

CHAPTER 8 FACTORIES

In general, the construction and operation of factories is subject to a licensing procedure. A license is required before a factory can be built, operated, modified or transferred. The basic law is to be found in the Factories Act (1992) as amended, together with regulations issued under the Act. The legislation is enforced by the Department of Industrial Works, which is under the Ministry of Industry.

Definition of factory A factory is defined as any premises that uses machinery equivalent to 5 horsepower or more, or that employs 50 or more employees for manufacturing, producing, assembling, packing, repairing, maintaining, testing, improving, processing, conveying, storing or destroying anything included in the classes or types of factories presently listed in the ministerial regulations.

The Act does not apply to factories owned or operated by government agencies for the purpose of national security or safety, provided that such factories must use the procedures of the Act as guidelines for their operations.

Fees The fee to obtain a factory licence was increased from 100,000 Baht to 1,000,000 Baht in 2016.

Three types of factory The Act defines three types of factory as follows:

- (1) A Group 1 factory meaning a factory of the type, kind, and size that may operate immediately.
- (2) A Group 2 factory meaning a factory of the type, kind, and size which must be notified in advance to the relevant authority.
- (3) A Group 3 factory meaning a factory of the type, kind, and size which requires a license prior to commencing operations.

Factory Establishment License An application to establish a factory must be submitted to the Ministry of Industry in Bangkok, or if the factory is outside Bangkok, it may be submitted to the provincial office. Full plans and details concerning the construction and proposed purpose of the factory must be submitted. Where required, an Environmental Impact Study must also be submitted and approved, before a Factory Establishment License may be granted.

Factory Operating License After the construction of the factory, the manufacturer must apply for a Factory Operating License. If on inspection it appears that the factory and its machinery conforms to the requirements for a Factory Establishment License, a Factory Operating License will be issued.

Regulation by the Ministry of Industry The Ministry of Industry may issue regulations for all categories of factories dealing with the following matters:

1. A description of and the category or type of machinery and equipment to be used in the factory business.
2. The location, environment, the interior, and a description of the factory.
3. Requirements for employees who have specific knowledge to carry out duties in the factory.
4. The manufacturing process and provision of equipment to prevent, stop, or reduce danger, loss, or disturbance that may occur to the public or property in the factory or nearby premises.
5. Standards and procedures for the control or release of waste, pollution, or other things arising from factory operations which may affect the environment.
6. The supplying of necessary information and documents by the factory operator to ensure compliance with the law.
7. The supplying of any thing that may affect the safety of operations.

Validity of licenses Licenses granted are valid until the end of the fifth calendar year from the year in which the factory started operations, except where the factory is transferred, leased or subject to hire purchase, or where operations cease. In such cases, the license is deemed to expire on the date of issue of a license to the factory's new operator, or on the date of cessation of operations.

Renewal of licenses Applications to renew a license must be submitted before expiry. Once submitted, the license is deemed extended unless there is an order stating otherwise.

Powers of the Ministry The Ministry of Industry has the power to issue regulations concerning:

1. The size and number of factories in each category which should not be established or expanded in any locality.
2. The type, quality, origin, and proportion of raw materials to be used in the factory.
3. The type or quantity of products to be manufactured in the factory.
4. The type of energy to be used in the factory.

The Ministry may also prescribe that a factory's products should be used in certain industry or that a percentage of production should be exported.

Factory ceasing operations If a Group 2 or 3 factory ceases operations for more than 12 months, the operator must notify the Ministry in writing within seven days of the expiry of the 12 month period and notify the Ministry before resuming operations. In the case of a Group 3 license, the operator must obtain written permission from the Ministry before resuming operations.

Notification of accidents If there is an accident that causes death, injury, or illness that incapacitates an employee for more than three days, the operator must notify the Ministry within three days from the date of death or the end of the three day period. If an accident causes the factory to cease operating for more than seven days, the factory operator must notify the Ministry within 10 days from the date of the accident.

Further requirements A factory operator must apply for consent to move machinery to another site temporarily, or to transfer a factory to another site. Consent must also be obtained to transfer, lease, offer to hire purchase, or sell a licensed factory. In these cases, the prior license is considered to have expired and a new license must be applied for within seven days.

Expansion of a factory A factory operator who wishes to expand the factory must apply for consent in advance. '*Expansion*' means:

1. An increase in the number of machines, or any change or modification of machinery to increase its power by 50% or more.
2. The addition to or alteration of any part of the factory building that causes any part of the foundation s to bear a load of an additional 500 kilograms or more.

When a licensee increases the quantity of machinery; changes or modifies machinery used for production or generation of power, by less than 50%; constructs or increases the factory space by more than 100 square meters, an application for approval must be submitted within seven days of the date of the change.

Other obligations of factory operators Other obligations imposed under the Act are:

- The recipient of a permit must display the permit at an open and noticeable place in the factory.

- On changing of the name of the factory or the name of the recipient of a permit, the recipient of the permit shall notify the change to the authority within 15 days from the date of such change.
- In case of loss or destruction of a permit, the recipient of the permit shall apply for a substitute to the authority within 15 days from the date of learning of the loss or destruction.
- Where the recipient of a permit wishes to move parts of the machines installed in the factory to another place for temporary engagement in a factory business, then an application for permission must be made together with a plan and other details explaining the reasons therefor.
- A recipient of a permit wishing to move the factory to another place shall proceed as if establishing a new factory.
- A recipient of a permit ceasing engagement in a factory business shall issue written notification to the authority within 15 days from the date of cessation of the factory business.
- Where the recipient of a permit wishes to charge a Group 3 factory to a Group 1 or Group 2 factory, it must notify of the cessation of the factory business and where continuing engagement in the factory business, it must proceed as provided for, regarding engagement in the chosen factory Group.

General regulatory powers The Ministry has general regulatory powers as follows:

1. A factory that causes serious danger to the public may be ordered to cease operations or to make specified improvements. The Minister may order removal of the plant to a location where the public will not be threatened.
2. A factory may be ordered to cease operations, modify or repair machinery, or to undertake other remedial measures.

The issue of a factory establishment license or a factory operation license does not exempt the licensee from compliance with other applicable laws concerning the proposed activity. Licenses may be suspended for violations of the Act or for failure to carry out orders issued under the Act by competent officials.

Enforcement Breach of duties imposed under the Act may incur fines or imprisonment. If the factory is owned by a juristic person, the directors, manager, or other persons responsible for committing the offence are subject to the same

punishment, unless they can prove that the offence was committed without their knowledge or consent.

Other matters Note that factory operators may have to obtain permits under other legislation relating to such matters as permitted noise levels, water treatment, waste processing, etc.

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