge of the control of hazardous substance under Section 19.

Section 5

The Minister of Defense, the Minister of Agriculture and Cooperatives, the Minister of Transport, the Minister of National Resources and Environment, the Minister of Energy, the Minister of Interior, the Minister of Science and Technology, the Minister of Public Health and the Minister of Industry shall control, promote and supervise the secretary and the assistant secretaries of the Hazardous Substance Committee in the execution of this Act.^(3.2)

The Minister of Industry shall have the power to prescribe the ministerial rules fixing the fees of not higher than the rates attached herewith and exempting the fees as well as adopting other requirements and to prescribe the announcements for the execution of this Act.

The Responsible Minister shall have the power to appoint the authorities and to prescribe the announcements for the execution of this Act.

Such ministerial rules or announcements, upon publication in the Government Gazette, shall become enforceable.

Chapter 1

Committee on Hazardous Substance

Section 6 ^(3.2)

There shall be a Hazardous Substance Committee consisting of the Permanent Secretary of the Ministry of Industry as Chairperson, the Commissioner General of the Royal Thai Police, the Director-General of the Department of Land Transport, the Director-General of the Department of Internal Trade, the Director-General of the Department of Medical Services, the Director-General of Pollution Control Department, the Director-General of the Department of Energy Business, the Director-General of the Department of Fisheries, the Director-General of the Department of Livestock Development, the Director-General of the Department of Agriculture, the Director-General of the Department of Medical Sciences, the Director-General of the Department of Agricultural Extension, the Secretary-General of the Food and Drug Administration, the Secretary-General of the Office of Atomic Energy for Peace, the Secretary-General of the Thai Industrial Standards Institute, a representative of the Ministry of Defense, a representative of the Ministry of Transport, a representative of the National Bureau of Agricultural and Food Standards and not more than ten qualified persons appointed by the Council of Ministers, as members. The Director-General of the Department of Industrial Works shall be member and secretary and a representative of the Department of Energy Business, a representative of the Department of Industrial Works, a

representative of the Department of Agriculture, a representative of the Food and Drug Administration, and a representative of the Office of Atomic Energy for Peace shall be assistant secretaries.

The qualified members to be appointed by the Council of Ministers shall have knowledge, skill, contribution and experience relevant to chemistry, science, engineering, agriculture or law, and at least five of them shall be appointed from the qualified persons who are representatives of public benefit organizations with experience in providing protection to health and sanitary, consumer, sustainable agriculture, hazardous waste management in locality or environment.

Section 7

The Committee shall have the following powers and duties.

- (1) To lay down policy and to determine measure and plan on hazardous substance control to be complied with by all concerned agencies upon the approval of the Council of Ministers ^(3.2);
- (1/1) To give recommendation to the Minister of Industry in relation to the issuance of the Notifications under Section 18 paragraph two and Section 36 paragraph one ^(3.1);
- (2) To give recommendation to the Responsible Minister in relation to the issuance of the Notifications under Section 20, Section 20/1, Section 36 paragraph three, Section 37 paragraph two, Section 43, Section 44, and Section 47 (5) ^(3.2);
- (3) To give opinions to the Minister of Industry regarding the prescription of the announcements pursuant to Section 18 paragraph two and Section 36 paragraph one.
- (4) To give opinions to the Responsible Ministers regarding the prescription of the announcements pursuant to Section 20, Section 36 paragraph three, Section 37 paragraph two, Section 44, and Section 47 (5).
- (5) To give advice to the authority regarding the registration or revocation of the register of hazardous substance.
- (6) To give advice or opinions to the Responsible Minister, the Minister of Industry, responsible agencies and the authority regarding any matter relating to hazardous substance.
- (7) To consider the grievances from persons sustaining troubles or injuries from hazardous substance.
- (8) To inform of or publicize the information relating to hazardous substance to the public. In this respect, the list of hazardous substance or of relevant persons engaging in a business may be designated.
- (9) To oversee, give advice, and expedite the authority, Government bodies or agencies taking charge of various hazardous substances in the exercise of their powers and in the performance of their duties as provided by law.
- (10) To propose opinions to the Minister of Industry for recommendation to the Cabinet regarding the control of hazardous substance and the protection of and remedies for damage caused by hazardous substance as the operation guidelines for various Government agencies.
- (11) To perform such other acts as provided by law to be the powers and duties of the Committee.

Section 8 ^(3.2)

A qualified member holds office for a term of two years. A qualified member who vacates office may be reappointed, but not more than two consecutive terms.

Section 9

Apart from the vacancy upon expiration of the term of office under Section 8, the member scholars may vacate the office upon:

- (1) Death;
- (2) Resignation;
- (3) Removal by the Cabinet on account of deficiency, dishonesty to the duties, disgraceful behavior or incapacity;
- (4) Being bankrupt;
- (5) Being incompetent or quasi-incompetent person; or
- (6) Punishment of imprisonment by a final judgment to that effect except the punishment for an offence committed recklessly or a petty offence.

Section 10

In case where an appointment of a member scholar is made during the term of office of the member scholars already appointed, either as an additional appointment or for filling the vacancy, the person so appointed shall retain his/her office for the term equal to that remaining for the member scholars already appointed.

Section 11

In case where the member scholars have completed their term of office but no new member scholars have been appointed, the retiring member scholars shall, for the time being, perform their duties until new appointment of the member scholar is made.

Section 12

Not less than half of the total number of members must be present at the meeting of the Committee in order to form a quorum. If the chairman is not present at the meeting, the members present shall select one of the members to be the chairman of the meeting.

Decisions of the meeting shall be made by a majority of votes. Each member shall have one vote. In case of an equality of votes, the chairman of the meeting shall have a casting vote. Any member having a private interest in any matter, such member shall have no right to vote on such matter.

Section 13

The Committee shall have the power to appoint a Sub-committee to consider or to perform any act as assigned by the Committee.

The committee shall fix the quorum and procedures of the Sub-committee, as it thinks fit.

Section 14

In performing its duties, the Committee or Sub-committee assigned by the Committee shall have the power to give a written order summoning any person to testify or to submit any document or substance for consideration as is necessary.

Chapter 2

Control of the Hazardous Substance

Section 15

In the case where any matter on hazardous substance control has been provided by any law, the provisions of that law shall prevail; provided that, the Committee, with approval of the Minister having charge and control of the execution of that law, has a resolution that the provisions of this Act shall be applied thereto additionally, or in lieu thereof, within or without any specific period or conditions.

The resolution under paragraph one shall come into force upon its publication in the Government Gazette by the Minister having charge and control of the execution of that law.

Section 15/1 (2.1)

In passing of any resolution or giving any recommendation of the Committee or in giving approval of the Minister having charge and control of the execution of any other law and in issuing a Notification of the Minister of Industry or the Responsible Minister for the execution of this Act, regard shall be had to the Convention on the Prohibition of Chemical Weapons and other international conventions and obligations.

Section 16

In case of necessity for the prevention of danger to be inflicted upon the persons, animals, plants, property, or environments, a decree may be prescribed designating the area for prohibition of possession, disposal or use of any hazardous substance.

Section 17

The Information Center for Hazardous Substance shall be established in the Ministry of Industry as a coordinating center with respect to information on hazardous substance for various government agencies including private sectors for the collections and services of all kinds of information relating to hazardous substance since their existence in foreign countries, importation or domestic production, moving, uses, destruction, and any other relevant matters.

Section 18

The hazardous substance is classified according to the needs for control as follows:

- (1) Type 1: hazardous substance is that of which the production, import, export, or having in possession must comply with the specified criteria and procedures.
- (2) Type 2: hazardous substance is that of which the production, import, export, or having in possession must first be notified to the authority and must also comply with the specified criteria and procedures.
- (3) Type 3: hazardous substance is that of which the production, import, export, or having in possession must obtain a permit.
- (4) Type 4: hazardous substance is that of which the production, import, export, or having in possession is prohibited.

For the purpose of prevention and stop of danger that may be inflicted upon the persons, animals, plants, property, or environments, the Minister of Industry with the opinions of the Committee, shall have the power to publish in the Government Gazette designating the names or qualifications of hazardous substance, types of hazardous substance, period of application and responsible agencies for the control of the said hazardous substance.

Section 19

When an agency of the Ministries or Bureaus of the Central Administration has requested to be the agency responsible for the control of any hazardous substance for the execution of this Act, the committee shall consider and submit its opinions to the Minister of Industry in order to prescribe the announcements under Section 18 paragraph two designating such agency as the agency having the powers and duties to execute all or part with respect to such hazardous substance provided that specialized expertise, number of personnel, relationship with the principal tasks and work load under its responsibilities shall be primarily taken into consideration.

In case where the Committee has viewed otherwise, the Minister of the requesting agency shall be responsible for the confirmation to the Committee within thirty days. In this case, it shall be proposed to the Minister of Industry for submission to the Cabinet for consideration.

Section 20

The Responsible Minister, with the opinions of the Committee shall have the power to publish in the Government Gazette;

- (1) Quantity, component, properties and additive, container, examining and testing method for container, label, production, import, export, sale, transportation, storage, elimination and destruction of hazardous substance, treatment of hazardous substances' container and reporting, delivering of specimen or any other matter in relation to hazardous substance in order to control, prevent, alleviate or stop any danger which may be happened to person, animal, plant, property or environment with due regard to international conventions and obligations ^(3.2);
- (1/1) Transferring of technology in relation to hazardous substance and giving bond with security for damage that may be happened to environment, health and sanitary, life or property on course of business ^(3.1);
- (2) Expertise or responsible personnel for any execution under (1) and (1/1) ^(3.2);
- (3) Standard deviation of essential element of hazardous substance;
- (4) Hazardous substance registration procedure;
- (5) Name and properties of hazardous substance and its exemption as granted under Section 36.

Section 20/1 ^(3.1)

The expertise or responsible personnel for any execution in relation to hazardous substance shall comply with the rules, procedure and conditions as prescribed by the Responsible Minister with recommendation of the Committee as published in the Government Gazette.

Section 21 ^(3.2)

A producer, importer or exporter of, or any person having in possession of, hazardous substance in the 1st Category shall comply with the Notification of the Responsible Minister issued under Section 20 (1), (1/1), (2) and (3).

Section 22 ^(3.2)

Subject to the provisions of Section 36, no person shall produce, import or export, or have in possession of, hazardous substance in the 2nd Category; provided that, an intention to do so has been notified in advance to the competent official.

Whenever any hazardous substance has been notified as hazardous substance in the 2nd Category, a producer, importer or exporter of, or a person having in possession of, that hazardous substance shall notify his performance in relation to that hazardous substance to the competent official within the period as specified in that notification.

Upon receiving of information under paragraph one or paragraph two, the competent official shall produce a receipt as evidence to the person who makes such notification. The receipt shall be valid through the period as specified therein, but not more than three years as from the date of its issuance.

The making of notification, the issuance of a receipt and the application for renewal of a receipt and the granting thereof shall be in accordance with the rules and procedure as prescribed by the responsible agency by publishing in the Government Gazette.

A producer, importer or exporter of, or a person having in possession of, hazardous substance in the 2nd Category shall comply with the Notification of the Responsible Minister issued under Section 20 (1), (1/1), (2) and (3).

Section 23

Subject to the provisions of Section 36, no producer shall be allowed to import, export, or have in his/her possession the type 3 hazardous substance unless permitted by the authority.

The application for permission and the permission thereof shall be in accordance with the criteria and procedures provided for in the ministerial rules, provided that such ministerial rule shall provide as clearly as possible for the cases to be allowed or not to be allowed except in case of an unforeseen necessity and the period for consideration for permission shall also be clearly specified.

A producer, importer or exporter of, or a person having in possession of, hazardous substance in the 3rd Category shall comply with the Notification of the Responsible Minister issued under Section 20 (1), (1/1), (2) and (3) ^(3.2).

Section 24

Upon prescription of an announcement designating the substance to be the type 3 hazardous substance, the producer, importer, exporter, or the person having possession of such hazardous substance shall apply for a permit under Section 23 within the period specified in the said announcement and during the said period, such person shall engage in the business for the time being until the authority shall deny the permission as applied.

Section 25

A permit already issued, if subsequently the law or circumstance has changed or there is a substantial ground for the protection of safety, the authority having the power to issue the permits shall have the power to order an amendment of the conditions for permission as is necessary.

Section 26

A permit issued under this Act shall be valid for the period specified therein but shall not exceed three years as from the date of issuance of the permit.

Section 27

The recipient of a permit wishing to renew the permit shall apply therefore before the expiration of the permit. Upon submission of the application, such person shall be deemed as if he/she were the recipient and shall continue the business until the authority shall deny the renewal of such permit.

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

Section 28

In case where the authority denies the issuance or renewal of a permit, the applicant for a permit or a renewal thereof has the right to appeal to the Responsible Minister within thirty days as from the date of receipt of the notice denying the issuance or the renewal of a permit. The decision of the Responsible Minister shall be final.

Section 29

If the authority denies the renewal of the permit or the Responsible Minister orders the dismissal of the appeal for renewal of the permit, the applicant for the renewal of the permit may sell the hazardous substance in his/her possession within the period of three months as from the date of receipt of the order denying the renewal of the permit or of receipt of the order of the Responsible Minister dismissing the appeal as the case may be. Upon expiration of the said period, Section 52 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

Section 30

If a permit or a certificate of registration of the hazardous substance is lost, erased or substantially defected, the recipient of the permit shall apply for a substitute of the permit or of the certificate of registration of the hazardous substance to the authority within fifteen days as from the date of knowledge of the loss, erasure or defect.

Section 31

The recipient of a permit which is valid for more than three months must present the permit or the substitute thereof at the open and noticeable place at the place of business specified in such permit.

Section 32

When it appears to the authority that any recipient of a permit violates or fails to comply with this Act, the authority shall have the power to consider and to order a suspension of the permit for such a period as the authority thinks fit but shall not exceed one year and if it is a serious case, the authority may order a revocation of the permit.

Section 33

The person whose permit has been suspended or revoked under Section 32 has the right to appeal to the Responsible Minister within thirty days as from the date of receipt of the order. The decision of the Responsible Minister shall be final.

The appeal under paragraph one shall not ease the enforcement of the order suspending or revoking the permit.

Section 34

The person whose permit has been suspended or revoked under Section 32 may sell the hazardous substance in his/her possession within the period of three months as from the date of receipt of the order revoking the permit or of receipt of the order of the Responsible Minister dismissing the appeal as the case may be. Upon expiration of the said period, Section 52 paragraph two, paragraph three, and paragraph four shall apply *mutatis mutandis*.

Section 35

The person whose permit has been revoked may not apply for a new permit until the expiration of five years as from the date of revocation of the permit.

Section 36

The Minister of Industry, with the opinion of the Committee shall publish in the Government Gazette, publicizing clearly the list of hazardous substance of which its production process and nature are likely to cause injury.

Any hazardous substance in 2nd Category or 3rd Category other than that specified in the list under paragraph one shall be registered with the competent official prior to be produced or imported. Upon receiving of register certificate, it may be produced or imported under Section 22 or the production or import license thereof may be granted under Section 23; provided that, there is the Notification of the Responsible Minister exempting registration on the ground that that hazardous substance has been registered by another person or on any reasonable ground. The hazardous substance register certificate shall be valid for not more than six years as from the registration date. ^(3.2)

The application for hazardous substance registration and the issuance and the renewal of hazardous substance register certificate shall be in accordance with the rules and procedure as prescribed by the Responsible Minister, with recommendation of the Committee, and published in the Government Gazette. ^(3.2)

Section 37

In case where the registration of the hazardous substance requires the production or import of the specimens thereof for registration or other hazardous substance must be imported for use in the production of hazardous substance to be submitted for registration and such hazardous substance are required by law to be produced or imported upon prior permission or registration, the applicant for registration may apply for permission to the authority for the production or import of such hazardous substance under this Act upon exemption from complying with the steps and procedures provided for in the law on such subject.

The production and import under paragraph one must conform to the criteria and procedures provided for by the Responsible Minister with the opinions of the Committee upon publication in the Government Gazette.

Section 38

No authority shall register the hazardous substance when the Committee regards that:

- (1) The hazardous substance as applied for registration is not reliable as to its benefits as applied or if used is likely to cause injury to the persons, animals, plants, property, or environments without a reasonably normal means for prevention;
- (2) The hazardous substance as applied for registration uses the name in such a manner as to show off, to be impolite or likely to create a misrepresentation, or
- (3) The hazardous substance as applied for registration is fake or that of which its register has already been revoked by the authority.

The order of the authority denying registration shall be final.

Section 39

For the purpose of protection of the persons, animals, plants, property, or environments, the authority with the recommendation of the Committee shall have the power to amend the particulars in the register of hazardous substance as is necessary.

Section 40

For any hazardous substance already registered which later appears to lack the benefits as registered or if used is likely to cause injury to the persons, animals, plants, property, or environments, without a reasonably normal means for prevention, the authority with the recommendations of the Committee shall have the power to revoke the register of such hazardous substance. The order of the authority revoking the register shall be final.

Upon revocation of the register of any hazardous substance, the right of production, import, export, of or having possession of such hazardous substance shall be extinct.

Section 41

The owner of hazardous substance of which its register has been revoked must undertake to destroy or deal with his/her hazardous substance in such a manner as ordered by the authority within the period specified by the authority and Section 52 paragraph two, paragraph three, paragraph four shall apply *mutatis mutandis*.

Section 42 ^(3.3)

Repealed

Section 43

No person shall produce, import or have in possession of the 4th Category of hazardous substance, except for use as standard substance in laboratory and written permission has been granted by the responsible agency. The application for, and the granting of, permission shall be in accordance with the rules, procedure and conditions as specified by the Responsible Minister, with recommendation of the Committee, and published in the Government Gazette.

When the Minister of Industry notifies any substance to be the 4th Category of hazardous substance, the producer, importer or the person having in possession of that hazardous substance shall comply with the order of the competent official. In this case, Section 41 shall apply *mutatis mutandis*. ^(3.2)

Section 44

The Responsible Minister with the opinions of the Committee shall have the power to announce that the following hazardous substance are exempted from complying with this Act wholly or partially as the Responsible Minister thinks fit.

- (1) The hazardous substance which by its nature or quantity may cause minor injury or against which the enforcement of various measures under this Act will incur unreasonable burden.
- (2) The hazardous substance of the ministries, bureaus, departments, local administrations, state enterprises, government agencies, Thai Red Cross Society or other agencies as to be appropriately designated.

Section 45

No person shall be allowed to produce, import, export or have in the possession type 1, type 2, or type 3 hazardous substances as follows:

- (1) Fake hazardous substance.
- (2) Sub-standard hazardous substance.
- (3) Hazardous substance of deteriorating quality.
- (4) Hazardous substance that must be registered but has not been registered.
- (5) Hazardous substance of which its register is revoked.

The having in possession under paragraph one does not include possession for destruction or for submission to the authority or possession for other purposes under the duty provided by law.

Section 46

Any person knowing that the hazardous substance in his/her possession is the hazardous substance under Section 45 must destroy it, must notify the authority or must submit it to the authority in accordance with the criteria and procedures provided for in the announcement prescribed pursuant to Section 20 (1).

Section 47

The following hazardous substance or property shall be regarded as the fake hazardous substance.

- (1) Property artificially made to duplicate the genuine hazardous substance either wholly or partially.
- (2) Hazardous substance designated as other hazardous substance or of which their expiry date is exaggerated.
- (3) Hazardous substance of which the illustration of the name or trademark of the producer or the location of the producing place is falsified.
- (4) Hazardous substance represented as the registered hazardous substance, which is falsified.
- (5) Hazardous substance produced with less or more essential substance than the error criteria under Section 20 (3) at the level specified by the Responsible Minister with the opinions of the Committee upon publication in the Government Gazette.

Section 48

The following hazardous substance shall be regarded as the substandard hazardous substance.

- (1) Hazardous substance produced with less or more essential substance than the error criteria under Section 20 (3) but not reaching the level specified under Section 47 (5).
- (2) Hazardous substance produced with the purity, mixtures or other characteristics essential to the quality of hazardous substance different from the criteria specified or registered.

Section 49

The following hazardous substance is regarded as the hazardous substance of deteriorating quality.

- (1) Expiring hazardous substance as shown on the label.
- (2) Hazardous substance so attached as to have the same characteristics as the fake hazardous substance under Section 47 (5) or sub-standard hazardous substance.

Section 50

When the Committee regards any label as incompatible with Section 20(1), the Committee shall have the power to order the producer or importer to disuse the said label or to undertake to correct such label.

Section 51

The control of advertising of the hazardous substance shall be in accordance with the law on consumers protection and for the purpose of the control of advertising, the hazardous substance of which the labels are adopted under Section 20 (1) shall be deemed to be the merchandises of which their labels are controlled by the committee on the control of labels under the said law *mutatis mutandis*.

Section 52

If it appears to the competent official that any producer, importer, exporter or person having hazardous substance in possession violates or fails to comply with this Act, the competent official shall have the power to order such person to stop that act, to conduct correction or improvement or to act in compliance with this Act. In this case, the competent official may, if there is a reasonable ground, order that person to return such hazardous substance to the producer or the person who is the sender thereof or to act otherwise as appropriate in accordance with the rules, procedure and conditions as determined by the competent official. ^(3.2)

In the case of paragraph one, if it appears that the producer, importer, exporter or the person having the possession of the said hazardous substance cannot rectify whether due to lack of capacity or otherwise, the authority shall have the power to order such person to submit such hazardous Substance to the authority at the specified place in order to destroy or deal with it as is appropriate by taking into consideration the dangers to be inflicted by the said hazardous substance.

In case where such hazardous substance may be sold, the authority shall undertake to auction or to sell to the government agencies within three months as from the date of submission. The proceeds after expenses for storage, sale and relevant charges shall be kept in order to return to the owner but after the expiration of the said three months, the hazardous substance has not yet been sold, if the authority regards that further extension of the said period shall cause harm or create unreasonable burden, the authority shall have the power to give the order destroying or dealing with it as is appropriate.

In case where the hazardous substance must be destroyed or dealt with as is appropriate, if the expenses are incurred, the owner of hazardous substance shall have the duty to pay or to reimburse to the Government.

Section 52/1 ^(3.1)

If it appears that any producer, importer, exporter or person having hazardous substance in possession carry out an undertaking which its conditions may be harmful, cause damage to or irritate any person or property living or situating within the place of business as well as its adjacent place, the competent official shall have the power to order that person to conduct correction in accordance with the rules and procedure as determined by the competent official.

Section 53 ^(3.3)

Repealed

Section 54

In performing the duties, the authority shall have the following powers.

- (1) To enter the place engaging in a business relating to the hazardous substance, place of production of the hazardous substance, place of storage of the hazardous substance, or place suspected to be such a place during the period from sunrise to sunset or during the working hours of the said place or to enter the vehicle carrying the hazardous substance or suspected to carry the hazardous substance in order to inspect the hazardous substance, containers of hazardous substance, book accounts, documents or other articles relating to the hazardous substance.
- (2) To take the hazardous substance or substance suspected to be the hazardous substance in a reasonable quantity as specimens for inspection.
- (3) To search, detain, seize, or attach the hazardous substance, the containers of the hazardous substance, book accounts, documents or any relevant articles in case where there is a reasonable ground to suspect that an offence under this Act has been committed.
- (4) To summon in writing any person to testify or to submit any document or substance for consideration.

Section 55

For the hazardous substance, containers of the hazardous substance, book accounts, documents and any article seized or attached under Section 54 (3), if the articles seized or attached are perishable or if kept, will be risky of causing injury or harm or the expenses thereof will exceed the value of such articles, the authority shall have the power to destroy or deal with it as is appropriate by taking into consideration the harm that may be caused by the said hazardous substance and Section 52 paragraph three and paragraph four shall apply *mutatis mutandis*.

If the authority considers that the articles seized or attached are not the property to be forfeited under Section 88 or the Public Prosecutor has the final order not to prosecute, the authority shall withdraw the attachment or return the hazardous substance, containers of the hazardous substance, book accounts, documents and such articles to the person deserved of such return immediately.

In case of the return of the articles seized or attached or of the proceeds thereof, such return shall be notified by a registered reply mail to the domicile of the person deserved of such return. In case where a person deserved of such return is unknown or if known, his/her domicile is unknown, if publicized in a local newspaper circulated in the areas in which such articles have been seized or attached, or such publicity in a newspaper shall not cover the value of the articles to be returned, if posted at the District Office of such area not less than fifteen days, it shall be deemed to have been notified upon expiration of seven days as from the date of publicity in the newspaper or the expiry date of the period of notice posted at the District Office as the case may be.

A person applying for a return shall be liable to pay the charges of the Government incurred by such publicity in the newspaper together with an additional payment of twenty percent of the said amount.

In case where the return cannot be done because a person deserved of such return is not found, the articles seized or the proceeds to be returned as the case may be shall be kept. If within one year from notification to the person deserved of a return no such person applies thereof, the articles or the proceeds shall devolve on the State.

Section 56

In performing the duties, the authority must present the identity card to the persons involved.

The identity card of the authority shall be in accordance with the form specified by the Responsible Minister.

Chapter 3

Duties and Civil Liabilities

Section 57

The provisions in this Chapter shall not abrogate or limit the duties and civil liabilities of a person under the provisions in other chapters or laws.

Section 58

For the purpose of fixing the duties and liabilities under this Chapter, the Minister of Industry shall have the power to publish in the Government Gazette designating the substance to be regarded as the hazardous substance under the provisions in this Chapter.

Section 59

The producer of hazardous substance must be careful in procuring the substance for production, adopting the procedures and reliable steps of production, providing the containers which are strong and safe for uses, moving, transporting, providing the labels showing the hazardous nature of such articles which is adequately distinct, storing properly, and examining the reliability of the person accepting the delivery of hazardous substance from the producer or a person who may be expected to accept delivery of the said hazardous substance.

Section 60

The importer of the hazardous substance must be careful in selecting the producers, examining the quality of hazardous substance, examining the correctness of containers and labels, selecting the mode of transport and carriers, storing properly and examining the reliability of the person accepting the delivery of hazardous substance from the importer or a person who may be expected to accept the delivery of the said hazardous substance.

Section 61

The carrier must be careful in examining the articles used in transportation or the vehicles and equipment, correctness of container and labels, propriety of the modes of transport, correctness of loading on the vehicles and reliability of the employees or the persons working for or with the carrier.

Section 62

The person having possession of the hazardous substance must be careful in examining the creditability of the producer or importer or supplier of such hazardous substance, correctness of containers and labels, propriety of storage, and reliability of the person accepting the delivery of hazardous substance from him/her or a person who may be expected to accept the delivery of the said hazardous substance.

Section 63

The producer, importer, carrier or the person having possession of the hazardous substance must be liable for injury caused by the hazardous substance in his/her possession unless it is proved that such injury is caused by force majeure or fault of the injured person.

Section 64

The seller or deliverer of hazardous substance to any person must be liable to such person for the injury caused by such hazardous substance unless it is proved that such injury is caused by force majeure or fault of the injured person.

Section 65

The employer, principal, hirer or owner of a business must be jointly liable for the consequences of the wrongful act committed by the persons under Section 63 or Section

64 in the course of their employment for him/her but is entitled to the reimbursement from the said persons unless he/she is also at fault in giving an order, selecting a person, controlling or otherwise while directly results in such wrongful act.

Section 66

The producer, importer, wholesaler, retailer, middle-man and the person taking part in the disposal at every interval from the producer to the person liable while the wrongful acts under Section 63 or Section 64 occur must also be jointly liable for the consequences of the wrongful act.

Section 67

The claim for harms arising out of the hazardous substance under this Act shall be barred by prescription after the expiration of three years as from the date the injured person learns of the injury, the state of being the hazardous substance and the person liable for compensation.

If negotiation is undertaken with respect to the compensation to be paid between the person understood to be liable for such compensation and the person entitled thereof, the prescription shall be interrupted until it appears that such negotiation cannot reach settlement.

Section 68

The persons to be liable under Section 63, Section 64, Section 65 or Section 66 who have already paid the compensation to the injured person shall have the right of recourse against a person delivering the hazardous substance to him/her or to a person working for him/her and from a person or persons taking part in every stage of delivery of the said hazardous substance up to the producer provided that the right of such recourse shall be exercised within three years as from the date of payment of the compensation. However, if the person exercising the right of recourse is the person intentionally or negligently committing the wrongful act, such person shall have the right of recourse only for the part beyond his/her own liability.

Section 69

In case where the hazardous substance causes injury to the persons, animals, plants, or environments if the State suffers injury on account of expenses paid in order to rescue, move, treat, mitigate or get rid of the injury and to restore to the original or nearly original condition or if it is the injury to the *res nullius*, or natural resources, or injury to state property, upon request from the agency assigned to be responsible for the said hazardous substance, the Public Prosecutor shall have the power to institute the claim of compensation for the said injury to the State.

Chapter 4

Penalties

Section 70

Any person failing to testify or to submit any document or object as ordered by the Committee or Sub-Committee under Section 14 or as summoned in writing by the authority under Section 54 (4) shall be subject to an imprisonment not exceeding one month or a fine not exceeding ten thousand Baht or both.

Section 70/1 ^(3.1)

A person who fails to comply with Section 20/1 shall be liable to imprisonment for a term of not exceeding six month or to a fine of not exceeding fifty thousand Baht or to both.

Section 71 ^(3.2)

A person who fails to comply with Section 21, Section 22 paragraph five, Section 41 or Section 43 paragraph two shall be liable to imprisonment for a term of not exceeding six month or to a fine of not exceeding fifty thousand Baht or to both.

Section 72

Any person violating Section 22 paragraph one or failing to comply with Section 22 paragraph two or Section 23 paragraph three shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

Section 73

Any person violating Section 23 paragraph one shall be subject to an imprisonment not exceeding two years or a fine not exceeding two hundred thousand Baht or both.

Section 74

Any person violating Section 43 paragraph one shall be subject to an imprisonment not exceeding ten years or a fine not exceeding one million Baht or both.

If the offence under paragraph one is committed recklessly by the importer, exporter, the person having possession of the said hazardous substance, such offender shall be subject to a fine not exceeding eight hundred thousand Baht.

Section 74/1 (2.1)

A person who employs or supports the commission of the punishable offence under Section 73 or Section 74 in relation to the 3rd or 4th Category of hazardous substance which is toxic chemical or substance to be used for the production of toxic chemical listed in the Convention on the Prohibition of Chemical Weapons and published by the Minister of Industry under Section 18 shall be liable to the penalty imposed to the principal of such offence.

Section 74/2 (2.1)

In the case where the commission of an offence under Section 73 or Section 74 in relation to the 3rd or 4th Category of hazardous substances which is toxic chemical or substance to be used for the production of toxic chemical listed in the Convention on the Prohibition of Chemical Weapons and published by the Minister of Industry under Section 18, if the offender is of Thai nationality, the offender shall be punished in the Kingdom despite the offence has been committed outside the Kingdom.

Such person shall not be punished in the Kingdom on account of that offence, if:

- (1) There is a final judgment of any foreign Court acquitting him; or
- (2) There is a judgment of any foreign Court convicting him, and he has completely undergone the punishment.

If the sentenced person has partially undergone the punishment for such commission but has not yet completely undergone it according to the judgment of any foreign Court, the Court may, by having regard to the punishment already undergone by him, impose less punishment to any extent than that provided by the law for such offence, or may not impose any punishment.

Section 75

Any person violating Section 45 (1) or Section 45 (5) in the case of revocation of the register due to the likelihood to cause injury without any reasonably normal means for prevention, if the offence is committed with respect to type 3 hazardous substance, shall be subject to an imprisonment not exceeding seven years or a fine not exceeding seven hundred thousand Baht or both.

If the offence under paragraph one is committed recklessly by the importer, exporter or the person having possession of the said hazardous substance, such offender shall be subject to a fine not exceeding five hundred thousand Baht.

Section 76

Any person violating Section 45 (2) or Section 45 (5) in the case of revocation of the register due to lack of benefits as registered, if the offence is committed with respect to type 3 hazardous substance, shall be subject to an imprisonment not exceeding five years or a fine not exceeding five hundred thousand Baht or both.

If the offence under paragraph one is committed recklessly by the importer, exporter, the person having possession of the said hazardous substance, such offender shall be subject to a fine not exceeding four hundred thousand Baht.

Section 77

Any person violating Section 45 (3), if the offence is committed with respect to type 3 hazardous substance shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

If the offence under paragraph one is committed recklessly, such offender shall be subject to a fine not exceeding eight hundred thousand Baht.

Section 78

Any person violating Section 45 (4), if the offence is committed with respect to type 3 hazardous substance, shall be subject to an imprisonment not exceeding three years or a fine not exceeding three hundred thousand Baht or both.

Section 79

If the offence under Section 75, Section 76, Section 77 or Section 78 is committed with respect to type 2 hazardous substances, such offender shall be subject to two-thirds of the penalty provided for in the said Section.

Section 80

If the offence under Section 75, Section 76, Section 77 or Section 78 is committed with respect to type 1 hazardous substance, such offender shall be subject to one-half of the penalty provided for in the said Section.

Section 81

Any recipient of a permit failing to comply with Section 30 or Section 31 shall be subject to a fine not exceeding ten thousand Baht.

Section 82

Any person intentionally creating a misunderstanding with respect to the origin, nature, quality, or other essences relating to the hazardous substance belonging either to such person or to other persons, making or using the labels of false statements or statement known or ought to be known to cause such misunderstandings shall be subject to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand Baht or both.

If the offender under paragraph one repeating the commission of the same offence within six months as from the date of previous commission, such offender shall be subject to an imprisonment not exceeding two years or a fine not exceeding two hundred thousand Baht or both.

Section 83

Any person selling the hazardous substance without a label or if there is a label, such label or representation thereof is not correct or selling the hazardous substance with a label of which its use has been revoked or rectified by the order of the Committee under Section 50 shall be subject to an imprisonment not exceeding six months or a fine not exceeding fifty thousand Baht or both.

If the offence under paragraph one is committed recklessly, the offender shall be subject to a fine not exceeding forty thousand Baht.

If the offence under paragraph one is committed by the producer or importer, such offender shall be subject to an imprisonment not exceeds one year or a fine not exceeding one hundred thousand Baht or both.

Section 84

Any person intentionally or recklessly rendering a service of making illegal labels or attaching illegal labels or destroying the essential part of legal labels for any of the hazardous substance under the provisions in Chapter 2 shall be subject to an

imprisonment not exceeding six months or a fine not exceeding fifty thousand Baht or both.

Section 85

Any person failing to comply with Section 52 paragraph one shall be subject to an imprisonment not exceeding three months or a fine not exceeding thirty thousand Baht or both.

Section 85/1 (3.1)

A person who fails to comply with the order of the competent official Section 52/1 shall be liable to imprisonment for a term of not exceeding three months or to a fine of not exceeding thirty thousand Baht or to both.

Section 86

Any person failing to facilitate reasonably the authority undertaking the execution of Section 54 shall be subject to an imprisonment not exceeding one month or a fine not exceeding ten thousand Baht.

Section 87

In case where the Court renders a judgment punishing any person for the offence under Section 71 or Section 72 and which is the case where a permit is exempted, if the circumstances indicate that such person may repeat the commission of such offence, the Court may order in the judgment prohibiting the engagement with respect to the hazardous substance for a period not exceeding five years as from the date of passing over of the punishment.

Section 87/1 (3.1)

If a person who has been sentenced on account of the offence under this Act recommit the same offence, the Court may impose additional punishment for one-half time of the punishment as prescribed for that offence.

Section 87/2 (3.1)

In the case where the offender under this Act is a juristic person, its directors, manager or expertise, specialist or any person who is responsible for the commission of such offence shall be liable to the punishment as prescribed for that offence, except where he is able to prove that such offence has been committed without his knowledge or consent.

Section 88

The hazardous substance produced, imported, exported or had in possession illegally under this Act, the containers of the said hazardous substance, tools and relevant equipment or any property forfeited by a judgment of the Court shall be submitted to the agency responsible for the control of the said hazardous substance in order to destroy or deal with it as is appropriate.

In case of the destruction thereof, the Court may also order in the judgment directing the owner to pay for the expenses incurred therefrom to the Government.

Section 89 (3.2)

With regard to the offences under this Act punishable to imprisonment for a term of not exceeding one year or only with fine, the Committee shall have the power to settle them. If the offender pays the fine for settlement within thirty days as from the date the amount thereof has been informed to him, the case is deemed to be settled under the Criminal Procedure Code.

If the Committee thinks fit, it may entrust the power to settle the case to the Subcommittee or the competent official. The settlement shall be in accordance with the rules and procedure as prescribed by the Committee.

In the case where the property relating to the commission of an offence under this Act has been seized or attached, the person having the power to settle the case under paragraph one or paragraph two may settle the case in accordance with the following conditions:

- (1) If the seized or attached property may be rectified and the offender rectifies it voluntarily;
- (2) If the seized or attached property is unable to be rectified and the offender devolves it to the government agency responsible for the control of such hazardous substance.

In the case where the person who agrees to settle the case has rectified the property, the competent official shall withdraw the attachment thereof.

All properties devolved on the government agency responsible for the control of such hazardous substance shall be treated in accordance with the rule as prescribed by the Responsible Minister.

Provisional Chapter

Section 90

Any application for permission filed in accordance with the law on toxic substance and pending the consideration shall be deemed to be the application for permission under this Act *mutatis mutandis*. In case where such application has different particulars from those of the application under this Act, the person having the power to grant permission shall order the modification thereof as is necessary for the compliance with this Act.

Section 91

A permit and certificate of registration issued to any person in accordance with the law on toxic substance prior to the date of coming into force of this Act shall remain valid until expiration of the specified period.

Section 92

The substance or any other articles designated by the announcements as ordinary toxic substance and serious toxic substance pursuant to the law on toxic substance shall be revised and the prescription of the announcements designating them as type 1, type 2, type 3, or type 4 hazardous substance shall be completed within six months as from the date of coming into force of this Act.

During the period of unfinished execution under paragraph one, the provisions of the law on toxic substance shall remain in force except that the provisions relating to the Committee on Toxic Substance shall be replaced by the provisions of this Act relating to the Committee on Hazardous Substance and the provisions of this Act shall immediately come into force insofar as they do not conflict or contradict with those of the law on toxic substance.

Section 93

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

Fees

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| (1) Hazardous substance register certificate | 5,000 Baht each |
| (2) Hazardous substance production license | 20,000 Baht each |
| (3) Hazardous substance import license | 20,000 Baht each |
| (4) Hazardous substance export license | 20,000 Baht each |
| (5) License to have hazardous substance in possession | 20,000 Baht each |
| (6) Production license for specimen of hazardous substance | 2,000 Baht each |

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|---|-----------------|
| (7) Import license for specimen of hazardous substance | 2,000 Baht each |
| (8) Substitute of hazardous substance register certificate | 1,000 Baht each |
| (9) Substitute of license | 1,000 Baht each |
| (10) Renewal of hazardous substance register certificate | |
| Each time equals to fee to be paid for hazardous substance register certificate | |
| (11) Renewal of license each time equals to fee to be paid for each type of license | |

Note: The reason for the proclamation of this Act is that at present a great number of hazardous substances have been used in various business and some of them have caused serious injury to the persons, animals, plants, property, and environments. Although at present there exist some laws which are applicable to the hazardous substance, there are so many of them which are under the powers of several ministries, bureaus, departments as a result of different proclamations made in different periods of time entailing discrepancies and incomprehensiveness of their provisions. It is therefore expedient to revise the law on toxic substance by expanding the scope of application to cover every kind of hazardous substance as well as to adopt the criteria and procedures for an even more suitable control of the hazardous substance and to agencyze the administrative system to promote coordination among various agencies involved in tile supervision of the said hazardous substance. It is therefore necessary to enact this Act.

Countersigned by
Mr. Anan Panyarachun
Prime Minister

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Note

- (2.1) Added by the Hazardous Substance Act (No. 2), B.E. 2544 (2001).
- (2.2) Amended by the Hazardous Substance Act (No. 2), B.E. 2544 (2001).
- (3.1) Added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).
- (3.2) Amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).
- (3.3) Repealed by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

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