

Trade Alert

Vol. 6 Issue 2

4 June 2019



THAI INDUSTRIAL OPERATORS ARE FREE FROM RENEWING THEIR FACTORY LICENSES UNDER THE ENACTMENT OF NEW FACTORY ACT.

The National Legislative Assembly approved the new drafts of Factory Act to offer more convenience and agility as for the factory expansion. These new acts were issued in the Government Gazette on 30 April 2019 known as “Factory Act (No.2) B.E. 2562 (2019)” and “Factory Act (No.3) B.E. 2562 (2019).”

As for the Factory Act (No.2) B.E. 2562 (2019) (“the new act (no.2)”), it will become effective 180 days after the date of publication in the Government Gazette, which will be on 27 October 2019. On the other hand, the Factory Act (No.3) B.E. 2562 (2019), which governs the issue related to the power of local administrative organization, will become effective on the day after publication in the Government Gazette, which is on 1 May 2019.

These new acts provide many more convenience and agility to the industrial operators in Thailand of which the essential elements are as follows:

I. Amendment of Definition of “Factory” under the Laws.

According to Section 4 of the new act (no.2), the definition of “Factory” has been amended from “a building, place, or vehicle which has machinery unit from 5 horsepower (or equivalent) or employs at least 7 workers” to “a building, place, or vehicle which has machinery unit from 50 horsepower (or equivalent) or employs at least 50 workers.” Therefore, the industrial operators who have the machinery horsepower at their factory less than 50 horsepower and employs less than

50 workers will no longer be required to apply for the Factory License.

II. The Cancellation of Factory License (Ror.Ngor.4) Renewal.

Previously, the law required that the industrial operators must renew their Factory Licenses on every 5 years of their business operations. However, according to Section 10 of the new act (no.2), the process for Factory License renewal has been cancelled. That means, the industrial operators, who have obtained the Factory Licenses, will no longer be required to renew their Factory Licenses. Instead, the industrial operators will be required to follow the self-declaration approach by showing that their operations are comply with the laws within the prescribed period of time.

III. Factory Inspection by the Private Inspector.

Prior to the enactment of the new act, the inspection of factory or machinery must be performed by the official competent of the Department of Industrial Works. However, by virtue of Section 8 of the new act (no.2), the inspection of factory, machinery or other related procedure may be inspected by the private inspector. In addition, the private inspector can also prepare the inspection report in place of the official competent.

Nevertheless, it is important to note that the private inspector must firstly obtain the license or the certification from the Department of Industrial Works to be able to inspect the factory or machinery.

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More importantly, the supervision of private inspector must be strictly performed. In the case where the private inspector prepares the false report, such private inspector will be subject to imprisonment and/or fine penalty.

IV. Transfer of Factory Operations

The new act has also extended the period for submission of application in case of transfer of factory operations. Previously, the transferee, the lessee, or the buyer of the factory must submit the application for transfer the Factory License to the license grantor within 7 days from the transfer date. According to Section 15 of the new act (no.2), the period has been extended to 30 days from the date on which the transfer occurred.

In addition, the new act also grants the right to the industrial operators, who cannot set up the factory or cannot start operating business after obtaining the Factory License, to transfer their licenses. In such a case, the new licensee is required to submit the application for transfer of license to the Department of Industrial Works within 30 days from the transferring date as well.

The new factory laws are believed to provide benefits to the country's overall industry both in terms of investment and employment. It could be seen that the new laws facilitate the industrial operators, which currently have more than 140,000 people nationwide, by saving their time in dealing with the government agencies. Particularly, for those who operate small-size businesses that are exempted from applying for Factory Licenses.

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If you have any comments or questions regarding Trade Alert or any matters discussed herein, or if you are interested in finding out more about Bolliger & Company Consulting services, please contact any of the persons below:

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