

**Ministerial Regulation****Prescribing Rules and Procedures Pertaining to the Application for a License to Operate a Business under Section 17, B.E. 2546 (2003)****Translation**

By virtue of Section 17 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 apply for a license to operate a business under Section 17 shall submit a license application in accordance with the form prescribed by the Minister of Commerce in a Notification together with the following evidence and documents:

**(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 certification by the applicant that he/she possesses the qualifications and does not have a prohibited characteristic under Section 16 of the Foreign Business Act, B.E. 2542 (1999);
- (4) a declaration of the details of the type of business for which the license application was made, which shall contain the following items:
  - 1) the type of business for which the application was made, including the stages of the operations;
  - 2) an estimate of the expenditure as regards the amount of funds which the applicant will expend in Thailand for the acquisition of fixed assets and for the operational expenses of the business in each year over a period of three years or over the actual period of business operation in the case where the business was operated for less than three years;
  - 3) the size of the operations;
  - 4) the size of the workforce in Thailand which the applicant will employ;
  - 5) a plan for the import of foreign technology and the transfer of technology (if any);
  - 6) a plan for research and development, in which there shall be an explanation of the working plan for research and development (if any);
  - 7) the intended period of business operation;
  - 8) the overall benefit to the economy which Thailand is expected to receive from the business operation;
- (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 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) a certification by the applicant that the applicant, director, manager or representative appointed possesses the qualifications and is not under a prohibition under Section 16 of the Foreign Business Act, B.E. 2542 (1999);
  - (6) evidence or documents under (A) (4) and (5);
- (C) Juristic person registered in Thailand:
- (1) evidence or documents under (A) (4) and (5);
  - (2) evidence or document under (B) (1);
  - (3) a certification by the applicant that the applicant, director or manager possesses the qualifications and is not under a prohibition under Section 16 of the Foreign Business Act, B.E. 2542 (1999);
  - (4) 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;

#### **Clause 2**

The applicant shall completely fill in the application form in print, which shall also be signed by the applicant 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 submission of application.

#### **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**

An application for license shall be submitted at the following places:

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

**Clause 9**

In a case of necessity for the benefit of considering an application for a license, a competent official may request that the applicant give a statement of facts or deliver other evidence or documents which are relevant.

**Clause 10**

A license shall be in the form prescribed by the Minister of Commerce in a Notification.

Given on 1<sup>st</sup> May B.E. 2546 (2003)

Signed by 7 Mr. Adisai Bhotaramik

Minister of Commerce

**Disclaimer**

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