

FACTORY ACT,  
B.E.2535 (1992)<sup>1</sup>

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BHUMIBOL ADULYADEJ REX.

Given on the 2<sup>nd</sup> Day of April, B.E. 2535 (1992)

Being the 47<sup>th</sup> Year of the Present Reign

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

Whereas it is expedient to revise the law on factory;

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

**Section 1.** This Act is called the “Factory Act, B.E. 2535 (1992)”.

**Section 2.** This Act shall come into force after the expiration of ninety days from the date of its publication in the Government Gazette.<sup>2</sup>

**Section 3.** The following shall be repealed:

- (1) The Factory Act, B.E. 2512 (1969);
- (2) The Factory Act (No.2), B.E. 2518 (1975);

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<sup>1</sup> Translated by Center for Translation and Language Services, Research Institute for Languages and Cultures of Asia, Mahidol University under contract for the Office of the Council of State of Thailand's Law for ASEAN project.- Initial version- pending review and approval.

<sup>2</sup> Published in the Government Gazette, Vol. 119, Part 44, Page 62, dated 9th April B.E. 2535 (1992).

(3) The Factory Act (No.3), B.E. 2522 (1979).

**Section 4.** This Act shall not apply to Government factories run by the Government for the purpose of national security and safety, however, the operation of such factories shall be guided by the criteria and procedure relating to the factory operation under this Act.

**Section 5.** In this Act:

“factory” means building, premises, or vehicle using machine or machines with total power or an equivalent of five horsepower or more, or which employs seven workers or more with or without machinery to manufacture, produce, assemble, pack, repair, maintain, test, improve, process, convey, keep, or destroy anything in accordance with the type or kind of factory as prescribed in the Ministerial Regulations;

“factory setting up” means construction of buildings for the installation of machinery to engage in factory operation or installation of machinery for engaging in factory operation in the buildings, premises, or vehicles to engage in such operation;

“factory operation” means manufacturing, producing, assembling, packing, repairing, maintaining, testing, improving, processing, conveying, storing, or destroying anything in accordance with the nature of the factory operation but not including machinery test-run;

“machinery” means contrivances consisting of several parts for the generation of energy, change or transformation of energy, or transmission of energy, by the power of water, steam, wind, gas, electricity, or any other energy or a combination of energies, and includes accessories, fly-wheels, pulleys, belts, axles, gears or other things working reciprocally;

“worker” means a person who works in a factory but excluding a person working in the administrative division;

“license grantor” means the Permanent Secretary or the person appropriately entrusted by the Permanent Secretary;

“license” means a license for factory operation;

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“competent official” means the person appointed by the Minister for the execution of this Act;

“Permanent Secretary” means the Permanent Secretary of the Ministry of Industry;

“Minister” means the Minister who has charge and control of the execution of this Act.

**Section 6.** The Minister of Industry shall have charge and control of the execution of this Act and shall have the power to appoint the competent officials and to issue Ministerial Regulations prescribing the fees not exceeding the rates attached hereto, exempting fees and prescribing other activities for the execution of this Act.

The Ministerial Regulations and Notifications issued under this Act shall come into force upon their publication in the Government Gazette.

## Chapter 1

### Factory Operation

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**Section 7.** The Minister shall have the power to prescribe in Ministerial Regulations categorizing factory of any type, kind, or size to be as Category 1 factory, Category 2 factory, or Category 3 factory, as the case may be, by taking into account the necessity for control and supervision, prevention of nuisance, prevention of damage, and prevention of danger in accordance with the severity of impact on the people or environment, by the following categorization:

(1) Category 1 factory is a factory of the type, kind, and size, capable of factory operation immediately as desired by the factory operator;

(2) Category 2 factory is a factory of the type, kind, and size, which requires a notice to be made to the license grantor prior to its operation;

(3) Category 3 factory is a factory of the type, kind, and size, the setting up of

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which requires a license.

The factory prescribed in the Notifications of the Minister under section 32 (1), when published, shall be Category 3 factory.

**Section 8.** For the purpose of control on factory operation, the Minister shall have the power to issue Ministerial Regulations requiring factories under any or all categories under section 7 to comply with the following:

(1) to prescribe criteria relating to factory location, its environment, the nature of its buildings or its interior;

(2) to prescribe the nature, type, or kind of machinery, equipment or such other things to be used in factory operation;

(3) to prescribe requirements for specialized workers based on the type, kind, or size of factory for the performance of a duty in the factory;

(4) to prescribe criteria to comply with, production process, and acquisition of any equipment or tools to prevent or stop or mitigate the dangers, injuries, or distress that may happen to people or property in the factory or its vicinity;

(5) to prescribe standards and methods of controlling the discharge of waste, pollutants or anything affecting the environment as a result of the factory operation;

(6) to prescribe the requirements for documents necessary to have available at the factory for the purpose of controlling and inspecting the compliance with the law;

(7) to prescribe the requirements for necessary information relating to the factory operation which the factory operator shall have to furnish from time to time or at a specified period of time;

(8) to prescribe any other requirements for the protection of safety in the factory operation in order to prevent or stop or mitigate the dangers or injuries that may result from the factory operation.

The Ministerial Regulations under paragraph one may exempt the factory of any type, kind, or size from complying with any matter and such Ministerial Regulations may expediently prescribe, by publication in the Government Gazette, any detailed technical

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matters or any matters rapidly changing under social conditions to be in conformity with the criteria prescribed by the Minister.

**Section 9.** In the case where an inspection of a factory or machinery is required for the execution of this Act, private entity may be designated to carry out the same and to prepare a report of the result of the inspection instead of performance of duties by competent official provided that this shall follow the Rules prescribed by the Minister, by publication in the Government Gazette.

**Section 10.** The operator of Category 1 factory shall comply with the criteria prescribed in the Ministerial Regulations issued under section 8 and the Notifications of the Minister issued under such Ministerial Regulations.

**Section 11.** The operator of Category 2 factory shall comply with the criteria prescribed in the Ministerial Regulations issued under section 8 and the Notifications of the Minister issued under such Ministerial Regulations and shall notify the competent official in advance before commencing the factory operation.

The forms and particulars for the notification and the notification receipt forms shall be as prescribed in the Ministerial Regulations.

Upon receipt of the notification under paragraph one, the competent official shall issue a notification receipt to the notifying operator as evidence of such notification on the date of receipt of the notification, and the notifying operator shall engage in factory operation as from the date of receipt of such notification receipt.

In the case where the competent official finds out later that the notification under paragraph one is incorrect or incomplete, the competent official shall have the power to order the notifying operator to make corrections to or to complete the same within seven days as from the date of receipt of such order.

Dissolution of the operation, assignment, lease out or hire-purchase out of Category 2 factory requires notification by the factory operator in writing to be made to the

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competent official within thirty days from the action date.

**Section 12.** The operator of Category 3 factory shall have to obtain a license from the license grantor and shall comply with the criteria prescribed in the Ministerial Regulations issued under section 8, the Notifications of the Minister issued under the said Ministerial Regulations, and the Notifications of the Minister issued under section 32.

No person shall set up a factory before a license is obtained.

The application for a license and the procedure and time required for consideration for granting of a license shall be as prescribed in the Ministerial Regulations.

In the case where the license applicant requests for a certificate before a license is granted, if a preliminary consideration suffices the grant in principle, the license grantor shall issue a certificate upon making reservation on the part the consideration of which has not been finalized, in accordance with the criteria prescribed by the Minister as published in the Government Gazette.

In granting a license, the person having the power to grant a license shall consider in accordance with the criteria prescribed in the Ministerial Regulations issued under section 8, the Notifications of the Minister issued under the said Ministerial Regulations, and the Notifications of the Minister issued under section 32. In the case where no criteria are prescribed, it shall be considered by taking into account the safety of the people or property in the factory or its vicinity, or it shall be complied with the Notifications of the Minister issued under section 32. In this regard, conditions may be prescribed in the license to be followed specially by the factory operator.

**Section 13.** If a licensee under section 12 wishes to commence the operation in any part of the factory, he or she shall notify the competent official not less than fifteen days prior to the date of factory operation.

If there shall be a test run of the machinery prior to the factory operation under paragraph one, the licensee shall also notify the competent official of the date, time, and the duration of the test run of the machinery, for not less than fifteen days.

The criteria and period of time which may be used for the test run of the

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machinery shall be as prescribed in the Ministerial Regulations.

**Section 14.** A license shall be valid until the last day of the fifth calendar year from the year in which the factory operation has begun except in the case of moving of the factory under section 27 or dissolution of the factory operation, such license shall be deemed to expire on the date of issuance of a new license or on the date of dissolution of the factory operation.

If it is justifiable to discontinue an operation in a near future, the license grantor, with approval of the Minister, may grant a license with a shorter validity period than provided for in paragraph one. The license granted in this manner shall not be renewed.

**Section 15.** In renewing a license, a licensee shall file an application prior to its expiration. Upon filing of such application, the applicant shall be deemed to hold the status of a licensee until a final order denying the license renewal is given.

If the result of inspection indicates that the factory and the machinery are in compliance with section 8, the Notifications of the Minister issued under the said Ministerial Regulations, and the Notifications of the Minister issued under section 32, and with conditions set forth in the license, the license grantor shall renew the license. In case of non-compliance, the competent official shall order the rectification be carried out within a specified period of time. Upon such rectification having been done, a renewal shall be granted. Failure to make rectification within the specified period of time, the order refusing such license renewal shall be given.

The application for license renewal and granting of license renewal shall be in accordance with the criteria and procedure prescribed in the Ministerial Regulations.

If a person who fails to file an application for license renewal within the period of time under paragraph one, wishes to continue the factory operation and has already filed an application for license renewal within the period of sixty days as from the date of expiration of the license, it shall be deemed that the application has been filed within the specified period of time and the factory operation during such period shall be deemed as that of the licensee. However, upon the grant of the license renewal, such

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person shall have to pay an additional fine at twenty percent of the license renewal fee. If the sixty-day period has lapsed, the matter shall be treated as a new application.

**Section 16.** The applicant for license or license renewal may appeal to the Minister against the order refusing the granting of license or license renewal within thirty days from the date the order has been known. The decision of the Minister shall be final.

**Section 17.** Any factory of which the operator has been granted a license, if it appears thereafter that the machinery used by such factory is lower than five horsepower or the number of workers employed is less than seven, such factory shall be deemed to be the factory under this Act until a notification of dissolution of the factory operation is given or the license expires.

**Section 18.** The licensee may not expand the factory unless permitted by the license grantor.

Section 12, section 13, and section 16 shall apply to an application for factory expansion and the granting thereof as well as an appeal against an order refusing factory expansion, *mutatis mutandis*.

A factory expansion is:

(1) an increase in number, a replacement or modification of machinery to increase their total power by fifty percent or more in the case where the original machinery has a total power of not more than one hundred horsepower or an equivalent of not more than one hundred horsepower, or an increase of fifty horsepower or more in the case where the original machinery has a total power of more than one hundred horsepower or an equivalent of more than one hundred horsepower;

(2) an addition or remodeling of any part of the factory buildings rendering any of their original foundations to carry an additional weight of five hundred kilograms or more;

The validity period of the license for the expansion part shall be for the same

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period as the license under section 14.

**Section 19.** When the licensee increases the number of, replaces or modifies the machines used for production, machines used for generation of power, or energy of the machines to other forms but not tantamount to factory expansion, or increases the area of the factory building, or constructs additional building directly benefiting the factory operation resulting in an increase of the area of the factory to fifty percent or more in the case where the area of the factory is not more than two hundred square metres, or an increase of the area of the factory to one hundred square metres or more in the case where the area of the factory is more than two hundred square meters, the licensee shall notify the competent official within seven days from the date the machines have been increased in number or replaced or modified, or the factory area has been increased, or the additional factory building has been built, as the case may be. The licensee shall comply with the criteria and procedure concerning the increase, replacement, and modification of the machines, or the increase of factory area, or the building of additional factory building as prescribed in the Ministerial Regulations.

**Section 20.** For the conditions set forth in a license under section 12 paragraph five, if the license grantor deems it reasonable to cancel or change or add any appropriate conditions to be complied with by the licensee in the factory operation, the license grantor may issue such an order in writing.

Any licensee who wishes to cancel or change the conditions required to comply with in the factory operation, shall file an application with the license grantor stating the reasons. The license grantor shall consider the matter and issue an order in writing without delay.

If the licensee does not agree with opinion of the license grantor, he or she may appeal to the Minister within thirty days from the date of receipt of the written order. The decision of the Minister shall be final.

**Section 21.** In the case where the licensee assigns the factory operation, leases out, or hire-purchases the factory out, or sells the factory, such licensee shall be

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deemed to have discontinued the factory operation as from the date of assignment of the factory operation, lease out, or hire-purchase the factory out, or sale of the factory.

The assignee of the factory operation, the lessee or the hire-purchaser of the factory or the purchaser of such factory shall apply for license within seven days as from the date the factory operation is deemed to have discontinued under paragraph one without paying the license fee. Upon submission of such application, the factory operation shall continue pending the granting of a license as if such applicant is the licensee.

The criteria, procedure, conditions for acceptance of assignment and granting of license shall be as prescribed in the Ministerial Regulations.

**Section 22.** In case of death of a licensee, the heir or the administrator shall file an application with the license grantor for the acceptance of the assignment of the license within ninety days as from the date the licensee deceased or within a period as extended by the license grantor as necessary. Failure to file an application within the specified period, the license shall be deemed to expire. If the factory operation is to continue, an application for a new license must be filed.

During the period under paragraph one, the heir or the administrator who is engaging in the factory operation shall be deemed to be the licensee.

In the case where the licensee is adjudged incompetent, the provisions of the two preceding paragraphs shall apply to the guardian *mutatis mutandis*.

The criteria, procedure, conditions for acceptance of assignment and granting of license shall be as prescribed in the Ministerial Regulations.

**Section 23.** The licensee shall display the license in an open and conspicuous place at the factory of the licensee.

**Section 24.** Upon change of name of the factory or name of the licensee, the licensee shall notify the competent official in writing within fifteen days as from the date of such change.

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**Section 25.** In case of loss or destruction of a license, the licensee shall apply for a substitute with the competent official within fifteen days as from the date the loss or destruction has been known.

**Section 26.** The licensee wishing to move parts of the machinery installed in the factory to another place for a temporary factory operation shall file an application for permission with the license grantor together with a layout drawing and other details stating the reasons for consideration.

If the license grantor deems it reasonable, the license grantor shall permit the moving of the machinery for the operation as requested to be done within a specified period of time but not exceeding one year as from the date such order has been given. In this respect, the conditions relating to safety measures may be prescribed to be complied with.

If the licensee needs to engage in such operation longer than the period permitted under paragraph two, an application for extension of such period of time shall be filed with the license grantor prior to the expiration of such period. If the license grantor deems it reasonable, the license grantor shall grant a time extension for not more than one year.

**Section 27.** Licensees wishing to move the factory to another place shall deal with the matter in the same manner as setting up a new factory.

**Section 28.** Any licensee who discontinues the factory operation shall notify the license grantor in writing within fifteen days as from the date of the discontinuation of factory operation.

If a licensee wishes to transform a Category 3 factory to a Category 1 or Category 2 factory, as the case may be, the licensee shall provide a notification of discontinuation of factory operation under paragraph one. When the factory operation is to be continued, the actions prescribed in this Act for the operation of such category of factory

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as prescribed in this Act shall be taken.

**Section 29.** In the case where there are Ministerial Regulations under section 7 or Notifications of the Minister under section 32(1) rendering Category 1 or Category 2 factory into Category 3 factory, if a factory operator applies for a license under section 12 within thirty days of the Ministerial Regulations having come into force, such person shall continue the factory operation as if he or she is the licensee and the license grantor shall issue a license without delay.

**Section 30.** The Minister shall have the power to designate any area as an industrial zone by publication in the Government Gazette.

The operation of Category 2 or Category 3 factory within the industrial zone under paragraph one or the industrial estate zone established under the law on industrial estate, (the operator of which) shall be exempted from having to notify the competent official under section 11 or as is licensed under section 12, as the case may be. However, such factory operation shall be in compliance with the criteria prescribed in the Ministerial Regulations issued under section 8, the Notifications of the Minister issued under the said Ministerial Regulations, the Notifications of the Minister issued under section 32 (1), and other provisions related to the control of factory operation under this Act, (the operator of which) shall be deemed the person making the notification or the licensee as the case may be.

Upon the designation of an area as an industrial zone or the establishment of an industrial estate under the law on industrial estate, the Minister may issue Ministerial Regulations prescribing areas within a specified distance surrounding the industrial zone or the industrial estate as non-factory operation areas or only certain type, kind, and size of factory can be operated in such areas.

**Section 31.** For the purpose of efficient public administration and facilitation to the public, if any factory operation involves a matter which also requires permission from competent official under other law, the competent official under this Act and the competent official under such other law may set up an administrative procedure to

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undertake joint consideration.

The undertaking under paragraph one may be required to be carried out by joint application or by exemption of required documents, particulars or information, the place of submission of the application and documents, or repetitive or similar documents and procedure for consideration or which may create unnecessary obstacles to joint consideration. In the case where appropriate, any additional criteria or procedure may be prescribed for compliance but the permission shall be in the format prescribed in the law on such matter.

In making joint consideration, the competent official who has the power to make inspection, the power to consider any part of the permission, or the power to grant permission, may delegate his or her power to other concerned competent official in the consideration for permission to act on his or her behalf as deemed fit.

The additional prescription and the delegation of power under paragraph two and paragraph three shall come into force after publication in the Government Gazette.

## Chapter 2 Factory Supervision

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**Section 32.** For the purposes of the economy, conservation of the environment, the security and safety of the country or the public, the Minister, with approval of the Council of Ministers, shall have the power to prescribe by publication in the Government Gazette, the following:

(1) to prescribe the number and size of each type or kind of factory allowed to be set up or expanded or the setting up or expansion of which shall be denied in any area;

(2) to prescribe the kind, quality, ratio of raw materials, sources of raw materials and/or factors or kind of energy to use or produce in the factory;

(3) to prescribe the kind or quality of products manufactured in the factory

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allowed to be set up or expanded;

(4) to prescribe the use of products from the factory allowed to be set up or expanded for certain types of industry, or that all or part of the products shall be exported.

**Section 33.** If a Category 2 or Category 3 factory discontinues its operation consecutively for more than one year, the Category 2 factory operator or the Category 3 licensee, as the case may be, shall notify the competent official in writing within seven days from the date the one year period expires.

If the person under paragraph one wishes to continue the factory operation, such person shall notify the competent official in writing before commencing the factory operation. In the case of Category 3 factory, a written permission shall first be obtained from the competent official before commencing the factory operation.

In granting permission for the continuation of Category 3 factory operation, section 15 paragraph two and section 16 shall apply *mutatis mutandis*.

**Section 34.** In the case of an accident in a factory caused by the factory or a machine of the factory regardless of factory category, if such accident

(1) causes death, illness or injury to a person who after seventy two hours is unable perform his or her original duties, the factory operators shall notify the competent official in writing within three days as from the date of death or the expiration of seventy two hours, as the case may be;

(2) causes the factory operation to stop for more than seven days, the factory operator shall notify the competent official in writing within ten days as from the date of the accident.

Upon an occurrence of an accident in any factory under paragraph one, the competent official shall inspect the factory and the machinery and consider taking action under section 37 or section 39, as the case may be.

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**Section 35.** For the execution of this Act, the competent official shall have the following powers:

(1) to enter a factory or building, premises or vehicle, with reasonable suspicion that a factory operation is going on, between sunrise and sunset, or during the working hours of such place to inspect the conditions of the factory, building, premises or vehicle, the conditions of the machinery or any act that may violate the provisions of this Act;

(2) to take the specimens of products suspicious of their quality in a reasonable quantity for inspection of their quality together with relevant documents;

(3) to inspect, search, detain, seize or attach the products, containers, books of account, documents or any relevant articles in a case where there is a suspicion that the factory may cause harm to the people or property in the factory or its vicinity or that there is a commission of an offence under this Act;

(4) to summon in writing any person to testify or to submit any document or object for consideration.

**Section 36.** When it appears that any person has committed an offence under this Act or there is a reasonable ground to so suspect, the competent official who is appointed from government official not lower than level 4 of position classification shall have the power to arrest such person in order to hand over the arrestee to an inquiry official for further legal action.

**Section 37.** In the case where the competent official finds out that any factory operator violates or declines to comply with this Act or engages in factory operation in such a manner as to cause harm, injuries or distress to people or property in the factory or its vicinity, the competent official shall have the power to order such person to stop such violating act or to rectify or improve the same or comply accordingly or appropriately within a specified period of time.

If the competent official deems it reasonable, upon approval of the

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Permanent Secretary or the person entrusted by the Permanent Secretary, the competent official shall have the power to bind and seal the machines to prevent them from being operated during the compliance with the order of the competent official under paragraph one.

**Section 38.** For the service of an order under this Act, the competent official shall serve the same at the domicile or factory of the person specified in the order between sunrise and sunset or during the working hours of such person or may send the same by a registered mail with acknowledgement of receipt.

In the case where the order has been served by the competent official but the person specified in the order refuses to receive it, the competent official shall ask an administrative official or police to accompany him or her as witness for the depositing of the order at such place. If, however, the person specified in the order is not found at the domicile or the place of business of such person, the service may be made to any person of *sui juris* who is or works at such place, and if no person is found or someone is found but they refuse to accept it on behalf of the specified person, the order shall be posted at a conspicuous location at such domicile or factory in the presence of the accompanying administrative official or police as witness.

Upon execution by the competent official under paragraph one or paragraph two, the person specified in the order shall be deemed to have received such order. If, however, the order is sent by a registered mail with acknowledgement of receipt or by posting, such order shall be deemed to have been received upon the expiration of fifteen working days as from the date of delivery by a postman or of posting of such order, as the case may be.

**Section 39.** In the case where any factory operator intentionally declines to comply with the order of the competent official under section 37 without reasonable ground or in the case where it appears that the factory operator may cause serious harm, injuries or distress to the people or property in the factory or its vicinity, the Permanent Secretary or a person entrusted by the Permanent Secretary shall have the power to order

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such person to temporarily cease all or part of the factory operation and to rectify or improve the factory or comply accordingly within a specified period of time.

If the factory operator has modified the factory or complied accordingly within the specified period of time, the Permanent Secretary or a person entrusted by the Permanent Secretary shall order the factory operation to continue.

If the factory operator fails to rectify or improve the factory or comply accordingly within the specified period of time, the Permanent Secretary or a person entrusted by the Permanent Secretary shall have the power to order a closure of the factory and in case of a Category 3 factory, the closure order shall also have the license revoking effect.

**Section 40.** The order to cease factory operation or to close the factory shall be posted by the competent official at least at three conspicuous locations at such factory. The order shall contain statements prohibiting people who perform their duties in the factory, workers, or all people concerned from working in the factory to keep the factory functioning after the issuance of the order to cease factory operation or to close the factory.

**Section 41.** The order of the competent official under section 37 or the order of the Permanent Secretary or the person entrusted by the Permanent Secretary, to cease the factory operation under section 39 paragraph one or the order to close the factory under section 39 paragraph three, may be appealed to the Minister within thirty days from the date the order has been known. The decision of the Minister shall be final.

The appeal under paragraph one shall not stay the compliance with the order of the competent official or the order to cease the factory operation or the order to close the factory unless otherwise ordered by the Minister.

**Section 42.** In the case where the factory operator fails to comply with the order of the competent official under section 37, if there is ground for the Government to take over the operation, the Permanent Secretary or the person entrusted by the

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Permanent Secretary shall have the power to order the competent official or to entrust any person to carry out the rectification in order to conform to such order. Such being the case, the factory operator shall bear the expenses for such takeover in the amount actually paid together with a penalty at the rate of thirty percent per annum of the said amount.

If the Government has undertaken to resolve the pollution problems or the impacts on the environment caused by the factory, it shall request a subsidy from the Environmental Fund under the law on the Enhancement and Conservation of the Environmental Quality Act for the costs of its operation and upon receipt of the money under paragraph one from the factory operator, the Government shall repay the Environment Fund for the subsidy so received.

**Section 43.** The factory operators of Category 2 and 3 factories shall pay the annual fee in accordance with the criteria, procedure, and at the rate as prescribed in the Ministerial Regulations throughout the period of factory operation. Failure to pay the fees within the specified period shall result in a monthly five percent surcharge. Denial of fee payments without justification shall empower the competent official to order such operator to cease factory operation until the fees and the surcharges have been paid in full, and section 39, section 40, and section 41 shall apply *mutatis mutandis*.

**Section 44.** In performing the duties, the competent official shall present his or her identify card upon request by person concerned.

The identity card of the competent official shall be in accordance with the form prescribed by the Minister upon publication in the Government Gazette.

### Chapter 3

#### Penalties

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**Section 45.** Any person violating or failing to comply with the Ministerial

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Regulations issued pursuant to section 8 (1) (2) (3) (4) (5) or (8) or the Notifications of the Minister issued under the said Ministerial Regulations shall be liable to a fine not exceeding two hundred thousand baht.

**Section 46.** Any person violating or failing to comply with the Ministerial Regulations issued under section 8 (6) or (7) or the Notifications of the Minister issued under the said Ministerial Regulations shall be liable to a fine not exceeding twenty thousand baht.

**Section 47.** Any person producing a false inspection result under section 9 shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding two hundred thousand baht, or to both.

**Section 48.** Any person operating Category 2 factory without notifying the competent official under section 11 paragraph one shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding fifty thousand baht, or to both.

**Section 49.** Any person operating Category 2 factory by notifying incorrect or incomplete operation as prescribed in the Ministerial Regulations under section 11 paragraph two or failing to comply with section 11 paragraph five or section 33 shall be liable to a fine not exceeding twenty thousand baht.

**Section 50.** Any person operating Category 3 factory without license under section 12 paragraph one or setting up a factory without a license under section 12 paragraph two shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding two hundred thousand baht, or to both.

In the case where the factory under paragraph one is of the type or kind of which its number or size is prescribed for granting or denying of setting up in any area in accordance with the Notifications issued under section 32 (1), the offender shall be liable to imprisonment for a term of not exceeding four years or to a fine not exceeding four hundred

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thousand baht, or to both.

**Section 51.** Any licensee failing to comply with section 13 paragraph one or paragraph two, section 19, section 28 or section 33 shall be liable to a fine not exceeding twenty thousand baht.

**Section 52.** Any licensee expanding a factory without license for factory expansion under section 18 shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding two hundred thousand baht, or to both.

In the case where the factory under paragraph one is of the type or kind of which its number or size is prescribed for granting or denying of expansion in any area in accordance with the Notifications issued under section 32 (1), the offender shall be liable to imprisonment for a term of not exceeding four years or to a fine not exceeding four hundred thousand baht, or to both

**Section 53.** Any licensee failing to comply with section 23, section 24 or section 25 shall be liable to a fine not exceeding five thousand baht.

**Section 54.** Any factory operator failing to comply with section 34 paragraph one shall be liable to a fine not exceeding twenty thousand baht.

**Section 55.** Any person operating a factory during an order to cease factory operation or after the order to close the factory shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding two hundred thousand baht, or to both, and to additional fine at a daily rate of five thousand baht until the cessation of the operation.

Any architect or engineer who keeps working in the particular part of the factory against which an order has been issued to cease operation or keeps working in the factory against which a closure order has been issued in order to continue the factory operation, shall be liable to the same punishment as the factory operator under paragraph

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Any person working in the factory or worker who keeps working in the particular part of the factory against which an order has been issued to cease operation or is still working in the factory against which a closure order has been issued shall be presumed to be an accomplice or an abettor to the commission of offence under paragraph one, as the case may be, however, the Court may inflict less punishment than that provided by law taking into consideration of the status, family responsibility, intent to violate the law, and substantiality of participation in the commission.

**Section 56.** Any person who obstructs or fails to provide convenience to the competent official who performs the duties under section 35 shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding twenty thousand baht, or to both.

**Section 57.** Any person who fails to comply with the order of the competent official given under section 37 paragraph one shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding one hundred thousand baht, or to both, and to additional fine at a daily rate of five thousand baht throughout the period of violation or non-compliance.

**Section 58.** Any person doing any act to reactivate the machinery bound and sealed by the competent official under section 37 paragraph two, shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding one hundred thousand baht, or to both.

**Section 59.** Any person obstructing or failing to provide convenience to a person entrusted by the Permanent Secretary or by a person entrusted by the Permanent Secretary to carry out an undertaking in conformity with the order under section 42, shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding one

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hundred thousand baht, or to both.

**Section 60.** Any person doing any act causing defect or damage to the order to factory operation or to close the factory shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding fifty thousand baht, or to both.

**Section 61.** In the case where the factory operator commits an offence under this Act, it shall be deemed that the architect or the engineer who works in the factory and is responsible for the part of the work in which such offence has been committed is participating or conniving in the commission of the offence with the factory operator and shall be liable to the same punishment as the factory operator except where the architect or the engineer can prove that he or she did not connive with nor consent to the commission of the offence.

In addition to the punishment inflicted under paragraph one, the Permanent Secretary shall notify the name and the act of such person to the Architectural Profession Control Commission or the Engineering Profession Control Commission to consider taking proper legal action in accordance with the architectural profession law or the engineering profession law.

**Section 62.** Any person who was ever punished for the commission of an offence under this Act, if again committed the same offence for which he or she was punished, the court shall consider increasing the punishment for such person at least an additional one-third of the imprisonment penalty or increasing the punishment for an additional one-half of the fine penalty of such offence.

**Section 63.** In the case where a partnership, company or other juristic person commits an offence under this Act, the director, manager or any person responsible for the commission of such offense shall also be liable to the penalties provided for such offence except it can be proved that such offence has been committed without his or her

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connivance or consent.

**Section 64.** In the case where an offence under this Act is committed, the people residing near or adjacent to the factory at which the offence is committed or the people whose livelihood is affected as a result of commission of the offence shall be deemed to be the injured persons under the Criminal Procedure Code.

**Section 65.** There shall be committees for settlement of cases in Bangkok Metropolis area and regional areas as are appropriate.

Each case settlement committee shall be appointed by the Minister from three qualified persons in the legal field whose term of office shall be for two years but upon retiring from office may be reappointed.

The vacation of office before the expiration of the term, the meetings, and the procedure of the case settlement committee shall be in accordance with the Rules as prescribed by the Minister and published in the Government Gazette.

All offences under this Act except for those under section 50 paragraph two or section 52 paragraph two may be settled by the committee if it is of an opinion that the alleged offender should not be prosecuted or penalized by imprisonment. Upon payment by the alleged offender of the settled amount of the fine within thirty days from the date the settlement has been initiated, the case shall be deemed settled under the Criminal Procedure Code.

In the case where the inquiry official finds out that a person has committed the offence under paragraph four and such person agrees to the settlement by payment of a fine, the inquiry official shall submit the docket to the case settlement committee within seven days as from the date on which such person has agreed to settle the case by payment of a fine.

### Transitory Provisions

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**Section 66.** Any applications filed and permissions granted or pending the consideration of the license grantor or pending the performance of the applicant as granted, as the case may be, shall be deemed the applications or permissions under this Act *mutatis mutandis*. In the case where such applications or permissions are different from the applications or permissions under this Act, the license grantor shall have the power to order amendment be made as is necessary in order to be in conformity with this Act.

**Section 67.** Licenses for factory operation issued to any person pursuant to the law on factory prior to the coming into force of this Act shall remain valid until the expiration of the period specified.

Licenses for setting up of factory under the law on factory prior to the coming into force of this Act shall be deemed licenses for factory operation under this Act and the licensee shall have the duty to carry on under this Act.

**Section 68.** All Ministerial Regulations and Notifications issued under the law on factory shall remain in force insofar as they are not contrary to or inconsistent with the provisions of this Act.

Countersigned by  
Anand Panyarachun  
Prime Minister

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### Rates of Fees

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(1) Application	100 baht each
(2) License or license for factory expansion	100,000 baht each
(3) Substitute for a license	1,000 baht each
(4) Renewal of a license shall be in accordance with the rate in (2)	
(5) Fee for factory operation	30,000 baht each

In issuing Ministerial Regulations prescribing the fees, different fee rates may be fixed by taking into account the size and the business of the factory concerned.

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