

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

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The following Acts shall be repealed: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.
- (2) The Toxic Substance Act (No. 2), B.E. 2510.

### 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.

"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 Interior, the Minister of Public Health, the Minister of Science, Technology and Environment, and the Minister of Industry shall control, promote, and oversee the work of the Secretary and the Assistant Secretaries of the Committee on Hazardous Substance for the execution of this.

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**

There shall be the Committee on Hazardous Substance consisting of the Permanent Secretary of the Ministry of Industry as the chairman, the Director-General of the Department of Internal Trade, the Director-General of the Department of Medical Services, the Director-General of the Department of Public Works, the Director-General of the Police Department, the Director-General of the Department of Agriculture, the Director-General of the Department of Agricultural Extension, the Secretary-General of the National Environment Board, 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 Office of Industrial Standards Institute and a representative from the Ministry of Defense and not more than seven scholars appointed by the Cabinet as the members; the Director-General of the Industrial Works Department as a member and the secretary; a representative from the Department of Public Works, a representative from the Department of Industrial Works, a representative from the Department of Agriculture, a representative from the Office of Atomic Energy for Peace and a representative from the Food and Drug Administration as the assistant secretaries.

The member scholars appointed by the Cabinet must be the experts having expertise, works and experiences related to the branches of chemistry, science, engineering, agricultural science, or law and at least two of them shall be appointed from the scholars working in an organ of public interest for the protection of health or environment.

## **Section 7**

The Committee shall have the following powers and duties.

- (1) 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.
- (2) 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).
- (3) To give advice to the authority regarding the registration or revocation of the register of hazardous substance.
- (4) 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.
- (5) To consider the grievances from persons sustaining troubles or injuries from hazardous substance.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) To perform such other acts as provided by law to be the powers and duties of the Committee.

### **Section 8**

The member scholars shall remain in their office for a term of two years. Any retiring member scholar may be re-appointed.

### **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 case where there exists the law on any subject having any specific provisions, such provisions of the law shall apply. However, in case where it is appropriate, the Committee, upon approval of the Ministry taking charge of the law on such subject, may adopt a resolution applying the provisions of this Act in addition to or in lieu of the law on such subject provided that any period or condition may be provided in such resolution.

The resolution under paragraph one, upon publication in the Government Gazette by the Minister taking charge of the law on such subject, shall become enforceable.

## **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) Adopting the composition, qualifications and mixtures, containers, methods of examining and testing the containers, labels, productions, imports, exports, sales, transports, storage, disposals, destruction, treatments of hazardous substance containers, notification of facts, submission of specimens or any other matters relating hazardous substance for the control, prevention, mitigation, or stop of the dangers to be inflicted upon the persons, animals, plants, property, or environment by taking into consideration international conventions and covenants,
- (2) Requiring to have the specialized experts or personnel responsible for any execution under (1),  
Adopting the error criteria from the required quantity of the essential substance in the hazardous substance,
- (3) Adopting the procedures for registration of the said hazardous substance,
- (4) Designating the names and qualifications of the hazardous substance and exemptions under Section 36.

### **Section 21**

A producer, importer, exporter or a person having possession of the type 1 hazardous substance must comply with announcements of the Responsible Minister prescribed pursuant to Section 20 (1), (2) and (3).

### **Section 22**

Subject to the provisions of Section 36, no person shall be allowed to produce, import, export, or have in possession the type 2 hazardous substance unless the desire to so undertake has been first notified to the authority. Upon prescription of an announcement designating any substance to be the type 2 hazardous substance, the producer, importer, exporter, or the person having possession of such substance shall notify the authority of his/her undertaking then within the period specified in the said announcement.

The producer, importer, exporter or the person having possession of the type 2 hazardous substance must also comply with the announcements of the Responsible Minister prescribed pursuant to Section 20 (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.

The producer, importer or the person having possession of the type 3 hazardous substance must also comply with the announcements of the Responsible Minister prescribed pursuant to Section 20 (1), (2) and (3).

### **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.

The production, import of type 2 or type 3 hazardous substance excluding from the list in the announcement under paragraph one must be registered first with the authority and upon receipt of the certificate of registration, the production or import shall be undertaken under Section 22 or a permit for production or for import under Section 23 shall be issued unless the announcement of the Responsible Minister shall exempt such registration in case where the same hazardous substance have been submitted for registration or otherwise on a reasonable ground.

The application for registration of the hazardous substance and the issuance of a certificate of registration of the hazardous substance shall be in accordance with the criteria and procedures provided for by the Responsible Minister with the opinions of the Committee upon publication in the Government Gazette.

### **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**

The producer for commerce, importer for commerce, exporter for commerce, keeper for commerce or seller of type 2 or type 3 hazardous substance must pay the annual fees in accordance with the criteria and procedures provided for in the ministerial rules but the rates of such fees shall not exceed those attached herewith.

Failure to pay the fees within the specified period shall result in an additional payment of five percent per month. In case where the payment of the fees is in arrears without reasonable grounds and if it is the case of a permit for operation, the authority may suspend or revoke the permit as is appropriate.

### **Section 43**

No person shall be allowed to produce, import or have in his/her possession the type 4 hazardous substance.

Upon announcement of the Responsible Minister designating any substance as the type 4 hazardous substance, the producer, importer, person having possession of such substance shall comply with the order of the authority and Section 41 shall apply *mutatis mutandis*.

#### **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**

When it appears to the authority that any producer, importer, exporter or any person having the possession of the hazardous substance violates or fails to comply with this Act, the authority shall have the power to order such person to stop the violating acts or to correct or modify or rectify. In this respect, if there is a reasonable ground, the authority may allow such person to export such hazardous substance in order to return the same to the producer or shipper of such hazardous substance or otherwise as the authority deems appropriate by complying with the criteria, procedures and conditions provided for by the authority.

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 53**

When it appears that any person has committed an offence under this Act or there is a reasonable ground to suspect that such offence has been committed, the authority shall

have the power to arrest such person in order to hand over to the inquiry official for further legal action.

#### **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 71**

Any person failing to comply with Section 21, Section 22 paragraph three, Section 41, or Section 43 paragraph two shall be subject to an imprisonment not exceeding six months or a fine not exceeding fifty thousand Baht or 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 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 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 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**

The offence under this Act which is punishable by an imprisonment not exceeding one year or by a fine only, the Committee or Subcommittee or authority assigned by the Committee shall have the power to effect the fine.

In case of the seizure or attachment of the exhibits relating to the commission of an offence under this Act, the person having the power to effect the fine under paragraph one shall effect a fine only when

- (1) In case where the exhibits can be rectified, the offender has agreed and rectified the exhibits;
- (2) In case where the exhibits cannot be rectified, the offender allows the exhibits seized or attached to devolve on the agency responsible for the control of the said hazardous substance.

In case where the person agreeing to such effect of the fine has rectified the exhibits, the authority shall withdraw the attachment of such exhibits.

The articles devolved on the agency responsible for the control of the said hazardous substance shall be dealt with in accordance with the regulations 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) certificate of Registration of Hazardous Substance   | 5,000 Baht each                        |
| (2) Permit for Production of Hazardous Substance   | 3,000 Baht each                        |
| (3) Permit for Import of Hazardous Substance   | 3,000 Baht each                        |
| (4) Permit for Export of Hazardous Substance   | 3,000 Baht each                        |
| (5) Permit for Having Possession of Hazardous  | 3,000 Baht each Substance              |
| (6) Permit for Import of Specimens of Hazardous  | 1,000 Bath each Substance              |
| (7) Substitute for a Certificate of Registration of  | 1,000 Baht<br>each Hazardous Substance |
| (8) Substitute for a Permit  | 1,000Baht each                         |
| (9) Producer of Hazardous Substance  | 1,000 Bath annually                    |
| (10) Importer of Hazardous Substance   | 5,000 Baht annually                    |
| (11) Exporter of Hazardous Substance   | 5,000 Baht annually                    |
| (12) Keeper for Commerce of Hazardous Substance  | 10,000 Baht annually                   |
| (13) Seller of Hazardous Substance   | 10,000 Baht annually                   |
| (14) Renewal fees of a Permit each time are equal to those fixed for each category of the permits. |  |

**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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