

No.10: Seizure and attachment of property

Translation

Ministerial Regulation No. 10 (2000)

Issued under the provisions of the Anti-Money Laundering Act, 1999

By virtue of the provisions of Section 4 and paragraph two of Section 56 of the Anti-Money Laundering Act, 1999, being the Act containing some provisions restricting the rights and liberties of an individual, as prescribed by Section 29 in combination with Section 35, Section 37, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand, to be executable by virtue of the provisions of the law, the Prime Minister hereby issues the ministerial regulation as follows:

Clause 1

This Ministerial Regulation shall come into force after a lapse of thirty days from the date of its publication in the Government Gazette onward.

Clause 2

In this Ministerial Regulation:

"Competent official" means the person appointed by the Prime Minister to perform actions under the Anti-Money Laundering Act, 1999, and assigned by the Transaction Committee or the Secretary-General, as the case may be, to undertake the seizure or attachment of property in accordance with the order.

Chapter 1**Seizure and Attachment of Property****Clause 3**

Upon the Transaction Committee or the Secretary-General, as the case may be, already issuing an order seizing any immovable property, the competent official shall promptly issue notice in writing to the land officials or the officers authorized and duty-bound to register the rights and juristic acts connected with such immovable property and the said land officials or officers shall record the seizure.

Clause 4

Prior to the seizure of property, the competent official shall present the assignment documents, the identity card and the order seizing the property to the owner or the persons entitled to the property. If such person is not found, the presentation shall be made to the possessor or family member of the possessor. If the said person is not found, the seizure shall be undertaken by also enlisting the police officials or administration officials in such locality as the witnesses.

Clause 5

The competent official shall seize the property every day during the period from sunrise to sunset except in the event of reasonable belief that, if the actions are not taken immediately, such property will be lost or removed. The competent official shall then be authorized to be able to seize property at other time.

Clause 6

The competent official shall post the seizure notification at the location of such immovable property and issue a notice in writing to the immovable property owner and the combined owners or the persons entitled to the immovable property. If such persons could not be

notified, the seizure notifications shall be posted at the land office, metropolitan district office or provincial district office of the locality in which such immovable property is seized and at the workplaces of the Office, both in the central and provincial areas.

In case that the competent official is able to obtain the document of title for the immovable property, such document of title shall be kept in custody at the Office.

Clause 7

In seizing the land having the buildings, structures or including also any objects belonging to other persons or entitled by other persons, the competent official shall record the statements of the owners, the persons entitled to or the possessors of such buildings, structures or any objects as to the manner of rights over such land, e.g., right of habitation, tenancy or superficies.

Clause 8

In seizing other buildings or structures, the competent official shall reasonably record the details of such buildings or structures.

Clause 9

In seizing the movable property, the competent official shall issue a notice in writing to the property owner and combined owners or the persons entitled to the property. If the said persons could not be notified, the seizure notifications shall be posted at the police station of the locality in which such property is seized and at the workplaces of the Office, both in the central and provincial areas.

In case of seizing the movable property with title register, e.g., ship or ship having tonnage from six tons or more, steam ship or motor boat having tonnage from five tons or more, houseboat, machinery or aircraft, the competent official shall notify the registrar of such property of the seizure and the registrar shall record such seizure.

Clause 10

The competent official shall list the seized property by showing the details relevant to the property, e.g., name, category, quantity, size, weight and condition of the property in numerical order and shall display mark at the property to be clearly visible that the seizure has already been made in accordance with the method deemed expedient.

Clause 11

Upon the property being already seized, the competent official shall arrange for the owner of or the person entitled to such property or the possessor or family member of the possessor of such property to affix signature certifying the list of seized property. Should such person refuse to affix signature or in case that such person is not present, the list of seized property shall be recorded and the police official or administration official of such locality shall affix the signature of certification instead.

Clause 12

In case of the competent official already undertaking the seizure of movable property but being unable to move such movable property to be kept in custody at the Office or safekeeping place or such movable property being under inappropriate condition for safekeeping, the Transaction Committee or the Secretary-General shall be reported for consideration to issue an order as deemed expedient.

In the event that the Transaction Committee or the Secretary-General, as the case may be, has not yet issued the order under paragraph one, the competent official, who undertook the seizure, shall, in the meantime, keep the property in custody as deemed expedient.

Clause 13

Upon the Transaction Committee or the Secretary-General, as the case may be, has already issued an order to attach any property, the competent official shall issue notice of

the order in writing to the property owner, the persons entitled to or the possessor of such property. In case of the property under the right-of-claim category, the notice shall also be made to the third party being duty-bound or liable to make payment or submit things under such right of claim.

Clause 14

If the value of the property, under the right-of-claim category being so attached, has been impaired on account of the fault of the third party owing to the failure to comply with the attachment order whether any causes, the Transaction Committee or the Secretary-General, as the case may be, shall demand such third party to be liable to compensate for any damages occurred wherefrom.

Clause 15

The property attachment order may be issued whether or not the debt of such third party will have argument, restriction or condition.

Chapter 2

Property Appraisal

Clause 16

Upon the seizure or attachment of any property, the assigned competent official shall promptly undertake to appraise the said property.

Clause 17

For the appraisal of property under some category, the assigned competent official may ask for cooperation from experts or knowledgeable skilled persons to inspect the category/type and appraise such property.

Clause 18

In case of the Transaction Committee or the Secretary-General deeming the property price as appraised by the competent official to be too low or high, the Transaction Committee or the Secretary-General may order the competent official to explain the reasons in the appraisal or order a new appraisal of property.

Clause 19

The property appraisal shall be made under the rules as follows:

- (1) To appraise the land, the principle of comparison with the market price or the price closest to the market price shall be used but it shall not be lower than the appraisal made by Department of Land as used in registering the rights and juristic acts.
- (2) To appraise buildings or structures:
 - (a) For newly-built buildings, the principle of calculation from drawings in accordance with the construction procedures shall be used;
 - (b) For used buildings, the calculation shall be made in accordance with the official ready-made tables.
- (3) To appraise other property:
 - (a) For new property, the market price shall be used as the basis for appraisal;
 - (b) For old property, the market price less the depreciation under actual condition or other prescribed procedure shall be used;

- (c) For shares in the stock market, the latest trading price shall be used. For debentures, the par value shall be used and for shares in companies, the appraisal shall be made from the financial status and performance of such companies.

Clause 20

Upon the competent official having already seized or attached and appraised the property, a report shall be forwarded to the Transaction Committee or the Secretary-General, as the case may be, including also the list of seized or attached property.

Clause 21

The money from the budget shall be used as the expenses for the seizure, attachment and appraisal of the property, in this respect, as prescribed by the Secretary-General under the approval of Ministry of Finance.

Clause 22

The documents relevant to the seizure, attachment, property appraisal and reports shall be in accordance with the forms prescribed by the Office.

Given this 11th day of September 2000

Signed by

Mr. Chuan Leekpai

Prime Minister

Rationale: Whereas paragraph two of Section 56 of the Anti-Money Laundering Act, 1999, provides that the seizure or attachment of property and the appraisal of the seized or attached property shall be in accordance with the rules, procedures and conditions prescribed in the ministerial regulation, it is expedient to prescribe the rules, procedures and conditions for the seizure or attachment and the appraisal of the said property. It is thus necessary to issue this Ministerial Regulation.

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