



## Legal Update Week 33-34 (13 – 26 August 2018)

Dear All,

### Thailand legal news

- **14 August 2018:**

- MoF will propose the Cabinet to approve establishment of the Older Fund under Elderly Person Act B.E. 2546, after the NLA approved the draft in November 2017. The fund will be allocated to the elderly with welfare card for additional THB 50 or 100/month, depending on his/her income.
- Fire trucks deal is heading to the Supreme Administrative Court: In 2014, Mr. Apirak filed a law suit with the lower administrative court against the Bangkok Metropolitan Administration (BMA), the Bangkok governor and the interior minister, accusing them of malfeasance for forcing him to pay the compensation to the BMA. The court agreed to nullify the compensation payment order, but the three parties have decided to appeal against that ruling to the Supreme Administrative Court.
- 39 BMW vehicles have caught fire so far this year, according to South Korean media. BMW recalled more than 100,000 vehicles in South Korea last month and has been carrying out emergency inspections. BMW confirms recall of 323,700 cars across Europe due to a faulty component called the exhaust gas recirculation (EGR) cooler that generated excessive sediment and caused engines to catch fire.

- **15 August 2018:**

- Five election commissioners have been endorsed, consist of Mr. Itthiporn Boonprakong (President), Mr. Santhat Siriananpaibul, Mr. Thawatchai Terdpaothai, Mr. Chatchai Chanpraisri, and Mr. Pakorn Mahannop.
- SEC revealed the seven qualifying cryptocurrency companies that applied for license to continue their businesses legally in Thailand. Currently, the Thailand cryptocurrency community is waiting for the Minister of Finance's final decision: to grant or deny their license.
  - Five Exchanges i.e. BX, Bitkub, Cash2coin, TDAX, and Coin Asset.
  - Two Dealers i.e. Coins TH and ThaiWM.

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- **16 August 2018:**
  - PM Prayut has instructed police stations to help with efforts to ease Bangkok's severe road congestion problems within three months. Relevant technology must be adopted to help the traffic flow, especially during rush hours.
  - A foreigner living in Mahasarakham province, Thailand, designed and built Sport Cars under the brand "G-Motors" with 300-320 hp for only THB 3 million.
- **17 August 2018:**
  - DSI crackdown on foreigners using Thai nominees: Law firm (DFDL Legal & Tax) was raided in Bangkok, Phuket and Samui office. The raids were conducted in relation to the use of Thai nominees on land purchase and the operation of restrict business under the Foreign Business Act.
  - the Minister of Public Health signed on the announcement to waive the THB 30 fee for people with welfare cards, when using the national health care system "Golden Card" right.
- **22 August 2018:**
  - The Royal Thai Police clarified the controversy about driving license-related fines, saying fines ranging from 10,000 - 50,000 baht are the maximum penalty.
    - THB 50,000 fine for not having a driving license is at the discretion of the courts.
    - THB 10,000 fine for failing to display a driving license is according to the investigators.

It is being considered by the NLA. In addition, the police is considering cancelling the present program which share the collected fines with traffic police officers, to avoid public disapproval. If the program is cancelled, the police will consider other types of incentives for officers

- **25 August 2018:**
  - The Justice Ministry of South Korea considered ending a free visa for Thais, due to influx of refugees and illegal immigrants. In contrast, the Foreign Ministry argued that Thailand is a major partner in South Korea's foreign policy and a main stopover on the escape route of North Korean defectors. If Seoul unilaterally suspended the reciprocal visa waiver, this could have caused a diplomatic dispute with Thailand.

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- **26 August 2018:**
  - 1,632 judges signed demotion of Judicial Commissioner of the Supreme Court accused in inappropriate conduct for violation of Criminal Code (section 198) and the Code of Judicial Conduct (chapter 5 Ethics relating to General Conduct and Family, section 35) in Eastern provincial court.

## New Cabinet resolutions

- **14 August 2018:**
  - **Approved Draft:** Draft on Royal Decree on establishing Permission Receiving Center, which may help connect people with government agencies, B.E. ....
  - **Approved Draft:** Draft on Min. Reg. No. .. B.E. .... issued under the Revenue Code with regard to the exemption of tax (tax measures improvement to support tourism and seminar holding in second-tier tourist provinces)
  - **Approved Draft:** Draft on Min. Reg. prescribing other types of buildings used for hotel business (No. ..) B.E. ...., amending the previous Min. Reg. B.E. 2559 to extend building modification period from 2 years to 5 years and ease some regulations for buildings height less than 4 floors.
  - **Approved Draft:** Draft Regulations of the Public Debt Policy and Supervision Committee on Public Debt Management Rules B.E. ....
- **21 August 2018:**
  - **Acknowledged:** Draft on State Welfare Management for Local Economy and Society B.E. .... To help low-income people by supporting their necessary living expenses through Welfare Card.
  - **Acknowledged:** Draft on Act Amending the Civil Procedure Code (No. ..), B.E. .... (amending rules on general meeting and department meeting for appeal court and supreme court) and draft on Judicial Administration Regulations Act (No. ..) B.E. .... (amending authority and function of Judicial Administration Commission in order to issue regulation indicating attendance fee for judiciary who attends general meeting in appeal and supreme court)
  - **Approved Draft:** Draft on Min. Reg. prescribing regulation, method, and condition for requesting and granting of **driving license and renewal** of driving license (ceased the previous regulation B.E. 2548). Major updates:

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- improving supporting documents for license application.
- medical certificate must show that a person neither has congenital disorder, nor disease which will affect driving ability.
- every cases of renewal require medical certificate, expiration as specify by physician, if not specify, validity is 1 month after issued.
- empowering registrar to require personal health check-up and medical certificate.
- canceling the use of ID card substitution, copy of ID card/other cards, copy of house registration.
- enable the use of documents authorised by approved agency.
- **Big Bike rider must pass specific training and testing.**
- foreign driving license of the same type of car must not expire.
- temporary alien labours do not have the right to get 5 years private car driving license.
- **Approved Draft:** Draft on Min. Reg. standardised administration, management, and operation of occupational health safety and working environment related to machinery, crane, and boiler B.E. ....
  - add the definition of “Machine” “Machine Guarding” “Press Machine” “Forklifts” “Passenger Lifts” “Freight Lifts” “Pulley” “Crane” etc.
  - standardised administration, management, and operation for 6 kinds of machines, 3 kinds of cranes, and 4 kinds of boiler.
  - employers have the duty to provide and urge employees to use **standard personal protective equipment** in 10 kinds of hazardous works e.g. machine controlling, lifting, working with high temperature etc.
  - “Engineer” is a person who examines and certifies actions under this regulation, until availability of the registered person under section 9 or juristic person with license under section 11 of the Occupational Safety, Health and Environment Act B.E. 2554.
- **Acknowledged:** Draft on regulation of the office of the prime minister on National Cybersecurity Commission B.E. .... as the Ministry of Digital Economy and Society proposed, amending previous regulation B.E. 2560.

## Royal Gazette Update:

Date	Part	Subject
15 August 18	Ngor Piset	<ul style="list-style-type: none"><li>● Announcement: endorsing election commissioners and their president. the National Legislative Assembly approved five election commissioners empowered by section 222 of Constitution of the Kingdom of Thailand B.E. 2560 together with section 8 and 12 of the Organic Act on the Election Commission B.E. 2560 (name list of election commissioners as mentioned above in legal news)</li></ul>
16 August 18	Ngor Piset	<ul style="list-style-type: none"><li>● Regulation of the Ministry of Labour regarding employment recruitment advertisement B.E. 2561 (ceased the previous regulation B.E. 2545) (for recruitment agencies). Major updates:<ul style="list-style-type: none"><li>- <b>section 4:</b> add the definition of “license holder”.</li><li>- <b>section 5:</b> clarify that only people with license and conform to this regulation can advertise an employment.</li><li>- <b>section 6:</b> domestic recruitment advertisement at least has to <u>specify position, number of required positions, remuneration, welfare and benefit, qualification of employee, license number.</u></li><li>- <b>section 8:</b> specify certain <u>advertisement period</u> (<b>not</b> exceed <u>90 days</u> since the advertisement was posted) and how to notify registrar.</li><li>- <b>section 9:</b> extension of advertisement period using section 7 and 8 mutatis mutandis.</li><li>- <b>section 10:</b> if license holder does not conform to registrar command within 3 working days, that person is deemed to violate or not conform to this regulation.</li></ul></li></ul> <p><b>See more on:</b> <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/E/198/T5.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/E/198/T5.PDF</a></p>

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16 August 18	Ngor Piset	<ul style="list-style-type: none"><li>● Announcement of the Ministry of Labour prescribing category of the expense lists on employee's treatment and working rehabilitation (under Workman Compensation Fund Act).</li></ul> <p><b><u>See more on:</u></b> <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/E/198/T11.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/E/198/T11.PDF</a></p>
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