

LICENSING FACILITATION ACT,

B.E. 2558 (2015)

BHUMIBOL ADULYADEJ, REX.

Given on the 16th Day of January B.E. 2558;

Being the 70th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that: Whereas it is expedient to have the law on licensing facilitation;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act is called the "Licensing Facilitation Act, B.E. 2558 (2015)".

Section 2. This Act shall come into force at the expiration of one hundred and eighty days as from the date of its publication in the Government Gazette.[*]

Section 3. This Act applies to the granting of all permissions or licensing as well as all registrations or notifications in which the application for those are required by laws or rules prior to do any activity.

All laws or rules which are contrary to, or inconsistent with, this Act shall be repealed and replaced by this Act.

Section 4. In this Act:

"Official" means an official under the law on administrative procedure;

"License" means an authorization to be made by the official to any person prior to do any activity as prescribed by laws, including the granting of license or permission, the registration, the acceptance of notification and the issuance of a certificate of lease or concession;

"Authority" means the authority having charge and duty to grant license;

"Competent official" means the competent official under the law related to licensing;

"Laws related to licensing" means all laws with the provisions that require the granting of license prior to do any activity or business;

"Application" means an application for license.

Section 5. This Act shall not apply to:

(1) the National Assembly and the Council of Ministers;

(2) the Court's rules, procedure and judgment and the performance of duty of the official in accordance with civil procedure and the execution of, and deposit in lieu of the performance in, any civil case;

(3) the execution under the criminal procedure;

(4) the licensing under the law on natural resources and environment;

(5) the licensing related to military strategic operation, including the law related to arms control and private armory.

The exemption of any activity or agency other than those prescribed in paragraph one shall be prescribed by the Royal Decree.

Section 6. Every five years as from the date this Act comes into force, each authority shall review the law that empowers him to grant license as to whether such licensing should be repealed or replaced by any other measure. If it is necessary, the authority may conduct the review prior to the completion of such period.

The authority shall submit the report of the review under paragraph one to the Council of Ministers for consideration. In this regards, the Council of Ministers shall take recommendation of the Law Reform Commission under the law on the Council of State into its consideration.

Section 7. If the license to do any act is required by law, the authority shall prepare the licensing manual for the public which at least composes of the rules, procedure and conditions (if any) for the submission of the application, work flow and period of time for the granting of license as well as the list of documents or evidences to be attached with the application, and the submission of the application may be made via electronic method in place of submission by hands if so specified in the manual.

The licensing manual for the public shall be placarded at the place designated as the place for submission of application and shall be disseminated in an electronics media. If the public requests for a copy of such manual, the competent official may collect appropriate service charge for the provision thereof. The amount of service charge shall be specified in the manual.

There shall be the duty of the Public Sector Development Commission to inspect whether the work flow and period of time for the granting of license under paragraph one are compliant with the rules and procedure for good public governance. If it is of opinion that such work flow or period of time may cause unnecessary delay in the granting of license, it shall propose such matter to the Council of Ministers for the revision thereof forthwith.

Each government agency shall, in rendering licensing facilitation to the public, establish its Service Link Center to accept all applications for licenses, and to provide license-related information as prescribed by the laws related to licensing, under its responsibilities to the public in accordance with the guideline laid down by the Public Sector Development Commission.

Section 8. There shall be the duty of the competent official who accepts the application for license to examine the completeness of the application and its attached documents or evidences. If the submitted application has any defect or the attached documents or evidences do not fulfill the requirements, the competent official shall suggest the applicant to fix or fill up at once. In the case

where the defect or the requirements could be fixed or fulfilled instantly, the competent official shall notify the applicant to do so forthwith. If the fixing of defect or the fulfilling of requirements could not be done at that moment, the competent official shall make a record of such defect or the requirements to be fulfilled as well as the period of time in which those have to be fixed or fulfilled. In this regards, the competent official and the applicant shall sign their names on that record.

The competent official shall deliver a copy of the record under paragraph one to the applicant as evidence.

If the application and attached documents or evidences submitted by the applicant is complete as specified in the licensing manual for the public under section 7, or the application has been fixed or the documents or evidences has been fulfilled as suggested by the competent official or as appeared in the record under paragraph one, the competent official shall not be able to call for any other documents or evidences and shall not refuse to consider the application on the ground of defect of the application or of insufficient documents or evidences; provided that, such ground arising from the negligence or dishonest in the performance of duties of the competent official and the granting of license is unable to be made. In this case, the authority may have an order as he think fits, but he shall bring disciplinary action or bring a charge against all relevant competent officials without delay.

Section 9. In the case where the applicant fails to comply with the suggestion of the competent official or the record made under section 8 paragraph one, the competent official shall return the application to the applicant and shall clarify in writing the ground of such return altogether.

The applicant may appeal against the return of the application under paragraph one in accordance with the law on administrative procedure or may submit the new application. In the latter case, if the law prescribes specific period of time for the submission of the application, the new application shall be submitted within such period.

Section 10. The authority shall finish his consideration within the period as specified by the licensing manual for the public under section 7 and shall then notify the result thereof to the applicant within seven days as from the date he finishes the consideration.

At the expiration of the period for consideration as specified by the licensing manual for the public under section 7, if the authority is unable to finish his consideration, he shall clarify in writing the ground of delay to the applicant every seven days until finish. In this case, he shall submit a copy of such written clarification to the Public Sector Development Commission every times.

In the case where the Public Sector Development Commission is of opinion that such delay caused by unreasonable ground or by inefficiency of the authoritative agency, it shall report to the Council of Ministers together with the recommendations for the development or improvement of such agency or working system thereof.

If the authority fails to make a clarification under paragraph one or paragraph two, it shall be deemed that he commits or omits the commission of an act which causes damages to other persons; provided that, the failure to do so caused by force majeure.

Section 11. If any new law, rule, regulation or rule of procedure comes into force and it alters the rules, procedure, conditions or any other details as have been specified by the licensing manual for the public under section 7, such alteration shall not prejudice to the application submitted legally prior to the date the new law, rule, regulation or rule of procedure comes into

force; provided that, otherwise prescribed by law, but in case of rule, regulation or rule of procedure, otherwise may be prescribed only if it is beneficial to the applicant.

Section 12. In the case where the validated period of any license has been prescribed by law but the business or activity under such license is of character that it shall be operated by the licensee uninterruptedly, the Council of Ministers may authorize the licensee thereof to pay license renewal fee in an amount as prescribed by that law in lieu of the submission of the application for the renewal of license. In this case, the agency having power to renew the license shall, upon receiving of such fee, produce evidence for the renewal of license to the licensee forthwith and it shall be deemed that the license has been renewed in accordance with that law.

The authorization under paragraph one shall be made by the Royal Decree. Such Royal Decree shall identify the name of the Act and the kinds of license which may be proceeded under paragraph one.

Prior to the enactment of the Royal Decree under paragraph two, the Council of Ministers shall lay the draft Royal Decree to the House of Representatives and the Senate for at least thirty days. After the expiration of such period, if an objection is not made by the House of Representatives or the Senate, the draft Royal Decree shall be submitted to the King for His signature.

There shall be the duty of the Office of Public Sector Development Commission to consult with the agencies related to the granting of license so as to give advice to the Council of Ministers to proceed with paragraph one and paragraph two.

Section 13. There shall be the duty of the authority to impose the rules and guidelines for examining the business or activity of the licensee as to whether it complies with laws related to licensing and the authority shall have the duty to conduct examination in compliance with those rules and guidelines.

If it appears to the competent official himself or upon a complaint that any activity or business of the licensee causes nuisance or damage to another, there shall be the duty of the competent official to conduct investigation and to have any necessary order under his powers and duties at once.

Section 14. If it is necessary and appropriate to provide public facilitation, the Council of Ministers may establish the One Stop Service Center to be the center for receiving all applications under the laws related to licensing.

The One Stop Service Center under paragraph one shall be a government agency under section 18 paragraph four of the State Administration Act, B.E. 2535 (1992) as amended by the State Administration Act (No. 5), B.E. 2545 (2002) attached to the Office of the Prime Minister. The branch offices of the One Stop Service Center may be established in any Ministry or Province.

The establishment of the branch office of the One Stop Service Center under paragraph one shall be made by the Royal Decree. Such Royal Decree shall impose names of the laws related to licensing which shall be under the responsibility of the One Stop Service Center.

The submission of the application under the Royal Decree may be made via electronic method if so specified therein.

Section 15. Upon the establishment of the One Stop Service Center under section 14:

(1) in the case where the laws related to licensing or rules issued under those laws prescribe that the application, documents, evidences or fees shall be submitted at any place, if they are submitted to the One Stop Service Center, it shall be deemed that that application, documents, evidences or fees is submitted legally under those laws or rules;

(2) all fees or other money obtained by the One Stop Service Center under (1) shall be remitted as State fund on behalf of the authoritative agency or shall be remitted to the local administration, as the case may be, and the One Stop Service Center shall then notify the authoritative agency for its acknowledgement;

(3) in the case where the authoritative agency has the power to deduct some of money prior to remitting the remaining as State fund, the One Stop Service Center shall also have the same power, but the deducted amount shall be remitted to the authoritative agency. In this regards, the One Stop Service Center is entitled to collect service charge from the authoritative agency in an amount as mutually agreed with the authoritative agency;

(4) the period of time under section 10 shall commence on the date the One Stop Service Center forward the application to the authority. In this regards, the One Stop Service Center shall forward the application to the authority within three days and section 10 paragraph four shall apply mutatis mutandis;

(5) there shall be the duty of the authority to provide the up-to-date licensing manual for the public under section 7 to the One Stop Service Center in an appropriate numbers and shall provide training or clarification to the officials of the One Stop Service Center for the benefit of the performance of their duties;

(6) there shall be the duty of the officials of the One Stop Service Center to proceed with section 8 and shall be accountable as same as the competent official under section 8.

Section 16. The One Stop Service Center shall have the duties as follows:

(1) accepting the application and fees, including an appeal in relevant thereof under the laws related to licensing;

(2) providing information, clarification and recommendation to the applicant or the public on rules, procedure and conditions for the application as well as all related applications which are necessary for operating of any business or doing any activity under the laws related to licensing;

(3) forwarding the application or appeal obtained from the applicant or appellant together with related documents or evidences to the agency concerned and hastening the aforesaid agency for the compliance with the period of time as prescribed by this Act and the licensing manual for the public under section 7 or the law that entitle the right to appeal;

(4) giving recommendation to the Council of Ministers to order the agencies concerned to improve their rules or procedure on the submission of the application if it is of opinion that such rules or procedure composing of unnecessary details or requiring unnecessary documents or creating unnecessary burden to the public;

(5) gathering and reporting the problems and hurdles emerging from the granting of license and the performance of the One Stop Service Center to the Public Sector Development Commission for deliberation and proposing further recommendation to the Council of Ministers to order the agencies concerned to conduct improvement as appropriate;

(6) giving recommendation for the development or improvement of the procedure, work-flow and period of time related to the granting of any license as well as a recommendation to enact law, rule or regulation or to lay down procedure related to licensing in order for public facilitation.

Section 17. All authorities shall finish the licensing manual for the public under section 7 within one hundred and eighty days as from the day this Act is published in the Government Gazette.

Section 18. The Prime Minister shall have charge and control of the execution of this Act.

Countersigned by:

General Prayut Chan-o-cha

Prime Minister

[*]Published in the Government Gazette Vol. 132, Part 4 Kor, page 1, dated 22nd January B.E. 2558 (2015)

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