

## NARCOTICS LAWS

Previous laws in Thailand regulating narcotics include the Psychotropic Substances Act and the Narcotics Act which relate to many different types of narcotics. There is now a definition of the term “laws connected with narcotics” or “narcotics laws” in the Measure for Suppressing Narcotic Offenders Act B.E. 2534 (A.D. 1991) which is “laws governing narcotics and laws governing active materials which have an active effect on the mind and the nerves.” The Act also defines the term “narcotic” as “a narcotic under the laws governing narcotics and under the laws governing the prevention and suppression of narcotics as prescribed by the Minister in Ministerial Regulations.” The term “narcotic offense” is further defined as “the production, import, export, sale or possession with intent to sell of narcotics” and this definition includes associating with, supporting, helping, or attempting to commit the said offenses.

The Measure for Suppressing Narcotic Offenders Act B.E. 2534 (A.D. 1991) has been revised by the second amendment which became effective on April 29, 2000. The reason for issuing this Act was to make the suppression of narcotics more efficient.

The Psychotropic Substances Act B.E. 2518 (A.D. 1975) defines the term “psychotropic substances” as “such a psychotropic substance which is natural or derived from nature, or synthetic as the Minister notifies in the *Government Gazette*.” The Act classifies various types of psychotropic substance into categories and details offenses and punishments for each offense. The penalty for production, importation, exportation, taking, and/or advertisement of a psychotropic substance without a license is a fine and/or life imprisonment.

The Narcotics Act B.E. 2522 (A.D. 1979) defines the term “narcotics” as “any form of chemicals or substances which, upon being consumed whether by taking orally, inhaling, smoking, injecting, or by whatever means, causes physiological or mental effect in significant manner, such as the need for continual increase of dosage.” In addition, the Act classifies various types of narcotics into categories and details offenses and punishments for each offense. The penalty for production, importation, and/or exportation of dangerous narcotics—such as heroin, amphetamines, methamphetamines, ecstasy, and LSD—is life imprisonment, and under certain circumstances the offenders may be sentenced to death.

The Narcotics Act, which came into effect in 1979, has been revised many times in order to address changing situations to solve the practical problems of narcotics related violence which occur from time to time. The present version is the fifth amendment which became effective on October 1, 2002.

The fifth amendment contains significant changes to address many important points. It reduces the penalty for offenses relating to possession, possession for sale, and sale of narcotics in low quantities such that there is a reduced maximum penalty. It includes a provision for rehabilitation of narcotics addicts, including treatment. It also widens the circumstances in which the Court has the power to delay the determination of the sentence and/or to suspend the sentence. Further, it implements measures enabling government officials to request permission to produce, import, export, dispose of, or possess narcotics for the protection and control of any wrongful act relating to narcotics.

The fifth amendment of the Act also increases measures in narcotics prevention and suppression by entrusting relevant competent officials with the power to make a search without a search warrant and to order a person or group of people to be tested as to whether they have consumed

narcotics substances. There is now a greater opportunity for consumers and sellers of narcotics in low quantities to submit to voluntary treatment. Importantly, those who are in possession of narcotics, including possession for sale, or those who have consumed narcotics of a particular category and quantity prescribed in Ministerial Regulations may voluntarily yield themselves to be treated at a clinic before the offenses are reported to administrative officials or police officers, and provided the treatment conforms to the regulations governing treatment control and the clinic has been issued with a letter of certification, they will be absolved from liability for the offenses.

The Narcotics Act B.E. 2522 (A.D. 1979) also operates in conjunction with the Narcotics Control Act B.E. 2519 (A.D. 1976) as amended. The Narcotics Control Act B.E. 2519 (A.D. 1976) designates the Narcotics Control Board (NCB) as the central authority to prevent and suppress narcotics in Thailand, and it also prescribes the Office of the Narcotics Control Board to implement and coordinate action in accordance with resolutions made by the NCB. The NCB's authority and responsibilities include preparing work plans and measures for preventing and suppressing offenders under the laws relating to narcotics; controlling the investigation, inquiry, and prosecution of offenses under the laws relating to narcotics; preparing and implementing projects; and instructing the government agencies concerned to disseminate knowledge on narcotics.

The fifth amendment of the Narcotics Act B.E. 2522 (A.D. 1979) and the fourth amendment of the Narcotics Control Act B.E. 2545 (A.D. 2002) together provide procedures for competent officers to take action against narcotics offenders. The competent officers have the power to enter and search any place or dwelling place or vehicle, and arrest an individual or individuals in connection with narcotics offenses, if they have reasonable grounds to suspect that there are narcotics unlawfully hidden on such individual's person or in the vehicle. They may also seize or attach narcotics which are in the unlawful possession of any individual or any other property which has been used or will be used in the commission of an offense in connection with narcotics. However, the competent officials are only authorized to obtain personal information and data of the narcotics offenders after they have made an ex parte application, which has been approved in writing by the Secretary General, to the Chief Judge of the Criminal Court to issue an order giving such authorization, in view of the effect this has on the offenders' constitutional rights to privacy. Therefore, it is expedient to prescribe for the circumstances in which competent officials are authorized to obtain personal information and data in relation to narcotics offenses, giving clear-cut reasons for such authorization in order to make the measures for the protection and control of narcotics more efficient and effective in solving the problems and issue of narcotics.

It is also worth noting that narcotics offenses are also "predicate offenses" under Thailand's anti-money laundering legislation and that the Anti-Money Laundering Office does seize assets of offenders of Thailand's narcotics law.