

**HAZARDOUS SUBSTANCE ACT,  
B.E. 2535 (1992)**

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BHUMIBOL ADULYADEJ, REX.  
Given on the 29<sup>th</sup> Day of March, B.E. 2535;  
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 toxic substance;

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

**Section 1.** This Act is called the “Hazardous Substance Act, B.E. 2535”.

**Section 2.** This Act shall come into force as from the day following the date of its publication in the Government Gazette.<sup>1</sup>

**Section 3.** The followings shall be repealed:

- (1) Toxic Substance Act, B.E. 2510;
- (2) Toxic Substance Act (No. 2), B.E. 2516.

**Section 4.** In this Act,

“Hazardous substance” means the following substances:

- (1) an explosive;
- (2) an inflammable substance;
- (3) an oxidizing agent and a peroxide substance;
- (4) a toxic substance;
- (5) an infectious substance;
- (6) a radioactive substance;
- (7) a mutagen;
- (8) a corrosive substance;
- (9) an irritating substance;
- (10) other substances, whether chemical or else, which may be harmful

to person, animal, plant, property or environment;

“Produce” means make, cultivate, compound, mix, transform, modify, repack or pack;

“Import” means bring or order to bring into, or transit, the Kingdom;

“Export” means send or cause to send out of the Kingdom;

“Sell” includes trade, distribute or give for commercial purpose as well as having in possession for sale;

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<sup>1</sup>Published in the Government Gazette, Vol. 109, Part 39, dated 6<sup>th</sup> April, B.E. 2535 (1992).

“Having in possession” means having in possession for the possessor himself or for other persons whether such possession is for sale, transportation, use or for other purposes, including leaving or presenting within the area under possession;

“Label” means picture, artificial mark or any statement affixed on hazardous substance or its container or package, or inserted in or accompanied with hazardous substance or its container or package, including instruction of use or user manual of hazardous substance;

“Convention on the Prohibition of Chemical Weapons” means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction having been opened for signature since 13<sup>th</sup> January B.E. 2536;<sup>2</sup>

“Committee” means the Hazardous Substance Committee;

“Competent official” means a person appointed by the Responsible Minister for the execution of this Act;

“Responsible Minister” means the Portfolio Minister of the agency entrusted to be responsible for control of hazardous substance under section 19.

**Section 5.** The Minister of Defense, the Minister of Agriculture and Cooperatives, the Minister of Transport, the Minister of National Resources and Environment, the Minister of Energy, the Minister of Interior, the Minister of Science and Technology, the Minister of Public Health and the Minister of Industry shall control, promote and supervise the secretary and the assistant secretaries of the Hazardous Substance Committee in the execution of this Act.<sup>3</sup>

The Minister of Industry shall have the power to issue the Ministerial Regulation prescribing fees not exceeding the rate hereto attached, granting exemption from fees and prescribing other acts and issuing Notification for the execution of this Act.

The Responsible Minister shall have the power to appoint the competent official and issue Notification for the execution of this Act.

Such Ministerial Regulations or Notifications shall come into force upon their publication in the Government Gazette.

## **Chapter 1**

### **Hazardous Substance Committee**

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**Section 6.**<sup>4</sup> There shall be a Hazardous Substance Committee consisting of the Permanent Secretary of the Ministry of Industry as Chairperson, the Commissioner General of the Royal Thai Police, the Director-General of the Department of Land Transport, the Director-General of the Department of Internal Trade, the Director-General of the Department of Medical Services, the Director-General of Pollution Control Department, the Director-General of the Department of Energy Business, the Director-General of the Department of Fisheries, the Director-General of the Department of Livestock Development, the Director-General of the Department of Agriculture, the Director-General of the Department of Medical Sciences, the Director-General of the Department of Agricultural Extension, the Secretary-General of the Food and Drug Administration, the Secretary-General of the

<sup>2</sup>As added by the Hazardous Substance Act (No. 2), B.E. 2544 (2001).

<sup>3</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>4</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

Office of Atomic Energy for Peace, the Secretary-General of the Thai Industrial Standards Institute, a representative of the Ministry of Defense, a representative of the Ministry of Transport, a representative of the National Bureau of Agricultural and Food Standards and not more than ten qualified persons appointed by the Council of Ministers, as members. The Director-General of the Department of Industrial Works shall be member and secretary and a representative of the Department of Energy Business, a representative of the Department of Industrial Works, a representative of the Department of Agriculture, a representative of the Food and Drug Administration, and a representative of the Office of Atomic Energy for Peace shall be assistant secretaries.

The qualified members to be appointed by the Council of Ministers shall have knowledge, skill, contribution and experience relevant to chemistry, science, engineering, agriculture or law, and at least five of them shall be appointed from the qualified persons who are representatives of public benefit organizations with experience in providing protection to health and sanitary, consumer, sustainable agriculture, hazardous waste management in locality or environment.

**Section 7.** The Committee shall have the powers and duties as follows:

(1)<sup>5</sup> to lay down policy and to determine measure and plan on hazardous substance control to be complied with by all concerned agencies upon the approval of the Council of Ministers;

(1/1)<sup>6</sup> to give recommendation to the Minister of Industry in relation to the issuance of the Notifications under section 18 paragraph two and section 36 paragraph one;

(2)<sup>7</sup> to give recommendation to the Responsible Minister in relation to the issuance of the Notifications under section 20, section 20/1, section 36 paragraph three, section 37 paragraph two, section 43, section 44, and section 47 (5);

(3) to give advice to the competent official on registration and revocation of hazardous substance;

(4) to give advice or recommendation to the Responsible Minister, the Minister of Industry, the responsible agencies and the competent official on any matter in relation to hazardous substance;

(5) to consider complaint of a person who is suffered or damaged from hazardous substance;

(6) to notify or advertise information relating to hazardous substance to the public, with or without the name of that hazardous substance or name of entrepreneur concerned therewith;

(7) to supervise, give advice and expedite the competent official, government agency or State agency having powers and duties in relation to any hazardous substance for the performance of their powers and duties as prescribed by laws;

(8) to give recommendation to the Minister of Industry for the submission of guideline on hazardous substance control and prevention and remedy for damage arising from hazardous substance to be complied with by any agency of the State to the Council of Ministers;

<sup>5</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>6</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>7</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

(9) to perform any other act as prescribed by law to be the powers and duties of the Committee.

**Section 8.**<sup>8</sup> A qualified member holds office for a term of two years. A qualified member who vacates office may be reappointed, but not more than two consecutive terms.

**Section 9.** In addition to vacating office at the end of the term under section 8, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers due to negligent, dishonest in the discharge of duty, disgrace behavior or incapability;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent; or
- (6) having been sentenced by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence.

**Section 10.** If there is an appointment of a qualified member while the appointed qualified members remain in office, irrespective of whether it is an appointment for the additional member or for the fulfilment of the vacancy, the appointee shall hold office for the remaining term of the appointed qualified members.

**Section 11.** At the expiration of term of office, if the newly qualified members have not been appointed, the qualified members who vacate office shall remain in office to continue their duties until the newly qualified members have been appointed.

**Section 12.** At a meeting of the Committee, the presence of not less than one-half of the total number of the members shall constitute a quorum. If the Chairperson is not present at the meeting, the members shall select one among themselves to preside over at the meeting.

A decision shall be made by a majority of votes. In casting votes, each member shall have one vote. In case of an equality of votes, the person who presides over at the meeting shall cast an additional vote as a casting vote. A member having personal interest in any matter shall have no right to vote on such matter.

**Section 13.** The Committee may appoint a sub-committee for consideration or execution any matter as may be entrusted by the Committee.

The Committee may determine the quorum and procedure of the sub-committee as appropriate.

**Section 14.** In the performance of duties, the Committee or its sub-committee shall have the power to issue a letter of inquiry to or summon any person so as to give information or send any document or object for its consideration as it deems necessary.

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<sup>8</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

## Chapter 2 Hazardous Substance Control

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**Section 15.** In the case where any matter on hazardous substance control has been provided by any law, the provisions of that law shall prevail; provided that, the Committee, with approval of the Minister having charge and control of the execution of that law, has a resolution that the provisions of this Act shall be applied thereto additionally, or in lieu thereof, within or without any specific period or conditions.

The resolution under paragraph one shall come into force upon its publication in the Government Gazette by the Minister having charge and control of the execution of that law.

**Section 15/1.**<sup>9</sup> In passing of any resolution or giving any recommendation of the Committee or in giving approval of the Minister having charge and control of the execution of any other law and in issuing a Notification of the Minister of Industry or the Responsible Minister for the execution of this Act, regard shall be had to the Convention on the Prohibition of Chemical Weapons and other international conventions and obligations.

**Section 16.** If there is necessary to prevent any condition of being susceptible to harm person, animal, plant, property or environment, a Royal Decree determining the area where the possession, trade or use of any hazardous substance is prohibited may be promulgated.

**Section 17.** There shall establish the Hazardous Substance Information Centre under the Ministry of Industry to provide to, and collect from, all government agencies and private sector information in relation to the existence of hazardous substance abroad, its import or domestic production, transportation, use, destruct and any other matter concerning therewith.

**Section 18.** For the purpose of control, hazardous substance shall be classified into the following categories:

(1) 1<sup>st</sup> Category, *viz.* hazardous substance which its production, import or export or to have it in possession shall be in accordance with the determined rules and procedure;

(2) 2<sup>nd</sup> Category, *viz.* hazardous substances which its production, import or export or to have it in possession shall be notified in advance to the competent official and shall be in accordance with the determined rules and procedure;

(3) 3<sup>rd</sup> Category, *viz.* hazardous substances which its production, import or export or to have it in possession shall be licensed;

(4) 4<sup>th</sup> Category, *viz.* hazardous substances which its production, import or export or to have it in possession is prohibited.

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<sup>9</sup>As added by the Hazardous Substance Act (No. 2), B.E. 2544 (2001).

In order to prevent and stop any danger which may be happened to person, animal, plant, property or environment, the Minister of Industry, with recommendation of the Committee, shall have the power to publish name, properties and category of hazardous substance, enforcement period and responsible agency for the control of such hazardous substance in the Government Gazette.

**Section 19.** In the case where any agency of any Ministry or Sub-Ministry requests to be responsible agency for the control of any hazardous substance under this Act, the Committee shall submit its recommendation to the Minister of Industry for the issuance of the Notification under section 18 paragraph two determining that agency to be responsible, wholly or partly, for any execution in relation to such hazardous substance with due regard to experience, personnel and relationship between principal missions and workload of that agency.

In the case where the Committee does not agree with the request, the Minister who supervises the requesting agency may affirm that request to the Committee within thirty days. In this case, the Minister of Industry shall submit this matter to the Council of Ministers for decision.

**Section 20.** The Responsible Minister, with recommendation of the Committee, shall have the power to determine the following matters by publishing in the Government Gazette;

(1)<sup>10</sup> quantity, component, properties and additive, container, examining and testing method for container, label, production, import, export, sale, transportation, storage, elimination and destruction of hazardous substance, treatment of hazardous substance's container and reporting, delivering of specimen or any other matter in relation to hazardous substance in order to control, prevent, alleviate or stop any danger which may be happened to person, animal, plant, property or environment with due regard to international conventions and obligations;

(1/1)<sup>11</sup> transferring of technology in relation to hazardous substance and giving bond with security for damage that may be happened to environment, health and sanitary, life or property on course of business;

(2)<sup>12</sup> expertise or responsible personnel for any execution under (1) and (1/1);

(3) standard deviation of essential element of hazardous substance;

(4) hazardous substance registration procedure;

(5) name and properties of hazardous substance and its exemption as granted under section 36.

**Section 20/1.**<sup>13</sup> The expertise or responsible personnel for any execution in relation to hazardous substance shall comply with the rules, procedure and conditions as prescribed by the Responsible Minister with recommendation of the Committee as published in the Government Gazette.

<sup>10</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>11</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>12</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>13</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

**Section 21.**<sup>14</sup> A producer, importer or exporter of, or any person having in possession of, hazardous substance in the 1<sup>st</sup> Category shall comply with the Notification of the Responsible Minister issued under section 20 (1), (1/1), (2) and (3).

**Section 22.**<sup>15</sup> Subject to the provisions of section 36, no person shall produce, import or export, or have in possession of, hazardous substance in the 2<sup>nd</sup> Category; provided that, an intention to do so has been notified in advance to the competent official.

Whenever any hazardous substance has been notified as hazardous substance in the 2<sup>nd</sup> Category, a producer, importer or exporter of, or a person having in possession of, that hazardous substance shall notify his performance in relation to that hazardous substance to the competent official within the period as specified in that notification.

Upon receiving of information under paragraph one or paragraph two, the competent official shall produce a receipt as evidence to the person who makes such notification. The receipt shall be valid through the period as specified therein, but not more than three years as from the date of its issuance.

The making of notification, the issuance of a receipt and the application for renewal of a receipt and the granting thereof shall be in accordance with the rules and procedure as prescribed by the responsible agency by publishing in the Government Gazette.

A producer, importer or exporter of, or a person having in possession of, hazardous substance in the 2<sup>nd</sup> Category shall comply with the Notification of the Responsible Minister issued under section 20 (1), (1/1), (2) and (3).

**Section 23.** Subject to the provisions of section 36, no person shall produce, import or export, or have in possession of, hazardous substance in the 3<sup>rd</sup> Category without license granted by the competent official.

The application for and the granting of license shall be in accordance with the rules and procedure as prescribed in the Ministerial Regulation. In this case, the circumstance to be considered for the granting or not granting of license shall be prescribed therein as clearly as possible unless it is unforeseeable and the period for consideration shall clearly be specified.

A producer, importer or exporter of, or a person having in possession of, hazardous substance in the 3<sup>rd</sup> Category shall comply with the Notification of the Responsible Minister issued under section 20 (1), (1/1), (2) and (3).<sup>16</sup>

**Section 24.** Whenever any hazardous substance has been notified as hazardous substance in the 3<sup>rd</sup> Category, a producer, importer or exporter of, or a person having in possession of, that hazardous substance shall apply for license under section 23 within the period as specified in that Notification, and that person may, in the meantime, carry on his business temporarily until the competent official refuses to grant license.

<sup>14</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>15</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>16</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

**Section 25.** In the case where the license has been granted, if it appears thereafter that the law or situation has changed or it is necessary to render safety protection, the competent official having the power to grant license shall have the power to amend or add the conditions of license as appropriate.

**Section 26.** A license granted under this Act shall be valid through the period specified therein but not more than three years as from the date of its issuance.

**Section 27.** A licensee who desires to renew his license shall submit an application for renewal before the expiration of license. Upon such submission, that person is deemed to be a licensee and may, in the meantime, carry on his business temporarily until the competent official refuses to renew the license.

The application for renewal of a license and the granting thereof shall be in accordance with the rules and procedure as prescribed in the Ministerial Regulation.

**Section 28.** In the case where the competent official refuses to grant or renew license, the applicant has the right to appeal to the Responsible Minister within thirty days as from the date of receiving of the letter of the competent official refusing to grant or renew license. The decision of the Responsible Minister shall be final.

**Section 29.** If the competent official refuses to renew license or the Responsible Minister dismiss an appeal for renewal of license, the applicant may sell hazardous substance in his possession within three months as from the date the refusal order or dismissal order of the Responsible Minister, as the case may be, is known to him. At the expiration of the period as aforesaid, section 52 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

**Section 30.** If a license or register certificate of hazardous substance is lost, faded or substantially damaged, the licensee shall apply for a substitute thereof to the competent official within fifteen days from the date that loss, fade or damage is known to him.

**Section 31.** A licensee whose license is valid for more than three months shall display the license or a substitute thereof at the open and conspicuous position of the place of business as specified therein.

**Section 32.** If it appears to the competent official that any licensee violates or fails to comply with this Act, the competent official shall have power to suspend the license for a period that he thinks fit, but not more than one year. The competent official may, in serious case, revoke the license.

**Section 33.** The person whose license has been suspended or revoked under section 32 has the right to appeal to the Responsible Minister within thirty days from the date that order is known to him. The decision of the Responsible Minister shall be final.

The appeal under paragraph one shall not stay the execution of the suspension or revocation order.



**Section 34.** The person whose license has been revoked under section 32 may sell hazardous substance in his possession within the period of three months as from the date the revocation order or dismissal order of the Responsible Minister, as the case may be, is known to him. At the expiration of the period as aforesaid, section 52 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

**Section 35.** The person whose license has been revoked shall not be eligible to apply for a new license until the expiration of five years as from the revocation date.

**Section 36.** The Minister of Industry, with recommendation of the Committee, shall publish in the Government Gazette the list of hazardous substances which their production and nature are generally known that they may be harmful.

Any hazardous substance in 2<sup>nd</sup> Category or 3<sup>rd</sup> Category other than that specified in the list under paragraph one shall be registered with the competent official prior to be produced or imported. Upon receiving of register certificate, it may be produced or imported under section 22 or the production or import license thereof may be granted under section 23; provided that, there is the Notification of the Responsible Minister exempting registration on the ground that that hazardous substance has been registered by another person or on any reasonable ground. The hazardous substance register certificate shall be valid for not more than six years as from the registration date.<sup>17</sup>

The application for hazardous substance registration and the issuance and the renewal of hazardous substance register certificate shall be in accordance with the rules and procedure as prescribed by the Responsible Minister, with recommendation of the Committee, and published in the Government Gazette.<sup>18</sup>

**Section 37.** In the case where the registration requires the production or importation of a specimen of hazardous substance to be registered, or the importation of other hazardous substances used for the production of hazardous substance to be registered, and the permission or registration for production or importation of that hazardous substance is required by any other law, the applicant may ask permission for production or importation of that hazardous substance under this Act. In this regard, the applicant is exempted from the execution in accordance with the rules and procedure as prescribed by such law.

The production and importation under paragraph one shall be in accordance with the rules and procedure as prescribed by the Responsible Minister, with recommendation of the Committee, and published in the Government Gazette.

**Section 38.** No competent official shall register hazardous substance if the Committee is of the opinion that:

(1) the hazardous substance to be registered fails to meet its quality as applied for registration, or its usage may be harmful to person, animal, plant, property or environment without ordinarily preventive measure;

(2) the hazardous substance requires to be registered in boastful, impolite or misleading name; or

<sup>17</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>18</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

(3) the hazardous substance to be registered is forged or being under registration revocation order of the competent official.

The refusal order of the competent official shall be final.

**Section 39.** For the purpose of protection of person, animal, plant, property or environment, the competent official shall, with recommendation of the Committee, have the power to rectify the register of hazardous substance as necessary.

**Section 40.** If it appears that any registered hazardous substance having no properties as registered or its usage may be harmful to person, animal, plant, property or environment without ordinarily preventive measure, the competent official shall, with recommendation of the Committee, have the power to revoke the registration of such hazardous substance.

The revocation order of the competent official shall be final.

Upon revocation order, the rights to produce, import or export or to have in possession of such hazardous substance shall come to an end.

**Section 41.** The owner of the hazardous substance under revocation order shall destruct or treat such hazardous substance in accordance with the order of the competent official within the period as specified therein. In this case, section 52 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

**Section 42.**<sup>19</sup> *Repealed*

**Section 43.**<sup>20</sup> No person shall produce, import or have in possession of the 4<sup>th</sup> Category of hazardous substance, except for use as standard substance in laboratory and written permission has been granted by the responsible agency. The application for, and the granting of, permission shall be in accordance with the rules, procedure and conditions as specified by the Responsible Minister, with recommendation of the Committee, and published in the Government Gazette.

When the Minister of Industry notifies any substance to be the 4<sup>th</sup> Category of hazardous substance, the producer, importer or the person having in possession of that hazardous substance shall comply with the order of the competent official. In this case, section 41 shall apply *mutatis mutandis*.

**Section 44.** The Responsible Minister shall, with recommendation of the Committee, have the power to notify exemption to the following hazardous substances from complying with this Act, wholly or partly, as he thinks fit:

(1) the hazardous substance that its nature or quantity may cause modest harm or the enforcement of various measures under this Act to such hazardous substance may cause undue burden;

(2) the hazardous substance of any Ministry, Sub-ministry, Department, local administration, State enterprise, State organisation, Thai Red Cross Society or other agencies to be determined as appropriate.

<sup>19</sup>As repealed by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>20</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

**Section 45.** No person shall produce, import or have in possession of the 1<sup>st</sup> Category, the 2<sup>nd</sup> Category or the 3<sup>rd</sup> Category of hazardous substance as follows:

- (1) forged hazardous substance;
- (2) under-standard hazardous substance;
- (3) deteriorated hazardous substance;
- (4) hazardous substance required to be registered but fails to be registered.
- (5) hazardous substance under revocation order.

To have hazardous substance in possession under paragraph one excludes the possession for destruction or for submission to the competent official or for other purposes as prescribed by law.

**Section 46.** A person who knows that the hazardous substance in his possession is the hazardous substance under section 45 shall destruct it or give information thereon or submit it to the competent official in accordance with the rules and procedure as prescribed in the Notification issued under section 20 (1).

**Section 47.** The following hazardous substances or objects shall be deemed to be forged hazardous substances:

- (1) an imitation, wholly or partly, of genuine hazardous substance;
- (2) hazardous substance that is represented under the name of another hazardous substance or that indicating a false expiry date;
- (3) hazardous substance that represents false statement on name or trademark of its producer or place of production;
- (4) hazardous substance that is represented as registered hazardous substance which is false;
- (5) hazardous substance produced with lower or higher essential element than deviation standard under section 20 (3) at the degree determined by the Responsible Minister, with recommendation of the Committee, and published in the Government Gazette.

**Section 48.** The following hazardous substances shall be deemed to be under-standard hazardous substances:

- (1) hazardous substance produced with lower or higher essential element than deviation standard under section 20, but lower than the degree as determined under section 47 (5);
- (2) hazardous substance which its purity, additive or any other essential characteristic deviates from determined requirement or from the registration.

**Section 49.** The following hazardous substances shall be deemed to be deteriorated hazardous substances:

- (1) hazardous substance which its usage is expired upon the expiry date as shown on its label;
- (2) hazardous substance which is transformed until having the same characteristic as forged hazardous substance under section 47 (5) or under-standard hazardous substance.

**Section 50.** In the case where the Committee is of opinion that any label fails to comply with section 20 (1), the Committee shall have the power to order the producer or importer to stop using or correct such label.

**Section 51.** Control of hazardous substance advertisement shall be in accordance with the law on consumer protection. For the purpose of advertisement control, the hazardous substance which its label is determined under section 20 (1) shall be deemed to be goods which its labels is controlled by the label control committee under such law *mutatis mutandis*.

**Section 52.** If it appears to the competent official that any producer, importer, exporter or person having hazardous substance in possession violates or fails to comply with this Act, the competent official shall have the power to order such person to stop that act, to conduct correction or improvement or to act in compliance with this Act. In this case, the competent official may, if there is a reasonable ground, order that person to return such hazardous substance to the producer or the person who is the sender thereof or to act otherwise as appropriate in accordance with the rules, procedure and conditions as determined by the competent official.<sup>21</sup>

In the circumstance under paragraph one, if the producer, importer, exporter or person having hazardous substance in possession is unable to conduct correction on account of incapability or otherwise, the competent official shall, with due regard to harm that may be caused by such hazardous substance, have the power to order that person to submit such hazardous substance to the competent official at the specified place for the purpose of destruction or any appropriate treatment.

In the case where such hazardous substance may be sold, the competent official shall sell it by auction or sell it to a government agency within three months as from the submission date. The proceeds arising on account thereof, after deducting expenses incurred from storage and sale as well as relevant charges, shall be returned to the owner. After the lapse of three months, if it is unable to sell such hazardous substance and the competent official is of opinion that further delay may be harmful or may cause undue burden, the competent official shall have the power to order that hazardous substance to be destructed or treated as appropriate.

The owner of hazardous substance shall pay all expenses arising from the appropriate destruction and treatment of hazardous substance to the State.

**Section 52/1.**<sup>22</sup> If it appears that any producer, importer, exporter or person having hazardous substance in possession carry out an undertaking which its conditions may be harmful, cause damage to or irritate any person or property living or situating within the place of business as well as its adjacent place, the competent official shall have the power to order that person to conduct correction in accordance with the rules and procedure as determined by the competent official.

**Section 53.**<sup>23</sup> *Repealed*

**Section 54.** In the performance of duties, the competent official shall have the power as follows:

<sup>21</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>22</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>23</sup>As repealed by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

(1) to enter into the place of business that is relevant to hazardous substance, the place of production or storage of hazardous substance or any other place suspected to be used as that place between sunrise to sunset or during working hours of that place, or to enter into the vehicle carrying or suspected of carrying hazardous substance in order to inspect hazardous substance, container of hazardous substance, book of account, document or other things relating to hazardous substance;

(2) to take hazardous substance or substance suspected to be hazardous substance in a reasonable amount as specimen for inspection;

(3) to search for, detain, seize or attach hazardous substance, container of hazardous substance, book of account, document or relevant things if there is a reasonable ground to suspect that an offence under this Act has been committed;

(4) to summon any person in writing to give statement or to submit any document or thing for consideration.

**Section 55.** If the hazardous substance, its container, book of account, document and thing seized or attached under section 54 (3) are perishable or the maintenance of which may be at risk of damage or harm arising therefrom or the maintenance cost may be in excess of their value, the competent official shall have the power to destroy or treat it as appropriate with due regard to harm arising from that hazardous substance. In this case, section 52 paragraph three and paragraph four shall apply *mutatis mutandis*.

If the competent official is of opinion that the seized or attached thing is unable to be confiscated under section 88 or the Public Prosecutor has final and conclusive order not to conduct prosecution, the competent official shall revoke the attachment or return that hazardous substance, container of the hazardous substance, book of account, document and thing to deserve person without delay.

In returning of thing seized or attached or the proceeds of sale, the returning notice shall be posted to deserve person at his domicile via registration mail with advice of delivery. In the case where the deserve person or his domicile is unknown, if the returning notice has been published in the newspaper widely circulated in the locality the seizure or attachment is made or if the cost of publication in the newspaper may be in excess of the value of the thing to be returned and the returning notice has been notified at the *Amphoe* Administration Office of that locality for not less than fifteen days, it shall be deemed that the notification has been made after the lapse of seven days as from the date the returning notice has been published in the newspaper or the date the returning notice has been notified at the *Amphoe* Administration Office, as the case may be.

The applicant for return shall be liable to all charges incurred to the State on account of the publication in the newspaper, together with surcharge at the rate of twenty per cent of the total amount.

If it is unable to return since the deserve person is unknown, the seized thing or money to be returned, as the case may be, shall be maintained. After the lapse of one year as from the date the deserve person has been notified, if no deserve person apply for return, the seized thing or money to be returned shall devolve on the State.

**Section 56.** In the performance of duties, the competent official shall produce his identification card to relevant person.

The form of the identification card of the competent official shall be prescribed by the Responsible Minister.

### **Chapter 3** **Duties and Civil Liabilities**

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**Section 57.** The provisions in this Chapter shall not prejudice to or limit the duties and civil liabilities of person under the provisions of other chapters or other laws.

**Section 58.** In determining the duties and liabilities under this Chapter, the Minister of Industry shall have the power to publish any object which shall be deemed to be hazardous substance in the Government Gazette under the provisions of this chapter.

**Section 59.** The producer of hazardous substance shall have the duty of care in procuring object to be used as material for production, laying down trustworthy production procedure and step, providing solid and secure container for use, moving and transportation, providing label with apparent caution on harm of that hazardous substance, providing appropriate storage and examining the appropriateness of the recipient or the person who is expected to be the recipient of such hazardous substance.

**Section 60.** The importer of hazardous substance shall have the duty of care in providing producer, examining quality of hazardous substance, examining the correctness of container and label, selecting transportation mode and carrier, providing appropriate storage and examining the appropriateness of the recipient or the person who is expected to be the recipient of such hazardous substance.

**Section 61.** The carrier shall have the duty of care in examining the correctness of thing used in transportation or vehicle and accessory, container and label and the appropriateness of transportation mode, the correctness of loading on the vehicle and trustworthiness of the employee of or a person working for him.

**Section 62.** A person having in possession of hazardous substance shall have the duty of care in examining the trustworthiness of his producer, importer or supplier, the correctness of container and label, the appropriateness of storage and the appropriateness of the recipient or the person who is expected to be the recipient of such hazardous substance.

**Section 63.** The producer, importer, carrier or person having in possession of hazardous substance shall be liable for all damages arising from hazardous substance in his possession, except where he can prove that such damage caused by *force majeure* or by fault of the injured person.

**Section 64.** The seller or the person who delivers hazardous substance to any other person shall be liable to all damages of that person caused by such hazardous substance, except where he can prove that such damage caused by *force majeure* or by fault of the injured person.

**Section 65.** The employer, principal, hirer or owner of business undertaking shall be jointly liable with the person under section 63 or section 64 for the consequence of wrongful act committed by that person on the course of his business, but he is entitled to be compensated by that person; provided that, he takes part in that fault by having an order in so doing or selecting or taking control over that person or otherwise which directly results in the committing of such wrongful act.

**Section 66.** The producer, importer, wholesaler, retailer, middleman and the person who takes part in any stage of distribution; from the producer to the liable person while the wrongful act under section 63 or section 64 occurs, shall also be jointly liable for the consequences of the wrongful act.

**Section 67.** The right to compensation for damage caused by hazardous substance under this Act shall come to an end upon the lapse of three years as from the date the damage, the state of being hazardous substance and the person liable to compensation have known to the injured person.

If there is a negotiation in respect of the compensation between the person who is expected to be liable for compensation and the person entitled thereof, the prescription shall be interrupted until the failure of such negotiation.

**Section 68.** The liable person under section 63, section 64, section 65 or section 66 who has paid compensation to the injured person shall be reimbursed from the person who has delivered that hazardous substance to him or to the person working for him and one or more person who has participated, at all steps, in the delivery of hazardous substance up to the producer. The right of recourse shall be exercised within three years as from the date of payment of compensation. In the case where the person exercising the right of recourse being the person who commits the wrongful act willfully or negligently, he shall have the right to be reimbursed only for the damage beyond his responsibility.

**Section 69.** In the case where the hazardous substance causes damages to person, animal, plant or environment, if the State suffers damage on account of expenses paid in order to conduct assistance, move, treatment or alleviation or to restore the damage to former or closely former condition, or if it causes damage to *res nullius*, natural resources or public domain, the Public Prosecutor shall, upon request of the agency entrusted to be responsible for such hazardous substance, have the power to conduct prosecution claiming compensation for the State.

#### **Chapter 4** **Penalties**

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**Section 70.** A person who fails to give statement or submit any document or thing required by the order of the Committee or Sub-committee under section 14 or by written order of the competent official under section 54 (4) shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding ten thousand Baht or to both.

**Section 70/1.**<sup>24</sup> A person who fails to comply with section 20/1 shall be liable to imprisonment for a term of not exceeding six month or to a fine of not exceeding fifty thousand Baht or to both.

**Section 71.**<sup>25</sup> A person who fails to comply with section 21, section 22 paragraph five, section 41 or section 43 paragraph two shall be liable to imprisonment for a term of not exceeding six month or to a fine of not exceeding fifty thousand Baht or to both.

**Section 72.** A person who violates section 22 paragraph one or fails to comply with section 22 paragraph two or section 23 paragraph three shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Baht or to both.

**Section 73.** A person who violates section 23 paragraph one shall be liable to imprisonment for a term of not exceeding two years or a fine of not exceeding two hundred thousand Baht or to both.

**Section 74.** A person who violates section 43 paragraph one shall be liable to imprisonment for a term of not exceeding ten years or a fine of not exceeding one million Baht or to both.

If the offence under paragraph one is committed through negligence of the importer, exporter or person having in possession of that hazardous substance, such person shall be liable to a fine of not exceeding eight hundred thousand Baht.

**Section 74/1.**<sup>26</sup> A person who employs or supports the commission of the punishable offence under section 73 or section 74 in relation to the 3<sup>rd</sup> or 4<sup>th</sup> Category of hazardous substance which is toxic chemical or substance to be used for the production of toxic chemical listed in the Convention on the Prohibition of Chemical Weapons and published by the Minister of Industry under section 18 shall be liable to the penalty imposed to the principal of such offence.

**Section 74/2.**<sup>27</sup> In the case where the commission of an offence under section 73 or section 74 in relation to the 3<sup>rd</sup> or 4<sup>th</sup> Category of hazardous substances which is toxic chemical or substance to be used for the production of toxic chemical listed in the Convention on the Prohibition of Chemical Weapons and published by the Minister of Industry under section 18, if the offender is of Thai nationality, the offender shall be punished in the Kingdom despite the offence has been committed outside the Kingdom.

Such person shall not be punished in the Kingdom on account of that offence, if:

- (1) there is a final judgment of any foreign Court acquitting him; or
- (2) there is a judgment of any foreign Court convicting him, and he has completely undergone the punishment.

If the sentenced person has partially undergone the punishment for such commission but has not yet completely undergone it according to the judgment

<sup>24</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>25</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>26</sup>As added by the Hazardous Substance Act (No. 2), B.E. 2544 (2001).

<sup>27</sup>As added by the Hazardous Substance Act (No. 2), B.E. 2544 (2001).



of any foreign Court, the Court may, by having regard to the punishment already undergone by him, impose less punishment to any extent than that provided by the law for such offence, or may not impose any punishment.

**Section 75.** A person who violates section 45 (1) or section 45 (5) and in that case the registration has been revoked on the ground that harm may be arisen because there is no ordinarily preventive measure thereof, if that violation relates to the 3<sup>rd</sup> Category of hazardous substance, shall be liable to imprisonment for a term of not exceeding seven years or to a fine of not exceeding seven hundred thousand Baht or to both.

If the offence under paragraph one is committed through negligence of the importer, exporter or person having in possession of such hazardous substance, the offender shall be liable to a fine of not exceeding five hundred thousand Baht.

**Section 76.** A person who violates section 45 (2) or section 45 (5) and in that case the registration has been revoked on the ground that the registered hazardous substance fails to meet its quality as applied for registration, if that violation relates to the 3<sup>rd</sup> Category of hazardous substance, shall be liable to imprisonment for a term of not exceeding five years or to a fine of not exceeding five hundred thousand Baht or to both.

If the offence under paragraph one is committed through negligence of the importer, exporter or person having in possession of such hazardous substance, the offender shall be liable to a fine of not exceeding four hundred thousand Baht.

**Section 77.** A person who violates section 45 (3) and that violation relates to the 3<sup>rd</sup> Category of hazardous substance shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Baht or to both.

If the offence under paragraph one is committed through negligence, the offender shall be liable to a fine of not exceeding eighty thousand Baht.

**Section 78.** A person who violates section 45 (4) and that violation relates to the 3<sup>rd</sup> Category of hazardous substance shall be liable to imprisonment for a term of not exceeding three years or to a fine of not exceeding three hundred thousand Baht or to both.

**Section 79.** If the offence under section 75, section 76, section 77 or section 78 relates to the 2<sup>nd</sup> Category of hazardous substance, the offender shall be liable to two-thirds of the penalty prescribed in those sections.

**Section 80.** If the offence under section 75, section 76, section 77 or section 78 relates to the 1<sup>st</sup> Category of hazardous substance, the offender shall be liable to one-half of the penalty prescribed in those sections.

**Section 81.** A licensee who fails to comply with section 30 or section 31 shall be liable to a fine of not exceeding ten thousand Baht.

**Section 82.** A person who intentionally misleads other persons in regard to the origin, nature, quality, quantity or other essential elements of hazardous substance of his own or of the others, makes or uses label containing false statements

or statements which he knows or ought to know that it may be misleading shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Baht or to both.

If the offender under paragraph one recommitts that offence within six months as from the date of the previous commission, he shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding two hundred thousand Baht or to both.

**Section 83.** A person who sells hazardous substance without label or with label but such label or statement thereof is incorrect, or sells the hazardous substance which its label has been revoked or corrected by the Committee under section 50 shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding fifty thousand Baht or to both.

If the offence under paragraph one is committed through negligence, the offender shall be liable to a fine of not exceeding forty thousand Baht.

If the offence under paragraph one is committed by the producer or importer, the offender shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Baht or to both.

**Section 84.** A person who intentionally or negligently agrees to make or paste illegal label or to destroy an essential part of legal label of any hazardous substance under Chapter 2 shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding fifty thousand Baht or to both.

**Section 85.** A person who fails to comply with section 52 paragraph one shall be liable to imprisonment for a term of not exceeding three months or to a fine of not exceeding thirty thousand Baht or to both.

**Section 85/1.**<sup>28</sup> A person who fails to comply with the order of the competent official section 52/1 shall be liable to imprisonment for a term of not exceeding three months or to a fine of not exceeding thirty thousand Baht or to both.

**Section 86.** A person who fails to render appropriate facility to the competent official in the performance of duty under section 54 shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding ten thousand Baht.

**Section 87.** In the case where a person has been sentenced on account of an offence under section 71 or section 72 and in that case the license is exempted, if it appears that such person may recommit that offense, the Court may prohibit him from involving in any business in relation to hazardous substance for a period of not exceeding five years as from the date the punishment has undergone.

**Section 87/1.**<sup>29</sup> If a person who has been sentenced on account of the offence under this Act recommitts the same offence, the Court may impose additional punishment for one-half time of the punishment as prescribed for that offence.

<sup>28</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>29</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

**Section 87/2.**<sup>30</sup> In the case where the offender under this Act is a juristic person, its directors, manager or expertise, specialist or any person who is responsible for the commission of such offence shall be liable to the punishment as prescribed for that offence, except where he is able to prove that such offence has been committed without his knowledge or consent.

**Section 88.** Any hazardous substance produced, imported, exported or possessed in violation of this Act, its container, and relevant tool and accessory or any property forfeited by the judgment of the Court shall be submitted to the government agency responsible for the control of such hazardous substance for destruction or treatment as it thinks fit.

In case of destruction, the Court shall order the owner thereof to pay all incurred expenses to the State.

**Section 89.**<sup>31</sup> With regard to the offences under this Act punishable to imprisonment for a term of not exceeding one year or only with fine, the Committee shall have the power to settle them. If the offender pays the fine for settlement within thirty days as from the date the amount thereof has been informed to him, the case is deemed to be settled under the Criminal Procedure Code.

If the Committee thinks fit, it may entrust the power to settle the case to the Sub-committee or the competent official. The settlement shall be in accordance with the rules and procedure as prescribed by the Committee.

In the case where the property relating to the commission of an offence under this Act has been seized or attached, the person having the power to settle the case under paragraph one or paragraph two may settle the case in accordance with the following conditions:

(1) if the seized or attached property may be rectified and the offender rectifies it voluntarily;

(2) if the seized or attached property is unable to be rectified and the offender devolves it to the government agency responsible for the control of such hazardous substance.

In the case where the person who agrees to settle the case has rectified the property, the competent official shall withdraw the attachment thereof.

All properties devolved on the government agency responsible for the control of such hazardous substance shall be treated in accordance with the rule as prescribed by the Responsible Minister.

### Transitory Provisions

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**Section 90.** Any application for license submitted in accordance with the law on toxic substance and being under consideration shall be deemed to be the application for license under this Act *mutatis mutandis*. If such application contains different content from the application under this Act, the licenser shall have the power to conduct amendment as necessary for the compliance with this Act.

<sup>30</sup>As added by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

<sup>31</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).

**Section 91.** A license and hazardous substance register certificate granted under the law on toxic substance prior to the date this Act comes into force shall be valid until the expiration of the period specified therein.

**Section 92.** Within six months as from the date this Act comes into force, all substances or any other objects as notified to be ordinary toxic substances and seriously toxic substances under the law on toxic substance shall be completely reviewed and the notification of the 1<sup>st</sup> Category, 2<sup>nd</sup> Category, 3<sup>rd</sup> Category or 4<sup>th</sup> Category of hazardous substance shall also be completely notified.

Prior to the completion of the execution under paragraph one, the provisions of the law on toxic substance shall remain in force; provided that, the provisions relating to the Toxic Substance Committee shall be replaced by the provisions relating to the Hazardous Substance Committee under this Act and the provisions of this Act shall come into force insofar as they are not contrary to or inconsistent with the law on toxic substance.

**Section 93.** All Ministerial Regulations and Notifications issued under the law on toxic substance 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

### **Rate of Fees<sup>32</sup>**

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(1)	Hazardous substance register certificate	5,000	Baht each
(2)	Hazardous substance production license	20,000	Baht each
(3)	Hazardous substance import license	20,000	Baht each
(4)	Hazardous substance export license	20,000	Baht each
(5)	License to have hazardous substance in possession	20,000	Baht each
(6)	Production license for specimen of hazardous substance	2,000	Baht each
(7)	Import license for specimen of hazardous substance	2,000	Baht each
(8)	Substitute of hazardous substance register certificate	1,000	Baht each
(9)	Substitute of license	1,000	Baht each
(10)	Renewal of hazardous substance register certificate each time equals to fee to be paid for hazardous substance register certificate		
(11)	Renewal of license each time equals to fee to be paid for each type of license		

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<sup>32</sup>As amended by the Hazardous Substance Act (No. 3), B.E. 2551 (2008).