

Ministerial Regulation**Prescribing Rules and Procedures Pertaining to the Application for a Foreign Business Certificate B.E. 2546 (2003)****Translation**

By virtue of Section 11 and Section 46 of the Foreign Business Act, B.E. 2542 (1999), which is an Act containing certain provisions relating to the restriction of rights and liberties of the people, which Section 29 in conjunction with Section 35 and Section 50 of the Constitution of the Kingdom of Thailand allow to be done by virtue of law, the Minister of Commerce hereby issues the Ministerial Regulation as follows:

Clause 1

A foreigner who intends to operate a business under Section 9, Section 10 or Section 45 shall notify the Director-General of the Department of Business Development together with the following evidence and documents in order to apply for a Certificate in the form prescribed by the Director-General of the Department of Business Development in a Notification:

(1) Application for a Certificate under Section 9:**(A) Natural person:**

- 1) a copy of the passport or identification document for foreigners;
- 2) a copy of the house register, a certificate of residence in the Kingdom or evidence of permission to enter the Kingdom for a temporary stay under the law on immigration;
- 3) a statement on the type of business for which the Certificate application is made;
- 4) evidence showing that the person making the notification had been operating the notified business prior to the revision of the list of businesses;
- 5) a map indicating the approximate location of the place of business operation in Thailand;

(B) Juristic person not registered in Thailand:

- 1) a copy of a certificate or evidence of juristic person status containing particulars of the name, capital, objects, place of business, name list of directors and signatories who are authorized to bind the juristic person;
- 2) a letter of appointment of a representative issued by the authorized signatory under 1) as appointer of a representative to have charge and control of the business operations in Thailand on behalf of juristic person;
- 3) a copy of the passport, identification document for foreigners or identification card of the representative appointed under 2);
- 4) a copy of the house register, a certificate of residence in the Kingdom or evidence of permission to enter the Kingdom for a temporary stay under the law on immigration of the representative appointed under 2);
- 5) Evidence or documents under (1) (A/3), 4) and 5)

(C) Juristic person registered in Thailand:

- 1) evidence or documents under (1)(A) 3), 4) and 5);
- 2) evidence or document under (1)(B) 1);
- 3) a declaration of the proportion of shareholdings between Thai persons and foreigners and the number of shares and the class or kind of shares held by foreigners;

(2) Notification under Section 10:

(A) Natural person:

- 1) Evidence or documents under (1)(A) 1), 2), 3) and 5);
- 2) a copy of a letter from the Government of the Kingdom of Thailand permitting a foreigner to temporarily operate a business or a letter certifying the nationality of the person making the notification to exercise rights under a treaty from an embassy of a country which is a party to the treaty concluded with Thailand or a letter certifying the nationality of the person making the notification to exercise rights pursuant to an obligation from an embassy of a country which has a binding obligation with Thailand;

(B) Juristic person not registered in Thailand:

- 1) a copy of a certificate or evidence of juristic person status containing particulars of the name, capital, objective greatest proportion, place of business, name list of directors and signatories who are authorized to bind the juristic person and the name and nationality list of shareholders or details of partners; in the case where documents showing the name and nationality list of shareholders or details of partners cannot be submitted, a document which shows that a person having the nationality of a country which is a party to the treaty or which has a binding obligation with Thailand holds or invested the majority of shares or money in such juristic person shall be submitted;
- 2) in the case where the majority shareholder or partner of the person making the notification is a juristic person, the evidence or document under 1) of such majority shareholder or partner shall be submitted until the last majority shareholder or partner in order to show that such juristic person who is the shareholder or partner of the person making the notification has a national of a country which is a party to a treaty or has a binding obligation with Thailand holds or invested the majority of shares or money in such juristic person;
- 3) evidence or documents under (1)(A) 3) and 5);
- 4) evidence or documents under (1)(B) 2), 3) and 4)
- 5) evidence or document under (2)(A) 2);

(C) Juristic person registered in Thailand:

- 1) evidence or documents under (1)(A) 3) and 5);
- 2) evidence or document under (1)(B) 1);
- 3) evidence or document under (1)(C) 3);
- 4) evidence or document under (2)(A) 2);
- 5) in the case where the majority shareholder or partner of the person making the notification is a juristic person, the evidence or documents under (2)(B) 1) and 2) of such majority shareholder or partner shall also be submitted;

(3) Notification under Section 45:

(A) Natural person:

- 1) evidence or documents under (1)(A) 1), 2), 3) and 5);
- 2) evidence showing that the person making the notification had been operating the notified type of business at the date which the Foreign Business Act, B.E. 2542 (1999) came into force, and that such business was not a business stated in the schedule to the Announcement of the Executive Council No. 281, dated 24 November, B.E. 2515 (1972);

(B) Juristic person not registered in Thailand:

- 1) evidence or documents under (1)(A) 3) and 5);
- 2) evidence or documents under (1)(B) 1), 2), 3) and 4);
- 3) evidence or document under (3)(A) 2);

(C) Juristic person registered in Thailand:

- 1) evidence or documents under (1)(A) 3) and 5);
- 2) evidence or document under (1)(B) 1);
- 3) evidence or document under (1)(C) 3);
- 4) evidence or document under (3)(A) 2).

Clause 2

A person making a notification shall completely fill in the application form in print, which shall also be signed by the person making the notification or by an appointee in the case where another person was authorized by a power of attorney to act on his/her behalf.

Clause 3

In the case where a power of attorney was executed in a foreign country, such power of attorney shall be notarized by an official or by a person who has been prescribed with the powers of notarization by the laws of such country, or by an authorized official of the Thai Embassy or the Thai Consulate stationed in such country for a period not exceeding six months prior to the date of notification in order to apply for a Certificate.

Clause 4

In the case where the power of attorney was executed in Thailand and the appointer does not have residence in Thailand, a copy or photocopy of the passport or certificate of temporary residence, or other evidence showing that at the time of the power of attorney such person had truly entered into Thailand, shall be submitted.

Clause 5

In the case where the evidence or documents in support of the application have been signed in a foreign country, the applicant shall provide for the certification of such signatures. The provision in clause 3 shall apply *mutatis mutandis*.

Clause 6

In the submission of evidence or documents in support of the application, if such evidence or documents are in a foreign language, their translations in Thai shall be provided. The applicant and the translator shall affix their signatures to certify the correctness of the translations.

Clause 7

In the submission of copies or photocopies of evidence or documents in support of the application, the applicant shall certify the correctness of such copies or photocopies.

Clause 8

A notification shall be made to the following places:

- (1) in Bangkok, a notification shall be made to the Department of Business Development, the Ministry of Commerce or to such other place as prescribed by the Director-General in a Notification;
- (2) in other provinces, a notification shall be made to the Office of Provincial Business Development or to such other place as prescribed by the Director-General in a Notification.

Clause 9

In a case of necessity for the benefit of issuing a Certificate, a competent official may request that the person making the notification give a statement of facts or deliver other evidence or documents which are relevant.

Clause 10

A Certificate shall be in the form prescribed by the Director-General of the Department of Business Development in a Notification.

Given on 1st May B.E. 2546 (2003)

Signed by Mr. Adisai Bhotaramik

Minister of Commerce

Disclaimer

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