

## THE LICENSING FACILITATION ACT – A More Business Friendly Licensing Procedure in Thailand?

Historically, obtaining a desired business license, registration, or other requisite government permission has often been time consuming and incurred arguably unnecessary costs in Thailand. Such inefficiencies stem in large part from the broad discretion government offices are generally given to determine what an applicant must do or provide, to obtain a license, registration, or permission. What is required to obtain a given license at one office at one time may not be the same at another office or even the same office on a different day. Recently, however, the Thai government enacted a law that aims to significantly reduce, or even eliminate, such inconsistencies and resulting waste.

The Licensing Facilitation Act (2015) was formally published on 22 January 2015 and it will take effect on 21 July 2015. With a few notable exceptions, including court procedures, environmental regulation, and licensing related to strategic military operations, the Act applies to all licenses, registrations, and permissions that Thai law requires or allows individuals to obtain. It also applies to the government offices charged with issuing the same. The Act requires all other government offices to produce, and make available to the public, a **Manual** that details the procedure, timing, and specific requirements (including listing *all* necessary documents that must be provided) to obtain the licenses, registrations, and permissions that they administer.

Significantly, once a Manual is in place, Thai government offices covered by the Act will no longer have discretion to deviate from the requirements therein. If, *but only if*, an application does not meet the requirements in the Manual, an office may refuse an application. However, in such case that office must do so in writing to the applicant within the time required by the Manual. Any such written notice must also explain why the office is refusing the application *and* detail how the applicant should revise

their application to make it acceptable. Thereafter the applicant may resubmit the application. If the office rejects it again, the office must provide reasons for the rejection again in writing. The applicant may then choose to either resubmit its application or file an appeal under the Administrative Procedures Act.

If an office is unable to make an initial determination on an application within the time required by the Manual, that office must provide reasons for the delay in writing to the applicant and send a copy of such to an administrative oversight committee. Such written notice must be repeated every seven days until the office provides its written decision on the application. In the event any such office fails to comply with this requirement *“it shall be deemed that it commits or omits the commission of an act which causes damage to other persons; provided that such commission or omission was not caused by force majeure.”*

The Act also favors business interests over regulatory formality. Under the Act if an application was submitted in accordance with the law, and any relevant regulation, and that law or regulation changes prior to approval of the application, the application remains valid and will be determined under the previous law and regulation. Renewing licenses may also become significantly more efficient. Operators of certain ongoing business activities may be eligible under the Act to renew their licenses by simply paying the renewal fee, without having to file a renewal application.

Finally, the Act requires all offices to establish “Service Link Centers” to accept applications, as well as, to provide information regarding what is required by law to apply for and receive any license, registration, and approval, which that office administers. The Act also provides for “One Stop Service Centers” to be established in each province in Thailand. Presently applications for and to renew a license, registration, or approval must be done at the specific government office that issues it. But once established, applicants will be able to accomplish all such applications and renewals at one location dedicated to this purpose. Furthermore, the Act provides for One Stop Service Centers to accept certain applications online.

This “mere administrative law” may not appear significant to some. And only time will tell how it will be implemented in practice. However, it is a welcome addition to Thailand’s legal landscape. We believe that, if properly implemented, the Act has the

potential to greatly improve administrative efficiency and services, and therefore, make doing business in Thailand easier.

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