Phase 3 and Phase 4 Relaxations of National Emergency Decree Restrictions

Following the Declaration of Emergency Situation on March 26, 2020, the Prime Ministry issued regulations and restrictions to control and prevent the spread of COVID-19. Since the number of infections has continually declined, the Prime Minister has announced phased relaxations of the lockdown measures allowing some businesses and activities to reopen in a systematic manner. The latest are Phase 3 which came into effect on June 1, 2020 and Phase 4 which came into effect on June 15, 2020. The national curfew was also lifted on June 15, 2020.

Phase 3:
1) Department stores / shopping centers / community malls
   - Opening hours extended to 09.00 pm.
2) Exhibition centers and convention centers
   - Activity space must not exceed 20,000 square meters
   - Opening hours extended to 09.00 pm.
   - No competitive and sales promotion activities resulting in mass gatherings allowed
3) Buddha amulet market
   - No gathering activities allowed
4) Beauty salons / Barbershops / Hair Salons
   - 2-hour time limit
   - No other customers allowed to wait on the premises
5) Child daycare centers
   - Only for staff (as necessary)
6) Beauty clinics / tattoo and piercing parlors
7) Health business establishments, spas, traditional Thai massage parlors (Excluding body steams, herbal steams, saunas and facial massages) and foot massage parlors
   - No Massage parlors allowed
8) Fitness centers
   - The number of participants in group activities must be limited
   - No groups of people in steam rooms and saunas allowed
9) Boxing gyms
   - Only for boxing training without training partners
   - No competitions or audiences allowed
10) Sport stadiums
    - Only for exercising and training, e.g., football, futsal, basketball and volleyball
    - The number of participants in the area (excluding players) must be limited to 10 people
11) Bowling alleys and skating or rollerblading venues or other similar activities
    - Only for exercising and training
12) Ballroom dancing centers
13) Water sport activities
    - For instance, jet-skiing, kitesurfing, or banana boat
    - No competitions allowed
    - The number of players is limited
14) Theaters and cinemas
    - The number of participants cannot exceed 200 people
    - In case of theaters, in the initial stage, only Thai traditional dramatic performances, Thai-style antiphon, or other folk performances allowed (No musical performances or concerts allowed)
15) Large retailing / wholesales and markets
    - The number of participants in group must be limited

Phase 4: effective from June 15, 2020 onward
1) Meetings, trainings, seminars, exhibitions, banquets, ceremonies, performances, traditional Thai dancing arts, concerts, or any activities
   - Allow 1 person per 4 square meters for meetings, trainings, or seminars
   - Physical distancing maintaining at least 1 meter for banquets, events, product launches, contests, or sport events
• Allow 1 person per 5 square meters for music festivals or concerts

2) Alcoholic beverages
• Allowed to be served at restaurants, food centers, hotels, or general restaurants and refreshment shops

Remark: Entertainment spots, pubs, bars, and karaoke remain closed

3) Nursing homes, development centers or any welfare centers providing care service for children and elderly

4) Scientific centers for education, or science parks
• Small groups are allowed

5) Shooting of television programs / Movies / Video, Film or TV shoots
• Entertainers, participants, and work teams will be allowed, but not exceeding 150 members
• Audiences are capped at 50 persons

6) Body steams, herbal steams, saunas and facial massages

Remark: Massage parlors remain prohibited

7) Group exercise in parks, open spaces or public areas
• Allow 1 person per 5 square meters with a total number of not exceeding 50 persons

8) Water parks, playgrounds and amusement parks
• Except for playground equipment with a temporary installation or that may easily be infected by touching surfaces or objects among children e.g., ball pits or bounce houses

9) Sport stadiums
• Except for bullfighting, cockfighting, Beta fish fighting, or other similar activities
• Competition and broadcasting are allowed with no audiences

10) Game arcades or coin operated entertainment machines in community malls

Immigration News
Work Permit Holders Allowed to Return
On May 28, 2020, Thailand’s Ministry of Foreign Affairs announced that foreigners who are in urgent need of returning to Thailand and hold valid work permits or have already been granted permission to work in Thailand by a government agency can apply for permission to enter the Kingdom.

Important notes:
1. The Announcement does not apply to any other type of Thai visa holders including those holding dependent visas, student visas, retirement visas, or Permanent Residents. It will not be applicable for Urgent Work Permit applications either.

2. At this stage, we are NOT able to confirm if a foreigner holding a valid Pre-Work Permit Approval issued by the Employment Department comes under this announcement.

I. Process for Non-BOI Companies
The process for work permit holders or other permission holders (“foreigners”) for non-BOI companies who qualify to return to Thailand is as follows:

1. The foreigner must contact a Thai Embassy/Consulate at least 10 days before the scheduled departure date and apply for a “Certificate of Entry into the Kingdom of Thailand.” The following documents are required:
   1.1 Work permit booklet/Copy of work permit issued by the Employment Department, Ministry of Labour or a letter of work permission from any authorized government agency.
   1.2 Valid health insurance policy that covers medical expenses in Thailand for COVID-19 of up to at least USD 100,000

2. The Thai Embassy/Consulate will forward the foreigner’s application to the Ministry of Foreign Affairs for approval. If approved, the Thai Consulate will be instructed to issue the foreigner a “Certificate of Entry into the Kingdom of Thailand.”

3. In order to travel to Thailand, the foreigner will need to carry and be able to present the following documents:
   3.1 Certificate of Entry into the Kingdom of Thailand
   3.2 A completed and signed “Declaration Form” obtained from the Thai Embassy or Consulate
3.3 A “Fit to Fly” Health Certificate issued within 72 hours before departure
3.4 A copy of the foreigner’s Health Insurance Policy showing at least USD 100,000 coverage for COVID-19 in Thailand

4. Upon arrival in Thailand, the foreigner must go into a 14-day quarantine in a government designated Alternative State Quarantine (ASQ) at their own expense and comply with all health regulations under the Thailand’s Emergency Decree.

Note: ASQ are hotels in various locations in Thailand that have been approved for quarantine.

II. Process for BOI Companies
The BOI has issued the process for a BOI promoted company to make a special request to bring a foreign national employee into Thailand regardless of whether that person is already holding a work permit or permission to work in Thailand (BOI Pre-Visa Approval) or not. The required documents are:

1. Letter from the company citing the necessity and essential justifiable reason to bring in such foreign national employee to work for the company in Thailand. The letter must also include the following information:
   - Reason to bring such foreign national employee to work into Thailand at this time;
   - Any incurred damages or impact if the company fails to bring such foreign national employee to work in Thailand. If the contingent damages / value of damages can be demonstrated, please provide;
   - What stage of the BOI project the company is operating in;
   - The specific expertise of such foreign national employee required by the company; and
   - Intended Thailand arrival date / flight information (if applicable).

2. Copy of passport. If such foreign national employee already has a visa under BOI privilege, a copy of the most up-to-date BOI visa must be provided.
3. Copy of work permit (if applicable)
4. Copy of Pre-Visa Approval (if applicable).

The processing timeline for the entire process could take approximately 15-20 working days.

**Flowchart of BOI Process**

After acquiring the Certificate of Entry into the Kingdom of Thailand, the foreign national employees are still required to obtain/complete the following before entering Thailand:

1. A completed and signed “Declaration Form” obtained from the Thai Embassy or Consulate;
2. A “Fit to Fly” Health Certificate issued within 72 hours before departure;
3. A copy of the foreigner’s Health Insurance Policy with at least USD 100,000 coverage for Covid-19; and
4. Upon arrival in Thailand, the foreigner must go into a 14-day quarantine in a government designated Alternative State Quarantine (ASQ) at their own expense and comply with all health regulations under the Thailand’s Emergency Decree.

Note: ASQ are hotels in various locations in Thailand that have been approved for quarantine.

IMPORTANT ADVICE: Foreigners should ensure that the full name that appears on all
issued documents, including the Health Insurance Policy, match and is exactly the same as the name that appears in the foreigner’s passport.

Corporate Law News
New Security Standards for Electronic Meetings
To support the implementation of the Emergency Decree on E-Meetings B.E. 2563 (2020), new security standards issued by the Ministry of Digital Economy and Society (MDES) came into effect on May 27, 2020. E-Meetings must now comply with the new security standards, and the significant requirements are as follows:

I. Security Standards for E-meetings (In General)

1. Identity Verification
   – Prepare all participants to identify themselves prior to starting an E-Meeting
   – Prescribe the means of verification, i.e., username and password, or One-Time Password (OTP), or approval by other participants

2. Communication and Interaction
   – Enable participants to communicate or interact with each other by audio or by both audio and video with efficient and stable bandwidth
   – Prepare a backup plan in case of any interruptions or errors occurring during the E-Meeting, i.e., via telephone or text messaging
   – Prepare functions for the Chairman or the designated system controller to control or suspend the transmission of audio or both audio and video temporarily, or to stop transferring data to any participants immediately in case of necessity or emergency

3. Document Access
   – Enable participants to access any documents or data relating to the E-Meeting,
   – Submit those related documents before or during the E-Meeting, including notifying participants of the means of access to the documents

4. Voting
   Enable participants to cast votes (whether by open voting or secret voting)

4.1 Opening Voting
   – Enable the identification of (i) the participants who are eligible to vote, and (ii) their intentions to vote
   – For instance, vote by voice, signs, or electronic message

4.2 Secret Voting
   – Enable the recordation of (i) the number of voters, and (ii) the voting result (no participant identification disclosure)

5. Data Collection
   Required data and evidence to be stored and recorded are as follows:
   – Means of identity verification, the number and names of the participants, and voting methods (These must be recorded in the minutes)
   – Audio recording or both a visual and audio recording of all participants for the whole session of the E-Meeting (except for private meetings)
   – Any occurrence of interruption or error during the E-Meeting

6. Electronic traffic data
   At minimum, the record shall include:
   – Identification data or username
   – Log-in and log-out date and time

7. Reporting Channel
   – Prepare reporting channel in case any interruption or error occurs during the E-Meeting

II. Additional Security Standards for Private E-meetings (Confidential)
   The company must also comply with the following two points in addition to the seven requirements mentioned above when convening private meetings:
   1. Stipulate security measures to prevent unauthorized participants access to any confidential matters in the meeting; and

   – Notices, minutes, or any support documents relating to the E-Meeting may be made in the form of paper or electronic data
2. Prior to starting a private E-Meeting, participants must certify to the meeting that there are no unauthorized participants attending and accessing any confidential matters in the meeting.

Remark: All audio recordings or visual and audio recordings of all participants for the whole session of the private E-Meeting are prohibited.

III. Security Standards for Information Technology

All E-Meetings must include the following security standards for information technology:

1) Confidentiality
2) Integrity
3) Availability
4) Privacy
5) Others: (i) Authenticity, (ii) Accountability, (iii) Non-repudiation, and (iv) Reliability, of electronic data related or occurred in the meeting.

In case of private E-Meetings, the security standards for information technology of controlled electronic systems prescribed by the Electronic Transactions Development Agency (“ETDA”) must also be added in addition to aforementioned standards.

Remark: For any E-meetings arranged before May 27, 2020 and not yet held or completed, such meetings may convene in accordance with the previous standards issued under the National Council for Peace and Order (NCPO) No. 74/2257. However, such convening must be made within 60 days from the effective date of the new standards.

Electronic Signatures

On May 29, 2020, the Electronic Transactions Development Agency (“ETDA”) issued the Electronic Signature Guideline, and its summary is as follows:

1. Definition

“Electronic Signature” (E-Signature) means a letter, character, number, sound or any other symbol created in electronic form, and affixed to electronic data in order to establish the connection between persons and electronic data, for the purpose of identifying the signatory involved with such electronic data, and indicating the signatory’s approval to the information contained in such electronic data.

“Digital Signature” means an electronic signature derived from the encryption of electronic data which enables the verification of the signatory’s identification, and indicates any change of data and electronic signature, including non-repudiation.

2. Types of E-Signatures


Category 1: Simple E-Signature includes any E-Signature in the form of a letter, character, number, sound, or any other symbol created in electronic form as prescribed by Section 9 of the Act:

Significant elements:

– Having reliable identity proofing and authentication
– Having a reliable procedure or evidence disclosing intention
– Having reliable evidence or third parties for approval

For instance: E-mail sign off, insertion of a scanned signature in the document, stylus, click on the checkbox, or automated workflow system

Category 2: Reliable E-Signature includes any E-Signature as prescribed by Section 26 of the Act:

Significant elements:

Required identity proofing at IAL2, and authentication at AAL2
Apply E-Signature on the statement as intended

For instance: E-Signature applied with Public Key Infrastructure (PKI)

Category 3: Reliable E-Signature with Certificate issued by Certification Authority means any E-Signature as prescribed by Section 26 of the Act, with certification to support such signature under the Section 28 of the Act:

Significant elements:

Required identity proofing at IAL2, and authentication at AAL2
Apply E-Signature with certificate issued by Certification Authority (“CA”) on the statement as intended.
Postponement of Personal Data Protection Act

The Personal Data Protection Act B.E. 2562 (2019) ('PDPA') was due to become effective on May 27, 2020; however, its enforcement has been postponed by one year to May 31, 2021 under the Royal Decree on Agencies and Businesses not subject to the PDPA B.E. 2562

The postponement applies to the following:
- Chapter 2: Personal Data Protection;
- Chapter 3: Use or Disclosure of Personal Data;
- Chapter 5: Complaints;
- Chapter 6: Civil Liability;
- Chapter 7: Penalties; and
- Section 95 of Transitional Provisions, involving the collection of personal data made by data controller prior to the effective date of the PDPA

Remark: Chapter 1 and Chapter 4 which refer to the appointment and establishment of a Personal Data Committee still remain in effect.

Agencies and Businesses regulated by this Royal Decree include:
1) Government agencies
2) Foreign government agencies and International organizations
3) Foundations, associations, religious organizations, and nonprofit organizations
4) Agriculture businesses
5) Manufacturing businesses
6) Merchandising businesses
7) Healthcare businesses
8) Energy, steam, water and waste disposal businesses, including any related businesses
9) Construction businesses
10) Repair and maintenance businesses
11) Transportation, logistics and storage business
12) Tourist businesses
13) Communication, telecommunication, computer and digital businesses
14) Financial, banking and insurance businesses
15) Real estate businesses
16) Professional businesses
17) Administration and support businesses
18) Science and Innovation, academic, social welfare and art businesses
19) Educational businesses
20) Entertainment and recreational business
21) Security business
22) Household and community enterprise businesses which activities cannot be classified

Remark: All three categories are legally binding as if signed on paper
**Extension for e-Tax Filing Deadlines**

Under a new Ministry of Finance Notification on the extension for filing tax returns and tax payments via the internet system (No.2), dated May 8, 2020, the deadline for e-filing and making Withholding Tax payments (P.N.D. 1, P.N.D. 2, P.N.D. 3, P.N.D. 53, and P.N.D. 54), Value Added Tax payments (Por.Por. 30 and Por.Por. 36), and Special Business Tax payments (Por.Tor. 40) will be extended as follows:

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<sup>(1)</sup> Under the Notification of Ministry of Finance on the extension for filing tax return, tax remittance and tax payment for whom being responsible for remitting withholding tax, corporate income tax, value added tax, special business tax and stamp duty, dated March 31, 2020, and April 3, 2020.

<sup>(2)</sup> Under the Ministry of Finance Notification on the extension for filing tax returns and tax payments via internet system (No.2), dated May 8, 2020.

<sup>(3)</sup> Excluding SBT from the sale of an immovable property in a commercial or profitable manner, irrespective of the manner in which such property is acquired.
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