Translation

ROYAL DECREE

ESTABLISHING ELECTRONIC TRANSACTIONS DEVELOPMENT AGENCY
(PUBLIC ORGANISATION),
B.E. 2554 (2011)

BHumIBol AduLyadej, Rex.
Given on the 10th Day of February B.E. 2554;
Being the 66th Year of the Present Reign.

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

Whereas it is expedient to establish the electronic transactions
development agency being public organisation under the law on public organisation;
By virtue of section 187 of the Constitution of the Kingdom of Thailand
and section 5 of the Public Organisation Act, B.E. 2542 (1999), the King hereby issues
the Royal Decree as follows:

Section 1. This Royal Decree is called the “Royal Decree Establishing
Electronic Transactions Development Agency (Public Organisation), B.E. 2554 (2011)”.

Section 2. This Royal Decree shall come into force as from the day
following the date of its publication in the Government Gazette.*

Section 3. In this Royal Decree:
“Electronic transactions” means any act of transacting made, wholly or
partly, through electronic method;
"Agency" means the Electronic Transactions Development Agency
(Public Organisation);
"Board" means the Executive Board of the Electronic Transactions
Development Agency;
"Director" means the Director of the Agency;
"Officer" means an officer of the Agency;
"Employee" means an employee of the Agency;
"Minister" means the Minister having charge and control of the execution
of this Royal Decree.

Section 4. The Minister of Information and Communication
Technology shall have charge and control of the execution of this Royal Decree.

CHAPTER I
Establishment, Objectives and Powers and Duties

Section 5. There shall be established a public organisation called the
“Electronic Transactions Development Agency (Public Organisation)”, to be called
"ETDA" in brief and “Electronic Transactions Development Agency (Public
Organisation)" in English.


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so as to establish correct understanding about this Royal Decree to foreigners.
Section 6. The Agency shall have its head office in Bangkok or any adjoining Changwat.

Section 7. The Agency shall have the following objectives:
(1) to develop, promote and support electronic transactions of the country;
(2) to develop, promote and support electronic transactions of small and medium enterprises and community enterprise;
(3) to explore the needs for information technology infrastructure necessarily for electronic transactions, service in relation to electronic transactions and government electronic transactions in all aspects so as to prepare recommendation on national electronic transaction development;
(4) to conduct study and research and develop information and communication technology in relation to electronic transactions so as to prepare recommendation on standard for information and communication technology necessarily for electronic transactions;
(5) to promote, support and disseminate knowledge and provide service in relation to information and communication technology for electronic transactions, and to provide training with a view to upgrade skills related to standard, security or any other matters in concerning with information and communication technology for electronic transactions.

Section 8. For the achievement of the objectives under section 7, the Agency shall have the powers and duties as follows:
(1) to have ownership, possessory right and real right;
(2) to create right or engage with any juristic act related to property and to engage in any juristic act for the benefit of the Agency;
(3) to conclude any arrangement and provide coordination with other State or private organisations or agencies, domestically and abroad, in any undertaking related to any implementation in accordance with its objectives;
(4) to prepare and provide fund for supporting business of the Agency;
(5) to joint ventures with other juristic persons in any undertaking in accordance with the objectives of the Agency;
(6) to borrow money for the benefit of any undertaking in accordance with the objectives of the Agency;
(7) to collect fee, dues, consideration or service charge from any undertaking done in accordance with the objectives of the Agency under the rule and rate determined by the Board;
(8) to carry out any act necessary for, or in connection with, the achievement of the objectives of the Agency.

The joint ventures under (5) and the borrowing of money under (6) shall be in accordance with the rule laid down by the Council of Ministers.

CHAPTER II
Fund, Income and Property

Section 9. The fund and property to be used for the undertaking of the Agency consisting of:
(1) transferred money and properties under section 39;
(2) general bounty in an amount the government thinks fit for the circumstance;
(3) subsidy from private sector, local administration or other organisations, including foreign organisation or international organisation, as well as donated money or property;
(4) fee, dues, consideration, service charge and income collected from any undertaking done in accordance with the objectives of the Agency;
(5) fruit of money or benefit derived from its property.
The acceptance of money or property under (3) shall not be made if it may deteriorate an independence or impartiality of the Agency.

Section 10. All incomes of the Agency shall not be remitted to the Ministry of Finance as State revenue.
If there is necessary or appropriate, the Agency may, with approval of the Board, remit its income in an appropriate amount to the Ministry of Finance as State revenue.

Section 11. The ownership of all immovable properties which are donated to, or purchased by incomes of, the Agency shall devolve on the Agency.
The Agency shall have the powers to control, manage, maintain, utilise, dispose of and earn benefit from its properties.

Section 12. The spending of money of the Agency shall be made particularly to the undertaking of the Agency.
The keeping and disbursement of money of the Agency shall be in accordance with the regulation laid down by the Board.

CHAPTER III
Management and Business Undertaking

Section 13. There shall be a Board called the “Executive Board of the Electronic Transactions Development Agency”, consisting of:
(1) the Chairperson as appointed by the Council of Ministers from the person with highly apparent knowledge, skill and experience in information and communication technology, management or any other field which relates and benefits for the business of the Agency;
(2) two ex officio members, viz., the Permanent Secretary of the Ministry of Information and Communication Technology, the Director of the Bureau of the Budget and the Director of the National Science and Technology Development Agency;
(3) not more than six qualified members appointed by the Council of Ministers from the persons with highly apparent knowledge, skill and experience in finance, electronic commerce, law, computer science, science or engineering, social or any other field which relates and benefits for the business of the Agency. The qualified members shall consist of member who is not a government official or a person working with State agency with permanent position or salary.
The Director shall be ex officio member and secretary and shall appoint the officer to be assistant secretary as necessary.
The rule and procedure for selection of the person to be nominated to the Council of Ministers for appointment as the Chairperson and qualified member and for selection for replacement of the Chairperson or qualified member who vacates office before term under section 17 shall be in accordance with the rule laid down by the Council of Ministers with advice of the Board.

Section 14. The Chairperson and a qualified member shall have the qualifications and shall not be under any of the prohibitions as follows:

1. being of Thai nationality;
2. being of not less than thirty-five years of age, but not more than seventy years of age;
3. not being a bankrupt, incompetent or quasi-incompetent;
4. not having been sentenced by a final judgment to imprisonment, except for an offence committed through negligence or a petty offence;
5. not being a person holding a political position, member of a local assembly or local administrator, director or person in charge of administration of a political party or advisor or official of a political party;
6. not being officer or employee of the Agency or advisor or expert having any contract with the Agency;
7. not having any interest, directly or indirectly, in any act done with the Agency or in any undertaking which its business is competitive with, contrary to, or inconsistent with, the objectives of the Agency; provided that he has been entrusted by the Board to be the Chairperson or member of, or representative of the Agency in, any other juristic person on the course of joint ventures under section 8 (5).

The provisions of (1) shall not apply to a foreign member appointed by the Agency to fulfil any engagement or for the compliance with the nature or business undertaking of the Agency.

Section 15. The Chairperson and a qualified member hold office for a term of three years.

At the expiration of the term under paragraph one, if the new Chairperson or a qualified member has not been appointed, the Chairperson or a qualified member who vacates office shall remain in office to continue his duties until the newly appointed Chairperson or a qualified member takes office.

The Chairperson or a qualified member who vacates office at the end of the term may be re-appointed, but not more than two consecutive terms.

Section 16. In addition to vacating office at the end of the term, the Chairperson and a qualified member vacate office upon:

1. death;
2. resignation;
3. being dismissed by the Council of Ministers due to negligent in the discharge of duty, disgrace behaviour or incapability;
4. being disqualified or being under any of the prohibitions under section 14.

Section 17. In the case where the Chairperson or a qualified member vacates office before term or where the Council of Ministers appoint an additional qualified member while the appointed qualified members remain in office, the appointee shall be in office for the remaining term of the Chairperson or a qualified member he replaces or for the remaining term of the appointed qualified members. In this regard, if the remaining term of office is less than ninety days, the appointment to fulfill the vacancy may be exempted.
In the case where the Chairperson or a qualified member vacates office before term, the Board shall consist of the existing number of the members until the appointment for fulfilment of the vacancy under paragraph one is made. In the case where the Chairperson vacates office before term, the existing members shall elect one among themselves to preside over the meeting.

Section 18. The Board shall have the powers and duties to supervise business undertaking of the Agency to be in compliance with its objectives, including the following powers and duties:

1. to lay down administrative policy and to give approval to the operation plan of the Agency;
2. to give approval to an investment plan, financial plan, project and annual budget of the Agency;
3. to supervise financial status and security, to give approval to financial statement, to consider financial audit of the auditor and to lay down financial regulation, rule or prohibition;
4. to lay down rule and procedure in providing fund for supporting national electronic transactions development;
5. to lay down rule, procedure and condition in providing support to the project which is beneficial to electronic transactions development;
6. to give advice or recommendation for solving problem or impediment arising on account of administration and management and to propose solution to the Council of Ministers or Minister for consideration if there is problem or impediment in relation to any implementation in accordance with the objectives and powers and duties of the Agency;
7. to give approval to the rule for collection and rate of fee, dues, consideration and service charge for any undertaking of the Agency;
8. to conduct performance assessment of the Director and staffs of the Agency in accordance with the rule and procedure laid down by the Board;
9. to supervise general undertaking and administration and to lay down rule, regulation, notification or determination of the Agency as follows:
   a. general administration of the Agency, organisational structure and powers and duties of each unit;
   b. determination of position, specific qualification of each position, scale of salary, wage and other money of the officer and employee;
   c. selection, recruitment, appointment, performance assessment, dismissal, discipline and disciplinary punishment, removal from office, petition and appeal against punishment of the officer and employee, including procedure and condition for the engagement of employee
   d. administration and management of finance, procurement and properties of the Agency as well as accounting and disposing of properties from account;
   e. provision of welfare and other benefits to the officer and employee;
   f. scope of powers and duties and regulation for the performance of duties of the internal auditor;
   g. selection, appointment and removal of, performance of work of, and entrusting of powers and duties to other person of, the Director;
10. to give approval and submit the annual report to the Minister for the execution under this Royal Decree;
11. to carry out any act which is necessary for, or in connection with, the achievement of the objectives of the Agency.
The regulation for the disposing of properties from account under (9) (d) shall be in accordance with the rule laid down by the Council of Ministers.

Section 19. At a meeting of the Board, the presence of not less than one-half of the total number of its members shall constitute a quorum.

At a meeting, if the Chairperson is unable to attend the meeting, or is unable to perform his duties, the members shall elect one among themselves to preside over the meeting.

In the performance of duties, the Chairperson or a member who has any interest in the matter under consideration, whether directly or indirectly, shall declare his interest in the meeting. In this case, the Board shall, in accordance with the regulation laid down by the Board, consider as to whether such Chairperson or member should be allowed to attend the meeting or vote on that matter.

A decision shall be made by a majority of votes. In casting votes, each member shall have one vote. In case of equality of votes, the person who preside over the meeting shall have an additional vote as a casting vote.

Section 20. The Board shall have the power to appoint an expert in the field that is beneficial to the performance of the Agency to be its advisor and shall have the power to appoint sub-committee, working group and advisor to the working group so as to consider or carry out any matter as entrusted by the Board.

The advisor of the Board, sub-committee, working group and advisor to the working group shall not have any interest, whether directly or indirectly, in any undertaking done with the Agency or in any undertaking which its business is competitive with the Agency; provided that he has been entrusted by the Board to be the Chairperson or member of, or representative of the Agency in, any other juristic person on the course of joint ventures under section 8 (5).

The provisions of section 19 shall apply mutatis mutandis to the meeting of the sub-committee and working group.

Section 21. The Chairperson, member, advisor of the Board and member of sub-committee shall be entitled to meeting allowance and other benefits in accordance with the rule laid down by the Council of Ministers.

A member of the sub-committee and its advisor shall be entitled to meeting allowance and other benefits in accordance with the rule laid down by the Board with approval of the Council of Ministers, but not higher than the meeting allowance and other benefits under paragraph one.

Section 22. There shall be a Director of the Agency.

The Board shall have the powers to select, appoint and dismiss the Director.

In the case where there is no Director or he is unable to perform his duties, the Deputy Directors with highest seniority respectively shall be Acting Director. If there is no Deputy Director, the Board shall appoint a member to be Acting Director.

Section 23. The Director shall perform full-time work for the Agency and shall have qualifications and shall not be under the prohibition as follows:

(1) being of Thai nationality;
(2) being of not more than sixty-five years of age;
(3) being a qualified person having knowledge, capacity and experience appropriated with business undertaking of the Agency under its objectives and the powers and duties under section 7 and section 8;
(4) not being under any of the prohibitions under section 14 (3), (4), (5), (6) or (7).

Section 24.  The Director holds office for a term of four years and may be re-appointed, but not more than two consecutive terms.

Section 25.  In addition to vacating office at the end of the term, the Director vacates office upon:
(1) death;
(2) resignation;
(3) the occurrence of any circumstance as specified in the agreement concluded between the Board and the Director;
(4) being dismissed by the Board due to the negligent in the discharge of duty, disgrace behaviour or incapability;
(5) being disqualified or being under any of the prohibition under section 23.

The resolution of the Board to dismiss the Director under (4) shall be made by not less than two-thirds of the existing number of the members other than the Director.

Section 26.  The Director shall have the duty to administer the Agency to be in accordance with law, objectives of the Agency, rule, regulation, determination, policy and resolution laid down by the Board and shall be superior of all officers and employees other than the internal auditor under section 34 paragraph two. The Director shall also have the following duties:
(1) to propose target, work plan and project for the accomplishment of the objectives of the Agency to the Board;
(2) to submit annual report presenting the outcome of the undertaking of the Agency in all aspects, including financial and accounting report, and to submit the financial plan and annual budget for the next fiscal year to the Board for consideration;
(3) to give recommendation on an improvement of the undertaking of the Agency to the Board with a view to enhance the efficiency of the Agency for the accomplishment of its objectives.

The Director shall be responsible for the administration of the Agency to the Board.

Section 27.  The Director shall have the following powers:
(1) to appoint, with approval of the Board, Deputy-Director or Assistant Director to perform any act entrusted by the Director;
(2) to recruit, appoint, promote, reduce or cut salary or wage, impose disciplinary measure on officer and employee and to remove officer and employee in accordance with the regulation or rule laid down by the Board;
(3) to lay down regulation relating to business undertaking of the Agency which shall not contrary to, or inconsistent with, law, resolution of the Council of Ministers and rule, regulation, determination, policy, resolution or notification of the Board.
Section 28. In relation to external affairs, the Director shall be representative of the Agency. For this purpose, the Director may entrust any person to carry out specific undertaking on his behalf in accordance with the regulation or rule laid down by the Board.

Any juristic act done by the Director or his entrusted person in violation of the regulation or rule laid down by the Board shall not bind the Agency, except where ratification thereto is given by the Board.

Section 29. The Board shall have the power to determine remuneration rate and other benefits of the Director in accordance with the rule laid down by the Council of Ministers.

CHAPTER IV
Staff of the Agency

Section 30. There are three categories of the staff of the Agency, that are:

(1) an officer or employee, viz., a staff who receives salary or wage from budget of the Agency;
(2) an advisor or expert, viz., a staff whom hired upon contract base by the Agency to be advisor or expert;
(3) a government official who has been transferred to work for the Agency temporarily under section 33.

Section 31. An officer and employee shall have the qualifications and shall not be under any of the prohibitions as follows:

(1) being of Thai nationality;
(2) being not less than eighteen years of age, but not more than sixty years of age;
(3) being capable to perform full-time work for the Agency;
(4) having qualification or experience in compliant with the objectives and powers and duties of the Agency;
(5) not being a government official or employee, officer or employee of State enterprise or other State agencies or officer or employee of a local administration;
(6) not being advisor or expert whom hired upon contract base by the Agency;
(7) not being under any of the prohibitions under section 14 (3), (4), (5) or (7).

The provisions of (1) shall not apply to foreign officer whom hired or appointed by the Agency to fulfil any engagement or for the compliance with the nature or business undertaking of the Agency.

Section 32. An officer and employee vacates office upon:

(1) death;
(2) resignation;
(3) being disqualified or being under any of the prohibitions under section 31;
(4) being dismissed on the ground that he is unable to pass performance assessment under the rule and procedure specified by the Board in the regulation or rule;

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(5) being dismissed or removed on the ground that he is in violation of
discipline under the rule and procedure specified by the Board in the regulation or rule.

Section 33. For the benefit of management of the Agency, the
Minister may request a government official, officer, employee or other staffs of any
Ministry, Department, local administration, State enterprise, other public agencies or
other State agencies to perform duties as an officer or employee of the Agency
temporarily. In this case, an approval of the superior or employer of such person shall
be given and the agreement on such approval shall be made.

A State official who has been approved to perform duties as an officer or
employee of the Agency temporarily under paragraph one is deemed to be permitted to
vacate or leave from official service to perform other works, and the period which such
person has worked for the Agency shall be counted as the period for calculation of
gratuity, pension or other similar benefits as if such person still be in the government
service or has done full-time work, as the case may be.

At the expiration of the approved period, a State official under paragraph
one shall be entitled to be recruited and appointed back to his former government
agency at the position with salary of not lower than the position and salary specified in
the agreement on approval.

CHAPTER V
Accounting, Audit and Performance Assessment of the Agency

Section 34. An accounting of the Agency shall be in accordance with
international standard and shall be compliance with the form and rule laid down by the
Board. An internal audit on finance, accounting and procurement of the Agency shall be
organised and the report thereof shall be submitted to the Board for information at least
once a year.

An internal audit shall be conducted by a staff of the Agency who is
specifically appointed to be an internal auditor. An internal auditor shall be responsible
directly to the Board in accordance with the regulation or rule laid down by the Board.

Section 35. The Agency shall prepare and submit its balance sheet,
financial statement and operating account to the auditor within one hundred and twenty
days after the expiration of each accounting year.

Each year, the Office of the Auditor General or another person appointed
by the Board with approval of the Office of the Auditor General shall audit an account
and assess the spending of money and properties of the Agency. In this regard, the
auditor shall render his analysis as to whether such spending is compliance with its
objectives, economy and produce targeted results and shall submit the audited report to
the Board.

For this purpose, the auditor shall have the powers to examine all books
of account, documents and evidences of the Agency, to interrogate the Director, internal
auditor, officer and employee or other persons, and to summon any book of account,
document and evidence from the Agency if he thinks fit.

Section 36. The Agency shall submit an annual report to the Minister
at the end of it budget year. Such report shall state the performance of the Agency
through the lapse year, operating account together with the report of the auditor and
statement on policy of the Board, project and work plan to be done.
Section 37. In order to develop and improve efficiency of working system of the Agency upon result-based management basis, to establish public accountability and confidence in the business of the Agency and to monitor and examine an implementation of the Agency to be in accordance with its objectives, project and work plan, the Agency shall cause to have its performance assessment within the period determined by the Board, but not exceeding three years.

The performance assessment under paragraph one shall be conducted by an impartial institute, organisation or group of persons skilfully in performance assessment which is selected or appointed in accordance with the procedure laid down by the Board.

The performance assessment of the Agency shall reveal facts on the effectiveness and efficiency and on organisation development as well as other details as may be determined by the Board.

If there is provisionally reasonable necessity, the Board may cause to have performance assessment under this section from time to time.

CHARTER VI
Supervision

Section 38. The Minister shall have the powers and duties to supervise the undertaking of the Agency to be in accordance with law, objectives of the Agency, government policy and resolution of the Council of Ministers in relation to the Agency. For this purpose, the Minister shall have the powers to order the Agency to give statement, opinion or report, or to suspend any act of the Agency which is contrary to its objectives, government policy and resolution of the Council of Ministers in relation to the Agency, and to investigate the fact related to business undertaking of the Agency.

CHAPTER VII
Transitory Provisions

Section 39. Once this Royal Decree comes into force, the Minister shall propose the Council of Ministers to proceed with section 9 of the Public Organisation Act, B.E. 2542 (1999) so as to transfer all powers, duties, affairs, properties, rights, obligations and budget in relation to the mission of the Permanent Secretary Office of the Ministry of Information and Communication Technology on information and communication technology development in electronic transactions and other missions related to research and development on information infrastructure for electronic transactions of the National Science and Technology Development Agency under the Science and Technology Development Act, B.E. 2534 (1991) to the Agency under this Royal Decree.

Section 40. At the outset, the qualified members of the Electronic Transaction Committee under the Act on Electronic Transactions, B.E. 2544 (2001) as amended who remain in office on the date this Royal Decree comes into force shall perform powers and duties of the Board under this Royal Decree temporarily until the Board under this Royal Decree has been appointed which shall not exceed sixty days as from the date this Royal Decree comes into force.

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Section 41.  At the outset, the Director of the National Electronic and Computer Technology Centre, Office of the National Science and Technology Development Agency under the Science and Technology Development Act, B.E. 2534 (1991) who remains in office on the date this Royal Decree comes into force shall be Acting Director under this Royal Decree until the Director under this Royal Decree has been appointed which shall not exceed one hundred and twenty days as from the date this Royal Decree comes into force.

Section 42.  The government official, officer or employee of the Permanent Secretary Office of the Ministry of Information and Communication Technology who remains in office on the date this Royal Decree comes into force and desires to transfer to be the officer or employee of the Agency shall, in accordance with the regulation laid down by the Committee under section 40, submit his written intention to his superintendent within thirty days as from the date this Royal Decree comes into force and shall pass selection and assessment process in accordance with the regulation laid down by the Committee under section 40. In this regard, such rule and procedure shall not contrary to, or inconsistent with, the rule laid down by the Council of Ministers under section 10 of the Public Organisation Act, B.E. 2542 (1999).

The recruitment and appointment of the person who passes the selection and assessment under paragraph one shall have retrospective effect to the date the Council of Ministers had passed a resolution to proceed with section 39.

Section 43.  The person who is recruited and appointed as officer or employee under section 42 shall be entitled to salary, wage or other remuneration in accordance with the position and salary or wage rate determined by the Committee under section 40, including welfare and other benefits which shall not less than that such government official, officer or employee has received.

The government official recruited and appointed to be officer of the Agency under this Royal Decree is deemed to be retired from government service because the government terminates or dissolves his position in accordance with the law on gratuities and pensions of government official or the law on government official's pension fund, as the case may be.

The employee of the government agency recruited and appointed to be employee of the Agency is deemed to be retired because the government terminates or dissolves his position without fault and shall be entitled to receive gratuities in accordance with the Regulation of the Ministry of Finance on employee's gratuities.

The conversion to be officer or employee of the Agency under this Royal Decree shall not be deemed as retiring on the ground of government dismissal.

Section 44.  For the purpose of calculation of benefits in accordance with the rule of the Board issued under this Royal Decree, the government official, officer and employee of the Permanent Secretary Office of the Ministry of Information and Communication Technology who converts to be officer or employee of the Agency under this Royal Decree shall be entitled to continue counting the period he had worked as government official, officer or employee to the period he works for the Agency in accordance with the rule, procedure and condition laid down by the Board under this Royal Decree.
Section 45. While there is no regulation, rule, notification or
determination of the Agency under this Royal Decree, the regulations, rules,
notifications or determinations of the Office of the National Science and Technology
Development Agency under the Science and Technology Development Act, B.E. 2534
(1991) in relation to the execution of work in accordance with the scope of objectives or
powers and duties of the Agency under this Royal Decree which still in force on the date
this Royal Decree comes into force shall apply mutatis mutandis.

Countersigned by:
Abhisit Vejjajiva
Prime Minister