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ELEVATED ESTATE

Translation/Summary of NARCOTIC ACT. (ISSUE 7) BE. 2562

17th February 201

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Narcotic Act. (Issue 7) BE. 2562

17th February 2019 (Announced 18th February 2019)

1. To name is Act as “Narcotic Act. (Issue 7) BE. 2562”
2. This Act is enforceable the day after the royal gazette announcement.
3. Addition of the following to be the second paragraph of Section 9;

“To have undersecretary of the Ministry of Agricultural and Cooperative, director general of the Department of Thai Traditional and Alternative Medicine, director general of the Ministry of Industry, director general of the Department of Health Service Support, director general of the Department of Mental Health, President of the Medical Council, President of Thai Traditional Medical Council and President of the Pharmaceutical Council as directors in the board to control the narcotics as according to the first paragraph, but only in the case of schedule 5 narcotics.”

4. Removal of schedule 5 narcotic from Section 13 (6).
5. Addition of the following to Section 13 (6/1), (6/2), (6/3) and (6/4)

(6/1) To give approval to the Minister in the announcement according to Section 26/2 (3), Section 26/4 (1) and Section 26/5 (2) and to follow procedures according to Section 26/6 and Section 58/2.

(6/2) To give approval to Licensor in the licensing of Production, Import/Export schedule 5 narcotics according to Section 26/2 (1) and (2).

(6/3) To give approval to issue department regulation according to Section 26/5 (7)

(6/4) To announce the set characteristic of Hemp according to Section 26/2 (2)

6. Change Section 22 to:

Section 22 In regards to import/export of schedule 3 or 5 narcotics of those that license were granted according to Section 20 or Section 26/2 (1) or (2), are required to obtain a permit to import/export from the Licensor for each import/export.

7. Change Section 23 to:

Section 23 License in accordance to Section 17, Section 20, Section 26/2 (1) and (2) and Section 26/3 are valid to 31st December of the issued year. In the

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case that the Licensee wishes to extend the validity of the License, an application will need to be submitted before the expiry date. When the application had been submitted, the Licensee can continue operations until the Licensor reject the License extension.

8. **Removal of schedule 5 narcotic from Section 26.**
9. **Addition of Section 26/2, Section 26/3, Section 26/4, Section 26/5, Section 26/6 in Chapter 2.**

Section 26/2 The production, import/export of schedule 5 narcotics are forbidden with the exception of:

(1) As required for the benefits of

- officials,
- medical,
- to treat patients or
- research & development which also includes agricultural, commercial, scientific or industrial for medical benefits.

That were granted License from Licensor in accordance to board approval.

(2) In the case of “Hemp” with scientific name of “Cannabis sativa L. subsp.sativa” with characteristic set by the board announcement in the royal gazette, for the benefit according to department regulations will be allowed to operate when License from Licensor in accordance to board approval is granted.

(3) In the case of personal possession when entering/exiting the Kingdom that is not more than required amount for personal treatment with medical prescription or certification letter from:

- Pharmacist,
- Dentist,
- Thai traditional medicine practitioner,
- Applied Thai traditional medicine practitioner or
- Traditional healer according to Thai Traditional Medicine Profession Law

That is the treatment provider. The action are allowed when License is granted by the Licensor. Those that practice Thai traditional medicine and Traditional healer shall follow the terms, method and regulation in accordance to Minister announcement with approval of the board.

Production, import/export of schedule 5 narcotics of 10 kg or more are to be assumed that production, import/export are for distribution.

The License application and issuance will be according to the terms, method and regulation in the department regulation.

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In regards to License application process, the License Requester are responsible for cost from testing or analysis or other cost related according to the terms and method set by the board by royal gazette announcement.

Section 26/3 Distribution or possession of schedule 5 narcotic are forbidden with the exception of Licensee granted by Licensor.

By possessing schedule 5 narcotic of 10 kg or more are to be assume that possession is for distribution.

The License application and issuance will be according to the terms, method and regulation in the department regulation.

Section 26/4 Section 26/3 does not apply to:

- (1) Possession of schedule 5 narcotics of not more than personal treatment with medical prescription or certification letter from
 - Pharmacist,
 - Dentist,
 - Thai traditional medicine practitioner,
 - Applied Thai traditional medicine practitioner or
 - Traditional healer according to Thai Traditional Medicine Profession Law

That is the treatment provider. The action are allow when License is granted by the Licensor. Those that practice Thai traditional medicine and Traditional healer shall follow the terms, method and regulation in accordance to Minister announcement with approval of the board.

- (2) Possession of schedule 5 narcotics of not more than required for first aid treatment or emergency case in ship, plane or other transport that is used in international public transport that is not registered in the Kingdom, but if the transport are registered within the Kingdom are required to apply for License according to Section 26/3

Section 26/5 Licensor will issue License to production, import/export, distribution or possession of schedule 5 narcotics if the License Requester are:

- (1) Government department with the role of
 - Research or medical teaching,
 - Pharmaceutical
 - Science
 - Agriculture
 - Medical service
 - Pharmacy
 - Science service
 - Protect & Suppress
 - Narcotic problem resolution
 - Thai Red Cross

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- (2) Those that operate in the field of
- Medical
 - Pharmaceutical
 - Dentist
 - First order Vet
 - Thai traditional medicine practitioner
 - Applied Thai traditional medicine practitioner or
 - Traditional healer according to Thai Traditional Medicine Profession Law

Those that practice Thai traditional medicine and Traditional healer shall follow the terms, method and regulation in accordance to Minister announcement with approval of the board.

- (3) Licensed higher education institute, with the role of research and medical teaching or pharmaceutical.
- (4) Agriculturist group that registered as Community Enterprise according to Community Enterprise incentive Act, Social Enterprise according to required law, or registered Agricultural Cooperative according to Cooperative law that is under the cooperation and supervision of License Requester according to (1) or (3). Agriculturists can participate in the production and development of traditional medicine or herbal medicine for medical benefit under the cooperation and supervision of License Requester according to (1) or (3).
- (5) Those that operate international public transportation.
- (6) Patient traveling internationally that require to carry schedule 5 narcotics in/out of the Kingdom for personal treatment.
- (7) License Requester according to the Minister with the approval of the board according department regulation.

In the case that the License Requester according to (2), (3), (4) and (7), is an individual, the person must be Thai national that reside in Thailand. In the case that License Requester is a juristic person, must be registered according to Thai law, with office located in Thailand, with Company Directors, shares or shareholder of no less than ⅔ Thai national.

The characteristic of License Requester for Hemp according to Section 26/2 (2) will be according to department regulations.

In the case of License consideration to License Requester according to paragraph 1 and 3, Licensor will take into consideration of the need to produce, import/export, distribution and possession according to the request, where the Licensor may set further terms as see fit.

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Section 26/6 In the case that the Office of the Narcotics Control Board according to the law of protection and suppression of narcotics see the benefit of harm reduction research from narcotic use or protection, suppression and narcotic problem resolution may request for the Ministry with the board approval to set a zone to carry out the following:

- (1) Cultivation that is or is the produce of schedule 5 narcotics research or used to produce schedule 5 narcotics.
- (2) Production and testing of schedule 5 narcotics
- (3) Use or possession of schedule 5 narcotics of set amount, to set zoning for the actions according to paragraph 1, to be set as decree, whereas the said decree are required to have control measures and examination of use and possession of schedule 5 narcotics.

The setting of zoning and the actions according to paragraph 1 which is under the control measures and examination of use and possession of narcotics according to paragraph 2 as non-punishable according to this Act.

10. Change Section 27 to:

Section 27 It is forbidden for those with License according to Section 17 and those with license according to Section 26/3 to distribute schedule 2 and schedule 5 narcotics in each case outside the location stated in the License.

11. Addition of Section 34/1, Section 34/2, Section 34/3 and Section 34/4 in Narcotics Act. BE. 2522.

Summary:

- (1) Schedule 5 narcotics Producers are required to have it's location clearly signed, testing facility within the production facility, products are required to be tested before transportation, having its own secured housing facility, clear labels, and follows all other regulations to be announced.
- (2) Schedule 5 narcotics Importer/Exporter are required to have it's location clearly signed, test result and producer certificate are required, having its own secured housing facility, clear labels, and follows all other regulations to be announced.
- (3) Schedule 5 narcotics Distributor or in Possession are require to having its own secure housing facility for Medical Cannabis, look after the labels, and follows all other regulations to be announced.
- (4) Schedule 5 narcotics Producer, Importer/Exporter, Distributor or in Possession are required to make and report the accounts of narcotics

administration monthly and yearly, where you have to keep the document for 5 years and follows all other regulations to be announced.

12. Removal of Section 48 and change to:

Summary:

Addition of schedule 5 narcotics to existing Section 48.

13. Removal of Section 57 and Section 58 and change to:

Section 57 It is forbidden to use schedule 1 narcotics.

Section 58 It is forbidden to use schedule 2 narcotics except for medical treatment according to order of those in practice of Medicine and Dentistry according to License under Section 17.

It is forbidden to use schedule 5 narcotics except for medical treatment according to order of those in practice of Medicine, Dentistry, Thai traditional medicine, Applied Thai traditional medicine or Traditional healers according to Thai Traditional

Medicine Profession Law under approved License, or the use for research and study, whereas the usable product will be according to Ministry announcement.

14. Addition of Section 58/2

Summary:

Narcotics control board are allowed to set zoning for cultivation and use of Kratom, with no legal penalty.

15. Removal of Section 48 and change to:

Summary:

Schedule 2 & 5 narcotics more than regulatory allowal are to apply for allowal and for Section 8 (5) to be used with leniency.

16. Addition of Section 61/1

Summary:

License inheritance clauses.

17. Removal of Section 75, Section 76 and Section 76/1 and change to:

Section 75 Those that Produce, Import/Export schedule 5 narcotics in violation of Section 26/2 will be convicted of no more than 5 years incarceration and no more than 150,000 THB fined.

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In case that the act according to paragraph 1 is for Distribution conviction is no more than 15 years incarceration and no more than 500,000 THB fined.

In case that the narcotic according to paragraph 1 is Kratom conviction is no more than 2 years incarceration and no more than 200,000 THB fined.

Section 76 Those that are in possession of schedule 5 narcotics in violation of Section 26/3 will be convicted of no more than 5 years incarceration and/or no more than 100,000 THB fined.

In case that the act according to paragraph 1 is 10 Kg or more conviction is no more than 15 years incarceration and fined between 100,000 - 1,500,000 THB.

In case that the narcotic according to paragraph 1 is Kratom conviction is no more than 2 years incarceration or no more than 40,000 THB fined.

In case that the narcotic according to paragraph 2 is Kratom conviction is no more than 2 years incarceration and no more than 200,000 THB fined.

18. Addition of Section 79/1

Section 79/1 Anyone in violation of Section 34/1, Section 34/2, Section 34/3 and Section 34/4 will be fined no more than 40,000 THB.

Summary:

Those in violation of not following control regulation ie. clear labels.

19. Removal of Section 92 and change to:

Section 92 Anyone that use schedule 5 narcotics in violation of Section 58 paragraph 2 will be convicted of no more than 1 years incarceration and/or no more than 20,000 THB fined.

In case that the narcotic according is Kratom will be fined of no more than 20,000 THB.

20. Special Ruling:

Within the period of 3 years from the date of the enforcement of this Act, to give the Board of Narcotics Control to carry out evaluation of License issuance of

Production, Import/Export, Distribution or Possession of schedule 5 narcotic, only in regards to Cannabis every 6 months. In the case that changes to the regulations in regards to said License, the Board of Narcotics Control can submit to the Ministry to consider and make changes to said regulation to be more appropriate to the current situation.

21. Special Ruling:

Initial period of 5 years from the date of the enforcement of this Act, the request for Production, Import/Export License for schedule 5 narcotics, only in regards to Medical Cannabis or to treat patients according to Section 26/2 (1) to be limited to government department according to

- Section 26/5 (1) or
- Section 26/5 (2), (3), (4) or (7) in cooperation with Section 26/5 (1).

Paragraph 1 is not enforceable with following exceptions:

- (1) The License request of Production of schedule 5 narcotics, only in the case of Medical Cannabis or to treat patients according to Section 26/2 (1), in case that the License Requester is the practitioner of Thai traditional medicine, Applied Thai traditional medicine and Traditional healer according to Thai Traditional Medicine Profession Law according to Section 26/5 (2), which is the production only for patient that the practitioner personally threat.
- (2) The License request of Import/Export of schedule 5 narcotics, only in the case of Medical Cannabis according to Section 26/2, in case that the License Requester is a patient travelling internationally according to Section 26/5 (6).

To give the Board of Narcotics Control to carry out evaluation according to paragraph 1 every 6 months. In the case that changes to the regulation in regards to said License, the Board of Narcotics Control can submit to the Health Minister to consider and make changes to said regulation to be more appropriate by declaring royal decree.

22. Special Ruling:

Those that are in Possession of schedule 5 narcotics, only in the case of Medical Cannabis or to treat patients or for self-treatment or research and study before the date of the enforcement of this Act will not receive a legal penalty if:

- (1) Submitted License application to the secretary of Food and Drug Administration board within 90 days from the date of the enforcement of this Act, and are able to Possess the said narcotics until the License consideration process. In case of rejection of application the possession of narcotics will be given to the Health Department or to be disposed of, whereas in accordance to regulation and procedure and rules that the Health Department announced with the Board of Narcotics Control approval.
- (2) In case of other than (1), to report the Possession to the secretary of Food and Drug Administration board within 90 days from the date of the

enforcement of this Act. In case of a patient that required the use of schedule 5 narcotics, only in the case of Cannabis for personal treatment and acted according to regulation, procedure, and rules that the Health Department announced with the Board of Narcotics Control approval. For other individuals, upon the report of Possession, the possession of narcotics will be given to the Health Department or to be disposed of whereas in accordance to regulation and procedure and rules that the Health Department announced with the Board of Narcotics Control approval.

23. Special Ruling:

License relating to schedule 5 narcotic is considered as License according to Section 26/2 or Section 26/3 and are valid until expiration.

24. Special Ruling:

Advertisement License that had been issued before the date of the enforcement of this Act come into effect are valid until expiration.

25. Special Ruling:

Application that was submitted or in consideration before the date of the enforcement of this Act will be considered as an application under this Act. In case that the application differ from the regulation of this Act, to allow the Licensor to request the application submitter to act in accordance to this amended Act.

26. Special Ruling:

Department regulations, rules or announcements that were set under the Narcotics Act. Be. 2522 that was enforceable before the date of the enforcement of this Act, are still enforceable if not in violation of this amended Act, or until there are regulations, rules or announcements set under this amended Act.

The process of the setting of regulations, rules or announcements according to paragraph 1 are to be in place within 2 years from the date the enforcement of this Act. In case that the setting of regulations, rules and announcements were unable to be completed within a set time period, the Minister of Health are to report to the Ministry Board of the reason.

27. Special Ruling:

In the case that there is no announcement from the Board of Narcotics Control regarding the characteristic of Hemp according to Section 26/2 (2) of this amended Act. Hemp with characteristic according to the term "Hemp" in Section 2 of Department Regulation of License request and Production,

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Distribution or being in Possession License of schedule 5 narcotics, in the case of Hemp BE. 2559.

28. Special Ruling:

To allow the Minister of Health to govern according to this Act.

Remark:

The official Thai version of the NARCOTIC ACT. (Issue 7) BE. 2562, Downloadable:
http://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/019/T_0001.PDF