

THE LICENSING FACILITATION ACT OF THAILAND

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The absence of clear procedures and specific deadlines of granting necessary licenses, permits, registrations and notifications to operate a business in Thailand has hampered Thailand's competitiveness. But the Licensing Facilitation Act B.E. 2558 (the "LFA") effective from 21st July 2015 will enhance the transparency and accountability of the government procedures. The LFA will also boost Thailand's competitiveness and the investor's confidence in doing business in Thailand.

The LFA requires government offices to set out procedures, requirements and deadlines for the granting of all licenses, permits, registrations and notifications by government offices that are required prior to establishment and operation of a business (the "Licenses"). But the LFA does not apply to the work of the National Assembly and the Cabinet, the Court's rules, procedures and judgments, the civil and criminal procedures and execution thereof, the environmental regulations and the licensing related to strategic military operations.

Licensing Manual

To facilitate the public in seeking the Licenses from the government offices, each government office is required to prepare a licensing manual that consists of rules, procedures and requirements for submission of applications for the Licenses within 180 days of the effective date of the LFA. A list of the required documents and the period of time for granting the Licenses must be included in the licensing manual. An application can only be refused if it does not meet the requirements specified in the licensing manual, preventing officers to act discretionally. The licensing manual must be placed at the relevant government office and made available to the public.

The competent official must examine the application and supporting documents when the application is filed. If the official finds any defect that needs to be fixed, he has to immediately make a defect record and notify the applicant to rectify the defect. A complete application or an application with the notified defect rectified according to the defect record must be granted. The decision of the competent official must be notified to the applicant within 7 days from the date of the decision. The competent official who fails to comply with the licensing manual can be subject to penal liabilities and civil liabilities for damages suffered by the applicant.

Review of Regulations

Every period of five years or earlier from the effective date of the LFA, each government office is required to review the laws and regulations that empower them to grant the Licenses to determine as to whether the measures applicable to the Licenses that they are in charge

should be repealed or replaced by any other measures which are more convenient and less time consuming.

If the applicable laws or regulations are changed prior to approval of a pending application filed before the change of the applicable laws or regulations, the application will remain valid and must be determined under the applicable laws and regulations existing as of the application filing date.

One Stop Service Center (OSC)

The LFA requires creation of a One Stop Service Center in each province. The application for the Licenses, the renewal of the Licenses, the payment of fees and the appeal in relation to the Licenses can be made at the OSC. This should allow a standardized and speedy review of all licensing applications and renewals based on objective criteria. Online applications and renewals are also encouraged. Their procedures will be specified by a Royal Decree.

Will the LFA Work?

The LFA is an important step taken by the current Government to improve the ease of doing business in Thailand, to increase transparency and accountability of the government offices and to prevent corruption. It is apparent that Thailand has given a strong sign of improving competitiveness and minimizing corruption practices before the starting of the ASEAN Economic Community on 31st December 2015. Time will tell whether or not the LFA will work as planned.

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