

Translation

Ministerial Regulation
Prescribing Rules and Procedures for Submitting Notice
to Request for Foreign Business Certificate
B.E. 2546 (2003)*

By virtue of section 11 and section 46 of the Foreign Business Act B.E. 2542 (1999), being a law with certain provisions in relation to the restriction of rights and liberties of persons which section 29 in conjunction with section 35 and section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of law, the Minister of Commerce hereby issues a Ministerial Regulation, as follows:

Article 1. A foreign person wishing to operate a business under section 9, section 10 or section 45 shall submit a notice to request for a certificate in accordance with the form prescribed by the Director-General of the Business Development together with the following evidence and documents:

(1) Notice to request for a certificate under section 9:

(a) natural person:

- 1) copy of passport or foreign person identification document;
- 2) copy of house registration, residence document in the Kingdom or evidence of temporary leave to remain in the Kingdom pursuant to the law on immigration;
- 3) explanation of business type in the notice to request for certificate;
- 4) evidence to show that the submitter of notice to request for certificate had operated the business stipulated the notice to request for certificate prior to the revision of the business schedule;
- 5) map to show the approximate location of the place of business in Thailand;

(b) juristic person not registered in Thailand:

- 1) copy of certificate or evidence of juristic person status which shows entries relating to the name, capital, objects, location of office, list of directors and authorized officers of the juristic person;
- 2) letter appointing a representative issued by an authorized officer of the juristic person under 1) to grant duties and responsibilities of operating a business in Thailand on behalf of the juristic person;

* Published in the Government Gazette, Vol. 120, Part 42a, page 12, on 16th May B.E. 2546 (2003).

3) copy of passport, foreign person identification document or national identification card of the representative appointed under 2);

4) copy of house registration, residence document in the Kingdom or evidence of temporary leave to remain in the Kingdom pursuant to the law on immigration of the representative appointed under 2);

5) evidence or documents under (1) (a) 3), 4) and 5);

(c) juristic person registered in Thailand:

1) evidence or documents under (1) (a) 3), 4) and 5);

2) evidence or document under (1) (b) 1);

3) written notice of proportion of shareholdings between Thai persons and foreign persons, number of shares, class or type of shares held by foreign persons;

(2) notice to request for a certificate under section 10:

(a) natural person:

1) evidence or documents under (1) (a) 1), 2), 3) and 5);

2) copy of foreign person's provisional permit to operate a business from the Royal Thai Government, or copy of nationality certificate of the submitter of notice to request the exercise of right under a treaty issued by the embassy of the party country in the treaty with Thailand, or nationality certificate of the submitter of notice to request for the exercise of rights under an obligation issued by the embassy of the country bound by an obligation with Thailand;

(b) juristic person not registered in Thailand:

1) copy of certificate or evidence of juristic person status which shows entries relating to the name, capital, objects, location of office, list of names and nationalities of directors and authorized officers of the juristic person, list of names and nationalities of shareholders and details of partners; in the event of an inability to submit a list of names and nationalities of shareholders or details of partners, a document showing that persons holding the nationality of a country that is a treaty party or is bound by an obligation with Thailand holds the majority of shares in such juristic person;

2) in the case where the majority shareholder or partner of the submitter of notice to request for a certificate has a juristic person status, evidence or document under 1) of such majority shareholder or partner shall be submitted for all layers of majority shareholder or partner in order to show that such juristic person shareholder or partner of the submitter of notice to request for certificate has a person holding the nationality of a country which is a treaty party or is bound by an obligation with Thailand holds the majority of shares or investments in such juristic person;

3) evidence or documents under (1) (a) 3) and 5);

4) evidence or documents under (1) (b) 2), 3) and 4);

5) evidence or document under (2) (a) 2);
(c) juristic person registered in Thailand:
1) evidence or documents under (1) (a) 3) and 5);
2) evidence or document under (1) (b) 1);
3) evidence or document under (1) (c) 3);
4) evidence or document under (2) (a) 2);
5) in the case where the majority shareholder or partner of the submitter of notice to request for certificate has a juristic person status, evidence or documents under (2) (b) 1) and 2) of such majority shareholder or partner shall also be submitted;

(3) submission of notice to request for a certificate under section 45:

(a) natural person:

1) evidence or document under (1) (a) 1), 2), 3) and 5);
2) evidence to show that the submitter of notice to request for certificate had operated a business of the type stipulated in the notice to request for certificate prior to the coming into force of the Foreign Business Act B.E. 2542 (1999), and such business is not a business prescribed in the schedule to the Order of the Executive Council No. 281, dated 24 November B.E. 2515 (1972);

(b) juristic person not registered in Thailand:

1) evidence or documents under (1) (a) 3) and 5);
2) evidence or documents under (1) (b) 1), 2), 3) and 5)
3) evidence or document under (3) (a) 2);

(c) juristic person registered in Thailand:

1) evidence or documents under (1) (a) 3) and 5);
2) evidence or document under (1) (b) 1);
3) evidence or document under (1) (c) 3);
4) evidence or document under (3) (a) 2).

Article 2. A submitter of notice to request for a certificate must fill in an application by completing in print as well as affix the signature of the submitter of notice to request for a certificate or affix the signature of an appointed agent in the case of a grant of power of attorney to another person to act on his/her behalf.

Article 3. In the case where a power of attorney has been granted in a foreign country, such power of attorney must be certified by an official or notary public authorized by the law of such country, or authorized official of the Royal Thai Embassy or Royal Thai Consulate-General in such country, the certification must be given not more than six months prior to the submission of notice to request a certificate.

Article 4. In the case where a power of attorney has been granted in Thailand by a grantor who does not have residence in Thailand, a copy or photocopy of the passport or certificate of temporary residence or other evidence showing that at the time the power of attorney was granted, such person has actually entered Thailand.

Article 5. In the case where evidence or document supporting an application was signed in a foreign country, the submitter of notice to request a certificate must arrange for a certification of such signature. The provisions of article 3 shall apply *mutatis mutandis*.

Article 6. A submission of evidence or document supporting an application which is in a foreign language must be accompanied by a Thai translation. The submitter of notice to request for a certificate and the translator must affix their signatures to verify the translation's accuracy.

Article 7. When submitting a copy or photocopy of evidence or document supporting an application, the submitter of notice to request for a certificate must verify the authenticity of such copy or photocopy.

Article 8. A notice to request for a certificate shall be submitted at the following places:

(1) Bangkok Metropolis, a submission shall be made at the Department of Business Development, Ministry of Commerce, or at any other place prescribed by Notification of the Director-General;

(2) other provinces, a submission shall be made at the Provincial Office of Business Development or at any other place as prescribed by Notification of the Director-General.

Article 9. In a case of necessity for the benefit of issuing a certificate, a competent official may instruct the submitter of notice to request for a certificate to give facts or submit other relevant evidence or documents.

Article 10. A certificate shall be in accordance with the form prescribed by Notification of the Director-General.

Given on the 1st May B.E. 2546 (2003)

Adisai Bodharamik

Minister of Commerce

Note:- The reasons for issuing this Ministerial Regulation are as follows. The provisions of the Foreign Business Act B.E. 2542 (1999) provides that foreign persons in the following cases, namely, a foreign person operating a business not previously provided in the

schedule to this Act and a subsequent revision or amendment of business type resulted in such business being subject to a licensing requirement under this Act (section 9), a foreign person provisionally permitted by the Royal Thai Government to operate a business or a foreign person entitled to operate a business under a treaty to which Thailand is a party or bound by an obligation (section 11), and a foreign person already operating a business of the type prescribed in the schedule to this Act on the day this Act comes in to force, and such business had not been provided in the schedule to the Order of the Executive Council No. 281, dated 24 November B.E. 2515 (section 45), must submit a notice of business operation to the Director-General in order to request for a certificate in accordance with rules and procedures provided by Ministerial Regulation. It is therefore expedient to issue this Ministerial Regulation.