

**The Protection and Promotion of Traditional Thai Medicine Wisdom Act,  
B.E. 2542 (1999)**

**Translation**

BHUMIBHOL ADULYADEJ, REX.;

Given on the 19th day of November B.E. 2542 (A.D. 1999)

Being the 54th Year of the Present Reign

His Majesty King Bhumibhol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on the protection and promotion of traditional Thai medicine wisdom;

This Act contains certain provisions in relation to the restriction of the rights and liberty of persons which Section 29 in conjunction with Section 35, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of the provisions of law.

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

**Section 1**

This Act shall be called the "Protection and Promotion of Traditional Thai Medicine Wisdom Act, B.E. 2542 (1999)".

**Section 2**

This Act shall come into force after the expiration of one hundred and eighty days from the date of its promulgation in the Government Gazette.

**Section 3**

In this Act:

"traditional Thai medicine wisdom" means the fundamentals of knowledge and capability relating to traditional Thai medicine;

"traditional Thai medicine" means the medical processes concerned with examination, diagnosis, therapy, treatment or prevention of diseases, or promotion and rehabilitation of the health of humans or animals, midwifery, traditional Thai massage, and shall include the preparation of traditional Thai drug production and the invention of medical devices and instruments, based on the knowledge or texts that have been passed on and developed by succession;

"traditional Thai medicine text" means the technical basis concerned with traditional Thai medicine which has been recorded in Thai books, palm leaves, stone inscriptions or any other materials or that has not been recorded but through learning or passing on by succession in any manner whatsoever;

"traditional Thai drug" means a drug derived from herbs directly or from the mixing, blending or processing of herbs and shall include traditional drugs under the law on drugs;

"traditional Thai drug formula" means a formula which specifies the production process and ingredients of a preparation which includes a traditional Thai drug whether such preparation presents in any form;

"herb" means plants, animals, microorganisms, minerals, original extracts from plants or animals which are used or processed or mixed or blended as a drug or food for the purpose of examination, diagnosis, therapy, treatment or prevention of diseases, or promotion and rehabilitation of the health of human beings or animals and shall include the provenance or habitat of said article;

"controlled herb" means a herb designated by the Minister by notification to be a controlled herb;

"conservation zone" means a national forest reserve, environmentally protected area, wildlife reserve, hunting prohibition area, national park and other protected area for preserving and protecting natural conditions as stipulated by law;

"original extract" means a natural substance that has not been prepared or added with molecules in accordance with scientific processes to result in a new substance;

"crudely processed" means the preparation or change of the conditions or properties of a herb to obtain a combined extract by traditional and developed methods without extraction to be refined substances on a species or individual basis;

"inheritor of a traditional Thai drug formula or traditional Thai medicine text" means a person whom has been passed on with a traditional Thai drug formula or traditional Thai medicine text by an inventor or a person developing such article or who has learned by succession without knowing its inventor, the person who improved or developed such article or who received such article from other person;

"right-holder" means a person who has registered the right in traditional Thai medicine wisdom under this Act;

"dispose" means to sell, distribute, give out or exchange and shall include having for sale;

"export" means to take or send out of the Kingdom;

"processing" means preparing or changing the conditions or properties of herbs;

"Committee" means the Committee on the Protection and Promotion of Traditional Thai Medicine Wisdom;

"committee member" means a member of the Committee on the Protection and Promotion of Traditional Thai Medicine Wisdom;

"Licensor" means the Permanent Secretary of the Ministry or a person assigned by the Permanent Secretary of the Ministry;

"Registrar" means the Central Registrar or a provincial registrar as the case may be;

"competent authority" means the licensor, the registrar and a person appointed by the Minister for the execution of this Act;

"Permanent Secretary" means the Permanent Secretary of the Ministry of Public Health;

"Minister" means the Minister having charge and control of execution of this Act.

#### **Section 4**

The Minister of Public Health shall be in charge of the execution of this Act and shall have the power to appoint competent authorities, issue ministerial regulations prescribing fees not higher than those given in the Schedule annexed hereto and prescribing other matters and issue regulations and notifications for the execution of this Act.

Such ministerial regulations, rules and notifications shall come into force upon publication in the Government Gazette.

### **Chapter 1**

#### **Committee on the Protection and Promotion of Traditional Thai Medicine Wisdom**

#### **Section 5**

There shall be a committee on the protection and promotion of traditional Thai medicine wisdom consisting of the Permanent Secretary of the Ministry of Public Health as Chairman, the Director-General of the Department of Medical Services, the Director-General of the Department of Intellectual Property, the Director-General of the Department of Livestock Development, the Director-General of the Royal Forest Department, the Director-General of the Department of Agriculture, the Director-General of the

Department of Medical Sciences, the Secretary-General of the Food and Drug Administration, the Secretary-General of the Office of Environmental Policy and Planning and the Director of the Medical Practitioner Division as ex officio members and qualified members, in an equal number of ex officio members, whom have been appointed by the Ministry of Public Health from a group of medical practitioners and from a group of persons who have knowledge and capability or experience in traditional Thai medicine, The selection of qualified members under paragraph 1 shall be in accordance with the rules and procedures as specified in the ministerial regulations.

## **Section 6**

The Committee shall have the following powers and duties.

- (1) to give advice or consultation to the Minister with regard to the issuance of ministerial regulations, rules or notifications in accordance with this Act;
- (2) to promote and develop the utilization of traditional Thai medicine wisdom and herbs;
- (3) to determine measures for the strengthening of security and coordination among government agencies, state enterprises, communities and non-government organizations engaging in the protection and promotion of traditional Thai medicine wisdom and herbs;
- (4) to give approval in ordering the revocation of the registration of traditional Thai medicine wisdom in accordance with paragraph 3 of Section 39;
- (5) to consider and decide appeals against the order or decision of the Registrar or the Licensor under this Act;
- (6) to lay down regulations in connection with the rules and procedures for lodging an appeal and procedures for appeal consideration; preparing the register of traditional Thai medicine wisdom; managing, acquiring benefits and spending of the Fund and carrying on operations relating to the protection and promotion of traditional Thai medicine wisdom and herbs;
- (7) to perform other tasks as prescribed by this Act or other laws to be within the power and duty of the Committee;
- (8) to perform other tasks as assigned by the Minister.

## **Section 7**

A qualified member appointed by the Minister shall hold office for a term of two years as from the date of appointment.

In cases where a qualified member vacates office before his term expires subject to paragraph two of Section 5, the Minister may appoint any other person who have similar qualifications to fill the vacancy and such person shall hold office for the remaining term of the qualified member whom he has replaced.

A qualified member who vacates office at the expiration of the term may be re-appointed.

## **Section 8**

In addition to the vacation of office at the expiration of the term under Section 7, a qualified member appointed by the Minister vacates office upon:

- (1) death;
- (2) resignation;
- (3) being a bankrupt;
- (4) being an incompetent or quasi-incompetent person;
- (5) being dismissed by the order of the Minister by reason of improper or dishonest performance of duties or misconduct.
- (6) having been imprisoned by a final judgment of imprisonment, except for an offence committed through negligence or a petty offence.

- (7) being no longer a medical practitioner in case of being appointed to be a member under such position.

### **Section 9**

A meeting of the Committee requires the presence of not less than one-half of the total number of members to constitute a quorum.

At any meeting, if the Chairman is unable to attend or unable to perform his duties, the members present shall elect one among themselves to be the Chairman of that meeting.

Decisions of the meeting shall be made by a majority of votes. Each member shall have one vote. In case of equal voting, the Chairman of the meeting shall have an additional casting vote.

### **Section 10**

The Committee has the power to appoint a sub-committee to consider or perform any matter as assigned by the Committee.

The provisions of Section 9 shall apply to the meeting of a sub-committee *mutatis mutandis*.

### **Section 11**

In the performance of its duties under this Act, the Committee and the sub-committees have the power to order persons concerned to give explanations or submit evidence for supporting its consideration.

### **Section 12**

There shall be an institute of traditional Thai medicine in the Office of the Permanent Secretary of the Ministry of Public Health having the power and duty in carrying out operations relating to the protection and promotion of education and training, studies and researches and development of traditional Thai medicine wisdom and herbs and taking responsibility in the administrative and academic works of the Committee.

### **Section 13**

The Director of the Institute of Traditional Thai Medicine shall be the Registrar and provincial public health doctors shall be provincial registrars.

## **Chapter 2**

### **Protection and Promotion of Traditional Thai Medicine Wisdom**

### **Section 14**

The right in traditional Thai medicine wisdom to be eligible for protection under this Act include the right in traditional Thai medicine wisdom relating to traditional Thai drug formulas and traditional Thai medicine texts.

### **Section 15**

The Institute of Traditional Thai Medicine shall have the duty to collect data on traditional Thai medicine wisdom relating to traditional Thai drug formulas and traditional Thai medicine texts throughout the Kingdom for the purpose of preparing the register.

The preparation of the register of traditional Thai medicine wisdom relating to traditional Thai drug formulas and traditional Thai medicine texts under paragraph one shall be in accordance with the rules prescribed by the Committee.

### **Section 16**

There are three types of traditional Thai medicine wisdom namely:

- (1) National formulas of traditional Thai drugs or national texts on traditional Thai medicine.

- (2) General formulas of traditional Thai drugs or general texts on traditional Thai medicine.
- (3) Personal formulas of traditional Thai drugs or personal texts on traditional Thai medicine.

### **Section 17**

The Minister shall have the power to declare by notification traditional Thai drug formulas or traditional Thai medicine texts that are specially beneficial or valuable in medicine or public health to be national formulas of traditional Thai drugs or national texts on traditional Thai medicine as the case may be.

The notification under paragraph one shall be in accordance with the rules and procedures prescribed in the ministerial regulations.

### **Section 18**

The Minister shall have the power to declare by notification traditional Thai drug formulas or traditional Thai medicine texts that are extensively used or of which protection term has been expired under Section 33 to be general formulas of traditional Thai drugs or general texts on traditional Thai medicine as the case may be.

The notification under paragraph one shall be in accordance with the rules and procedures prescribed in the ministerial regulations.

### **Section 19**

Any person wishes to take a national formula of traditional Thai drug to be registered as a drug formula and apply for drug production permission in accordance with the law on drugs or take it for a research study to improve or develop it to be a new drug formula for commercial purpose shall file an application for permission to use and pay fees including remuneration for such use to the Licensor.

The application for permission and the granting of permission, restrictions and remuneration shall be in accordance with the rules, procedures and conditions as specified in the ministerial regulations

### **Section 20**

A personal formula of traditional Thai drug or a personal text of traditional Thai medicine in accordance with Section 16 (3) may be registered for the right in traditional Thai medicine wisdom for receiving protection and promotion as provided by the provisions of this Act by filing an application to the Registrar.

The application for the registration of the right in traditional Thai medicine wisdom under paragraph one shall be in accordance with the rules, procedures and conditions as specified in the ministerial regulations.

### **Section 21**

A person who has the right to register the right in traditional Thai medicine wisdom in accordance with Section 20 shall be of Thai nationality and have the following qualifications.

- (1) Being an inventor of a traditional Thai drug formula or a traditional Thai medicine text.
- (2) Being a person improving or developing a traditional Thai drug formula or a traditional Thai medicine text.
- (3) Being an inheritor of a traditional Thai drug formula or a traditional Thai medicine text.

### **Section 22**

The right in traditional Thai medicine wisdom shall not be registered when the Registrar is of the opinion that:

- (1) It is a national formula of traditional Thai drug or a national text of traditional Thai medicine.
- (2) It is a personal formula of traditional Thai drug which is not blended by the principle of traditional Thai medicine such as the use of plant or animal extracts or microorganisms which are not original extracts in nature or using a processing method that is not crude processing.

### **Section 23**

The application for the registration of the right in traditional Thai medicine wisdom of any person which is not in accordance with the rules, procedures and conditions as specified in the ministerial regulations under paragraph two of Section 20, The Registrar shall order that applicant to proceed with alteration and correction within thirty days from the date of the receipt of such order.

If the applicant does not comply with the order of the Registrar within the specified time under paragraph one, the Registrar shall cancel such application.

### **Section 24**

When the Registrar has examined an application for registration and is of the opinion that the applicant has qualifications in accordance with Section 21 and the traditional Thai medicine wisdom requested to be registered is not under any prohibitions specified by Section 22, the Registrar shall publish such application without delay at the Registration Office and the offices of all local administration organizations.

### **Section 25**

In cases where there are joint applicants for the registration of the right in traditional Thai medicine wisdom, the Registrar shall determine an investigation date and notify all applicants of such date.

In the course of investigation under paragraph one, the Registrar may call any applicant to give statements, furnish explanation or submit documents or anything additionally. When the Registrar has carried out the investigation and the Permanent Secretary has given his decision, the Registrar shall notify all applicants of such decision.

The investigation and consideration for making a decision shall be in accordance with the rules and procedures prescribed in the ministerial regulations.

### **Section 26**

In cases where there are several applicants separately registering the right in the same traditional Thai medicine wisdom, the person who has earlier filed an application for registration shall be entitled to register it. If their applications are filed on the same day and at the same time, an agreement shall be made to settle who will have the exclusive right or the right should be granted to all of them jointly. If no agreement is reached within the period prescribed by the Registrar, the parties shall bring the case to court within ninety days from the expiry of the period prescribed by the Registrar.

If the case is not brought to court within such period, their applications shall be cancelled.

### **Section 27**

When the Registrar has examined the application for registration and is of the opinion that the qualifications of the applicant do not in accordance with Section 21 and the traditional Thai medicine wisdom to be registered is prohibited by Section 22, the Registrar shall issue an order to the applicant within thirty days from the date of issuing the order canceling such application.

### **Section 28**

In cases where the applicant files an appeal against the order of the Registrar under Section 27, if the Committee gives a decision on the appeal that the order of the Registrar is incorrect, the Registrar shall proceed with such application.

### **Section 29**

After publishing the application under Section 24, any person considering that he has the right to register the right in that traditional Thai medicine wisdom may file a notice of objection to the Registrar along with any evidence within sixty days from the date of publication in accordance with Section 24.

### **Section 30**

Prior to making a decision, the Registrar shall allow the applicant and the objector to give explanations or furnish evidence for supporting consideration.

When the Registrar has given a decision, such decision and the grounds thereof shall be notified in writing to the applicant and the objector within thirty days from the date of giving such decision.

### **Section 31**

In cases where there is no objector in accordance with Section 29 or in cases where there is an objector and a final decision has been given in such a manner that the applicant shall be a person entitled to register or the objector shall be a person entitled to register, the Registrar shall issue an order to register the right in traditional Thai medicine wisdom for the applicant or the objector.

When an order to register the right in traditional Thai medicine wisdom under paragraph one has been given, the Registrar shall a notice of such order to the applicant or the objector for acknowledgement and to pay the registration fee within thirty days from the date of receipt of such notice.

If the applicant or the objector does not pay the fee within the prescribed period, the application shall be deemed abandoned.

The certificate for the registration of the right in traditional Thai medicine wisdom shall be in such a form as prescribed in the ministerial regulations.

### **Section 32**

In cases where the Permanent Secretary has given a decision under paragraph two of Section 25 that several persons are entitled to register or in the event that several applicants applying for the same registration have agreed to have the joint right in traditional Thai medicine wisdom or the Court gives judgment that these persons shall have the joint right in traditional Thai medicine wisdom under Section 26, these persons are accordingly entitled to register the right in traditional Thai medicine wisdom jointly.

In registering the right in traditional Thai medicine wisdom jointly, the persons having the joint right shall prepare a memorandum of agreement with regard to in what way the joint right shall be exercised and deposit it with the Registrar along with such registration.

### **Section 33**

The right in traditional Thai medicine wisdom under this Act shall subsist for the life of the right-holder and continue to subsist for fifty years as from the death of the right-holder.

In case of the joint right-holders under Section 32, the right in the said traditional Thai medicine wisdom shall subsist for the life of all joint right-holders and continue to subsist for fifty years as from the death of the last surviving right-holder.

After the lapse of the time specified in paragraph one or paragraph two, the Minister shall publish, in the Governmental Gazette, the determination of the said traditional Thai drug formula or the said traditional Thai medicine text to be the general formula of traditional Thai drug or the general text of traditional Thai medicine in accordance with Section 16 (2) as the case may be.

### **Section 34**

Only the right-holder shall have the right to produce drugs and have the right to study and research, dispense, improve or develop the traditional Thai drug formula or the wisdom in the traditional Thai medicine text that has been registered.

The provisions of paragraph one shall not apply to:

- (1) any act that has been performed for the purpose of education, investigation, experiment or research in accordance with the rules prescribed by the Minister or
- (2) the preparation of drugs under a physician's prescription by a traditional Thai medical practitioner or
- (3) the production of drugs for local subsistence or the production of drugs by state medical establishments or the use of traditional Thai medicine texts for the purpose of medical treatment in state medical establishments in accordance with the rules prescribed by the Minister.

### **Section 35**

The right in traditional Thai medicine wisdom under this Act shall not be transferable to any person except by way of inheritance.

The inheritor of the right in traditional Thai medicine wisdom under paragraph one shall file an application for registration to the Registrar within two years from the date on which the right-holder has died.

When there is no person applying for registering the inheritance of the right in traditional Thai medicine wisdom within the specified period under paragraph two, the right in traditional Thai medicine wisdom to be protected under this Act shall be deemed to be terminated and paragraph three of Section 33 shall apply *mutatis mutandis*.

### **Section 36**

The right-holder may permit any other person to exercise his right under Section 34.

The licensing to exercise the right under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the ministerial regulations.

### **Section 37**

The Registrar shall have the power to order the cancellation of the registration of the right in traditional Thai medicine wisdom in any of the following cases:

- (1) The right-holder has exercised such right against public order or good morals.
- (2) The right-holder has violated or not complied with the conditions or restrictions prescribed by the Registrar upon registering the right in such traditional Thai medicine wisdom.
- (3) The right-holder has exercised the right in such a manner that may cause severe detriment to the registered traditional Thai medicine wisdom.

### **Section 38**

An interested person or a public prosecutor may submit a petition to the court to cancel the registration that is contrary to Section 21 or Section 22.

### **Section 39**

Prior to ordering the cancellation of the registration of the right in traditional Thai medicine wisdom under Section 37, the Registrar shall investigate the facts and notify the right-holder for submitting an explanation within thirty days from the date of receipt of such notification.

In investigating the facts under paragraph one, the Registrar may order concerned persons to give explanations or furnish evidence for supporting the consideration.

When the Registrar has investigated the facts and is of the opinion that there are reasonable grounds to cancel the registration of the right in the said traditional Thai medicine wisdom, the Registrar shall seek approval from the Committee. When the Committee has given its approval, the Registrar shall cancel the registration of the right in the said traditional Thai medicine wisdom and give a written notice of such order with reasons to the right-holder for acknowledgement within thirty days from the date of canceling such registration.

## **Section 40**

The right-holder whose registration has been cancelled under Section 39 may reapply for registration in accordance with Section 20 after a lapse of one year from the date the Registrar ordered the cancellation of the registration of the right in the said traditional Thai medicine wisdom.

## **Section 41**

In cases where a person licensed to exercise the right in traditional Thai medicine wisdom has exercised such right against public order or good morals or has violated or not complied with the conditions prescribed in the ministerial regulations issued under the provisions of paragraph two of Section 36 or has exercised the right in such a manner that may cause severe detriment to the registered traditional Thai medicine wisdom, the Registrar shall have the power to order the cancellation of the licensing to exercise the right in the said traditional Thai medicine wisdom.

The cancellation of the permission to exercise the right in traditional Thai medicine wisdom under this Section shall be in accordance with the rules and procedures prescribed in the ministerial regulations.

## **Section 42**

Prior to ordering the cancellation of the permission to exercise the right in traditional Thai medicine wisdom under Section 41, the Registrar shall send a written notice to the person licensed to exercise the right in traditional Thai medicine wisdom to submit explanations within fifteen days from the date of receipt of the Registrar's notice and paragraph two of Section 39 shall apply *mutatis mutandis*.

When the Registrar has given an order canceling the permission to exercise the right in traditional Thai medicine wisdom, a written notice with reasons shall be given to the right-holder and the person permitted to exercise the right in traditional Thai medicine wisdom within thirty days from the date of ordering the cancellation of such permission.

## **Section 43**

A person of other nationality who consents a person of Thai nationality to receive the protection of the right in traditional Thai medicine wisdom in that country may apply for the registration of the right in the traditional medicine wisdom of that country which has been registered in his own country to seek protection under this Act.

The application of registration, the issuance of the certificate of registration and the cancellation of the registration under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the ministerial regulations.

## **Chapter 3**

### **Protection of Herbs**

## **Section 44**

For the purpose of protection of herbs, the Minister with the advice of the Committee shall have the power to publish in the Government Gazette determining the types, nature, species and the name of herbs which are valuable for study or research or of economic importance or may be extinct to be controlled herbs.

## **Section 45**

For the purpose of protection of controlled herbs, the Minister with the advice of the Committee shall have the power to publish in the Government Gazette determining:

- (1) the number or quantity of controlled herbs under possession, use, maintenance, storage or handling which are required to notify the Registrar.
- (2) the rules, procedures and conditions in notifications under (1)
- (3) the rules, procedures and conditions in the possessing, utilization, maintenance, storage or handling of controlled herbs.

- (4) the rules, procedures and conditions in the study and research of controlled herbs.
- (5) the rules, procedures and conditions in the export of controlled herbs for commercial purposes and non-commercial purposes or in disposing of or processing controlled herbs for commercial purposes.
- (6) any other acts for protection, prevention or suppression or mitigation of danger or damage that may occur to controlled herbs.

#### **Section 46**

No person shall conduct research studies or export controlled herbs or dispose of or process controlled herbs for commercial purposes unless having been given permission.

The application for a license and the issuance of a license under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the ministerial regulations.

The license issued under paragraph one shall be valid until December 31 of the third year from the year of issuing the license.

#### **Section 47**

The license issued under Section 46 shall extend the protection to the licensee's employee or agent.

The act of the licensee's employee or agent under paragraph one shall be deemed to be the act of the licensee unless the licensee can prove that it is impossible for him to know or control such act.

#### **Section 48**

The provisions of Section 45 shall not apply to the research studies of controlled herbs that are conducted by government agencies. However, they shall be notified to the Registrar and conducted in accordance with the rules, procedures and conditions prescribed in the notification by the Minister in accordance with Section 45 (4).

#### **Section 49**

In renewing the license issued under Section 46, the licensee shall file an application in advance prior to the expiry of the license.

After filing such application, his operations shall continue until the License expires.

The application for a renewal of license and the grant thereof shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

#### **Section 50**

In the event that the license issued under Section 48 is lost or destroyed, the licensee shall file an application for a license substitute within thirty days from the date of learning of such loss or destruction.

The application for and the issuance of a license substitute shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

#### **Section 51**

A person having possession of controlled herbs in numbers or quantities exceeding those prescribed under Section 45 (1) on the date the Minister published in the Government Gazette determining those herbs to be controlled herbs shall notify his possession of controlled herbs to the Registrar under this Act within the period prescribed in such notification.

#### **Section 52**

When it appears that a licensee whose license was issued under Section 46 does not comply with this Act or the ministerial regulations rules or notifications issued under this Act, the Licensor has the power to order suspension of the license for a period not exceeding ninety days each time.

The licensee whose license has been suspended shall stop engaging in the business under such license and during such suspension, he shall not apply for any licenses under this Act on any account.

### **Section 53**

The licensor has the power to order revocation of the order of suspension of the license when he is satisfied that the licensee whose license has been suspended has already complied with this Act or the ministerial regulations, rules or notifications issued under this Act.

### **Section 54**

When it appears that a licensee whose license was issued under Section 46 does not comply with this Act or the ministerial regulations rules or notifications issued under this Act and such non-compliance constitutes a severe wrongdoing, the Licensor has the power to order cancellation of the license.

The licensee whose license has been cancelled shall stop engaging in the business under such license and shall not apply for any licenses under this Act until a lapse of two years from the date of cancellation of the license and the Licensor may or may not issue a license as he considers fit.

### **Section 55**

The order of suspension of the license under Section 52 and the order of cancellation of the license under Section 54 shall be given in writing to notify the licensee for acknowledgement. In case the licensee cannot be found or the licensee refuses to acknowledge such order, it shall be posted up at the open and conspicuous place specified in the license and it shall be deemed that the licensee have acknowledged thereof from the date of posting up such order.

### **Section 56**

The licensee whose license has been canceled under Section 51 may dispose of his remaining controlled herbs to other licensee or to a person whom deemed proper by the licensee within sixty days from the date of acknowledgement of such cancellation order or in the case of an appeal, as from the date of acknowledgement of the Committee's decision unless the Licensor has granted a waiver allowing an extension of time, but shall not exceed sixty days.

### **Section 57**

For the purpose of protecting herbs and the provenance areas of herbs which have natural ecosystems or have biodiversity or can be easily affected from human acts in the areas designated to be conservation zones, the Minister with the advice of the Committee shall prepare action plans called the "management plans for the protection of herbs" for submission to the Council of Ministers for approval.

The management plans for the protection of herbs under paragraph one may be prepared as short-term, middle-term and long-term plans as appropriate and shall consist of the programs and guidelines for operations in the following matters:

- (1) Determining the conditions in granting permission to any person to enter the conservation zones in accordance with the governing laws related thereto to be complied by relevant government agencies for preserving the natural conditions or the value of herbs or to avoid impacts on the natural ecosystems or the biodiversity in the provenance areas of herbs.
- (2) Determining management methods particularly for the provenance areas of herbs including determining the scope of duties and responsibilities of relevant government agencies for the purpose of cooperation and coordination, resulting in efficiency for preserving the natural conditions, natural ecosystems, biodiversity and the value of herbs in the said areas.

- (3) Surveys and research studies on herbs and the provenance areas of herbs for the purpose of determining measures for the protection of herbs and provenance areas of herbs.
- (4) Examination, monitoring and analysis of the entering of the conservation zones for the purpose of assessing the operating performance in accordance with the plans and the enforcement of relevant laws.

The management plans for the protection of herbs under paragraph one shall be published in the Government Gazette.

### **Section 58**

For the purpose of the preparation of the management plans for the protection of herbs under Section 57, the competent authorities shall have the power to enter any areas designated to be conservation zones for conducting surveys and research studies on herbs and the provenance areas of herbs with the cooperation and coordination of relevant government agencies in accordance with the rules prescribed by the Minister.

### **Section 59**

Upon announcing the implementation of the management plans for the protection of herbs under Section 57, the protection and management of the areas in the conservation zones shall be in accordance with the management plans for the protection of herbs and the governing laws related thereto.

### **Section 60**

In any conservation zone, if it appears that the management of the area is improper or the nature of the management problems for the protection of herbs is wrong or there is severe destruction of herbs or the provenance of herbs to a crisis stage which requires immediate remedy and the relevant government agencies do not have legal power or are unable to solve such problems, the Minister with the advice of the Committee shall seek approval from the Council of Ministers to allow the Ministry of Public Health to take action for making use of the protective measures in accordance with the management plans for the protection of herbs under Section 57 as is necessary and appropriate for controlling and solving the problems.

### **Section 61**

In cases where any area is the provenance of herbs of which has a natural ecosystem or biodiversity that can be destroyed or affected by human acts or the entering of the area for using herbs is of a risky nature to cause the extinction or the reduction of genetics or the government authorities have the objectives to encourage people to participate in the management, development and utilization of herbs in that area and that area has not yet been designated to be the conservation zone by publication. The Minister with the advice of the Committee shall have the power to issue ministerial regulations designating the said area to be the protected area for herbs.

The land in the area to be designated as the protected area for herbs under paragraph one shall not be the land under the ownership or possessory right in accordance with the Land Code of any person who is not a public body.

The ministerial regulation under paragraph one shall have a map showing the boundary lines of the said land designated to be the protected area for herbs annexed thereto.

### **Section 62**

In issuing the ministerial regulation under Section 61, any one or more of the following protective measures shall be prescribed thereunder.

- (1) The utilization of herbs for preserving the natural condition or the value of herbs or preventing impacts on the natural ecosystems or biodiversity in such area.
- (2) Prohibition of any acts that may be harmful or adversely affect or change the ecosystem of such area from its natural state or biodiversity or affect the value of herbs.

- (3) Determining management methods particularly for such area including determining the scope of duties and responsibilities of relevant government agencies for the purpose of cooperation and coordination, resulting in efficient operations for preserving the natural conditions or the value of herbs or the natural ecosystem or biodiversity of such area.
- (4) Determining other protective measures as is necessary and appropriate for the conditions of such area.

### **Section 63**

In the protected area for herbs, no person shall hold or occupy the land or built or construct anything or cut, fell, clear burn or destroy trees or other vegetation or destroy biodiversity or the natural ecosystems or dig for minerals, rock, soil or change a waterway or cause the water in a river, creek, swamp or marsh to overflow or dry up becoming toxic or harmful to herbs except for any acts for the purpose of managing the protected area for herbs or utilizing herbs with the permission of the Licensor.

The application for and the issuance of a license under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the ministerial regulations.

The license issued under paragraph one shall be valid until December 31 of the third year from the year of issuing the license.

Section 49, Section 50 and Sections 52 to 55 shall apply *mutatis mutandis* to the renewal of the license, the application for a license substitute, the suspension of the license and the cancellation of the license which has been issued by the provisions of paragraph one *mutatis mutandis*.

### **Section 64**

To encourage private individuals to participate in the protection, promotion and development of herbs, the owner or the possessor of the land which is the provenance of herbs or the land to be used for cultivation of herbs has the right to take the said land to be registered with the Registrar for seeking assistance or seeking support under this Act.

The application for registration, the issuance of a certificate of registration and the cancellation of registration shall be in accordance with the rules, procedures and conditions prescribed in the ministerial regulations.

### **Section 65**

The owner or possessor of the land that has been registered under Section 64 has the right to receive assistance or receive support in accordance with the rules prescribed by the Minister.

## **Chapter 4**

### **Appeals**

### **Section 66**

In cases where the Registrar gives an order canceling the registration in the traditional Thai medicine wisdom in accordance with Section 27, the applicant has the right to appeal against such order to the Committee within thirty days from the date of receipt of the Registrar's notice of such order.

### **Section 67**

In cases where the Registrar gives a decision in connection with the person entitled to register the right in the traditional Thai medicine wisdom under paragraph two of Section 30, the applicant or the objector as the case may be has the right to appeal against such decision to the Committee within thirty days from the date of receipt of the Registrar's notice of such decision.

## **Section 68**

In cases where the Registrar has an order canceling the registration of the right in traditional Thai medicine wisdom under paragraph three of Section 39, the right-holder has the right to appeal against such order to the Minister within thirty days from the date of receipt of the Registrar's notice of such order.

The decision of the Minister shall be final.

The appeal under paragraph one does not entail a stay of the execution of the order canceling the registration of the right in traditional Thai medicine wisdom.

## **Section 69**

In cases where the Registrar has an order canceling the permission to exercise the right in traditional Thai medicine wisdom under Section 41, the person permitted to exercise the right in traditional Thai medicine wisdom has the right to appeal against such order to the Committee within thirty days from the date of receipt of the Registrar's notice of such order.

The appeal under paragraph one does not entail a stay of the execution of the order canceling the permission to exercise the right in traditional Thai medicine wisdom.

## **Section 70**

In cases where the Licensor has an order suspending the license under Section 52 or has an order canceling the license under Section 54, the licensee whose license has been suspended or cancelled by the said order has the right to appeal against such order to the Committee within thirty days from the date of receipt of the Registrar's notice of such order.

The appeal under paragraph one does not entail a stay of the execution of the order suspending the license or the order canceling the license.

## **Section 71**

The decision of the Committee under Section 66, Section 67, Section 69 and Section 70 shall be final.

## **Section 72**

The filing of an appeal and the procedures for an appeal shall be in accordance with the rules and procedures prescribed in the ministerial regulations.

## **Chapter 5 Competent Authorities**

## **Section 73**

In the execution of duties, a competent authority shall have the power to:

- (1) enter any premises during office hours for inspection and control to ensure compliance with this Act;
- (2) to search any premises or vehicles between sunrise and sunset or during office hours in cases where there are reasonable grounds for suspecting that an offence under this Act has been committed and in cases where there are reasonable grounds to believe that by reason of the delay in obtaining a warrant of search, the documents or articles relating to such offence are likely to be removed, concealed or destroyed and if the search during the aforementioned time has not been completed, such search may continue;
- (3) seize or attach all documents or articles related to the commission of an offence under this Act for the purpose of using as evidence in taking legal action;

- (4) to order any person to give statements or submit documents or evidence when there is a reason to believe that the same may be useful for the finding or the use as evidence for proving an offence under this Act;
- (5) order any person to leave the protected area for herbs or refrain from carrying out any act which is in contravention of Section 63.

In carrying out the duties of competent authorities under paragraph one, the person concerned shall provide facilitation to the competent authorities as appropriate.

#### **Section 74**

In performing duties, the competent authority shall present his identity card.

The identity card of the competent authority shall be in accordance with the form specified by the Minister upon publication in the Government Gazette.

#### **Section 75**

In the execution of duties in accordance with this Act, the competent authority shall be an official under the Criminal Code.

### **Chapter 6**

#### **The Traditional Thai Medicine Wisdom Fund**

#### **Section 76**

There shall be established a fund called the "Traditional Thai Medicine Wisdom Fund" in the Office of the Permanent Secretary of the Ministry of Public Health to provide a revolving fund to finance expenses in connection with the protection and promotion of traditional Thai medicine wisdom.

The Fund shall consist of capital and property as follows:

- (1) subsidy from the government;
- (2) money or other property received from the private sector both locally and overseas, from foreign governments or international organizations;
- (3) interest and benefits accrued from the Fund;
- (4) other revenue generated from the operation of the Fund.

The revenue of the Fund is exempted from being remitted to the Ministry of Finance under the laws on treasury reserve and on budgetary procedure.

The Office of the Permanent Secretary of the Ministry of Public Health shall keep the moneys and property of the Fund and make disbursements from the Fund in accordance with this Act.

The management, the procurement of benefits and the spending of the Fund shall be in accordance with the rules prescribed by the Committee with the approval of the Ministry of Finance.

### **Chapter 7**

#### **Penal Provisions**

#### **Section 77**

Any person who fails to comply with an order of the Committee or subcommittees under Section 11 in conjunction with Section 6 (5) or the Registrar's orders under paragraph two of Section 39 or the order of a competent authority under Section 73 (4) shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand Baht or to both.

### **Section 78**

Any person who contravenes Section 19, Section 46, paragraph two of Section 52, paragraph two of Section 54 or paragraph one of Section 63 or fails to comply with the order of a competent authority under Section 73 (5) shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

### **Section 79**

Any person who contravene Section 51 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

### **Section 80**

Any person who violates the protective measures in compliance with the provisions in the ministerial regulations issued by virtue of Section 62 (2) shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding forty thousand Baht or to both.

### **Section 81**

Any person who fails to provide reasonable facilitation to the competent authority in accordance with paragraph two of Section 73 shall be liable to a fine not exceeding two thousand Baht.

### **Section 82**

In case the offender who is liable to be punished under this Act is a juristic person, the managing director, managers or representatives of such juristic person shall also be punished likewise, unless it can be proved that the act of the juristic person has been conducted without their knowledge or consent.

Countersigned by

Mr. Chuan Leekpai

Prime Minister

**Remarks:** The reason for the publication of this Act is that at present Thai people have interest in and need for health care, therapy and treatment by traditional Thai medicine which comprise the use of herbs, Thai massage, traditional bone healing, psychotherapy as well as other natural methods for self-reliance on the family, community and national levels and the Ministry of Public Health has a policy to develop traditional Thai medicine by applying this knowledge in the work of public health and integrating the provision of traditional Thai medicine services in public health service facilities of the state as well as promoting and researching drugs from herbs for economic results, resulting in more self-reliance in respect of the production of drugs in Thailand. However, as traditional Thai medicine wisdom such as herbs, drug formulas which are beneficial to be taken for development and utilization has not yet received protection, promotion, conservation and development for utilization, it is appropriate to provide preventive measures and encourage private individuals, communities and non-government organizations to realize the value of traditional Thai medicine wisdom and herbs and to participate in sustainable conservation, development and utilization. Thus, it is necessary to enact this Act.

## FEES

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| (1) A license for research study on controlled herbs and renewal thereof.   | 10,000 Baht each |
| (2) A license to dispose of, export or process controlled herbs for commercial purposes and renewal thereof.  | 20,000 Baht each |
| (3) A license for the management of a protected area for herbs or utilization of herbs in a protected area for herbs for commercial purposes and renewal thereof. | 10,000 Baht each |
| (4) A license substitute under (1) (2) or (3).  | 100 Baht each    |
| (5) A certificate for the registration of land which is the provenance of herbs.  | 1,000 Baht each  |
| (6) A certificate substitute for the registration of land which is the provenance of herbs.   | 100 Baht each    |
| (7) A license to utilize a national formula of traditional Thai drug or a national text of traditional Thai medicine under Section 19.                            | 20,000 Baht each |
| (8) An application for objecting the registration of the right in traditional Thai medicine wisdom.   | 500 Baht each    |
| (9) A certificate for registration of the right in traditional Thai medicine wisdom.  | 1,000 Baht each  |
| (10) A certificate substitute for registration of the right in traditional Thai medicine wisdom.  | 100 Baht each    |
| (11) An application for permission, an application for renewal, an application for registration and application for registration under this Act.                  | 500 Baht each    |

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Kor Page 49

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