

Unofficial Translation*

**Draft
Act
on Electronic Performance of Administrative Functions,
B.E. (....)**

Principle

To enact law on electronic performance of administrative functions

Rationales

As Section 258 B. 'Administration of State Affairs' (1) under Chapter 16 'National Reform' of the Constitution of the Kingdom of Thailand stipulates that there shall be the reformation to ensure that suitable technology is applied to the administration of State affairs and provision of public services for the benefit of the administration of State affairs and for the convenience of the people, current applicable laws nonetheless are not supportive for the usage of electronic method in licensing, providing public services, or providing welfare benefits to the people. Consequently, the general public have to bear undue burden and cost in making contact with the government sector. Moreover, such laws also impede reinforcement of national competitiveness. It is accordingly appropriate to create general law on electronic performance of administrative functions for facilitating the working and services providing of the government sector via electronic method as the main approach. It is therefore necessary to enact this Act.

*Translated by Law Reform Division, Office of the Council of State

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**Draft
Act
on Electronic Performance of Administrative Functions,
B.E. (....)**

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Whereas it is expedient to have the law on Electronic Performance of Administrative Functions;

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Section 1. This Act is called the “Act on Electronic Performance of Administrative Functions B.E.”.

Section 2. This Act shall come into force at the expiration of ninety days as from the date of its publication in the Government Gazette, except for Section 12, Section 15 paragraph two, Section 19, and Section 22 which shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. Once this Act has come into force, electronic performance of administrative functions shall be carried out according to this Act without having to comply with Chapter 4 Electronic Transactions in the Public Sector of the Electronic Transaction Act B.E. 2544 except for a case that the Council of Ministers specifies otherwise by a resolution.

Section 4. This Act shall apply to all state agencies which are not in legislative branch, judiciary branch, independent constitutional organisation, public prosecutors organisation, and other state agencies as specified in the Ministerial Regulation.

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Once it is appropriate that this Act shall apply to state agencies which are in legislative branch, judiciary branch, independent constitutional organisation, or public prosecutors organisation, it shall be prescribed by the Royal Decree. Such Royal Decree may specify that this Act shall apply to state agencies as a whole, or only to parts of the state agency, or only to some aspects of their works.

Section 5. In this Act,

“State agencies” means central administration, provincial administration, local administration, state enterprise, public organisation, and all other agencies of the state, excluding state enterprise which is in the form of limited liability company or public limited company;

“Application for License” includes application for licensing certificate, application for permission, application for registration, to inform, notification, application for concession, application for approval, application for assent, request for opinion, request for consideration, an appeal, to accuse, to complain, request for state agencies to proceed, application for payment, application for welfare benefit, and application for other services from state agencies;

“License” includes issuance of license, issuance of permission, registration, receiving information, receiving notification, issuance of concession, approval, assent, providing opinion, informing result of consideration, informing result of proceedings, making payment, providing welfare benefit, and providing other services for the general public or state agencies.

Section 6. For efficient implementation of this Act, the Council of Ministers shall specify electronic method including information and communication technology standards which state agencies must use and implement consistently and connectedly.

Section 7. Any matters required by laws to obtain a license by applying to a licensor, a license applicant may submit such application, document or evidence, or copies of document or evidence via electronic method, and it shall be deemed lawfully submitted by the relevant laws. Relevant state officials cannot reject such application solely on the ground that it has been submitted electronically.

Copies of document or evidence submitted via electronic method need not be physically signed in order to certify.

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In case the laws under paragraph one or their subordinated regulations stipulate that submission of application for license must be carried out according to specified form, means, and conditions; electronic submission of such application for license with the same statements specified in the relevant form shall be deemed lawfully submitted by the relevant laws. In case such laws and their subordinated regulations stipulate that a license applicant must submit or send more than one set of copy, such electronic submission shall be deemed all set are completely submitted.

Paragraph one shall apply to submission of writings, report, document, or data, as well as payment of license application, fees, taxes, fines, or other kind of payment to government agencies or state agencies, *mutatis mutandis*.

This Section shall not apply to registration relating to immovable properties, or registration which an applicant must proceed personally ranging from marriage, divorce, to child adoption, or other similar matters; as well as application for identification card, passport, and other card or document which an applicant must proceed personally for examination by an officer, or other matters specified in the Ministerial Regulation. As an exception, in case the laws relating to matters abovementioned stipulate that an applicant can proceed via electronic method, an applicant shall comply with such laws.

Section 8. For the implementation of Section 7, a licensor may specify additional electronic method for a license applicant to proceed, provided that it is to facilitate the license applicant, or for identity authentication. Such electronic method must be conveniently and generally accessed by the general public without imposing undue burden to the license applicant.

Identity authentication under paragraph one may be by means other than showing identification card and passport, provided that the other means is more convenient for the general public.

Section 9. In case a licensor wants to authenticate the identification card which an applicant has submitted or showed, it shall be a duty of the licensor to coordinate with the Central Registration Office pursuant to the law on Civil Registration for official verification. Thus, it shall be a duty of a registrar of the Central Registration Office to verify and inform the result. The registrar shall proceed immediately via electronic method, while it shall deem not to be the disclosure of statements or numbers as prescribed in Section 17 of Civil Registration Act B.E. 2534.

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Section 10. Any applications or contacts in which the general public make or submit to relevant state agencies or state officials via electronic channel announced by state agencies, shall be deemed that such state agencies or state officials receives the application or contact by the time and date when such application or contact enters into electronic system of state agencies or state officials. In case that such application or contact enters into the electronic system by the time and date that is out of working hours of the state agencies, it shall be deemed that state agencies or state officials receive such application or contact on the following working day.

In case the state official under paragraph one does not have authority to proceed, such state official shall forward it to the competent state official. If the competent state official is of different agency, state official under paragraph one may inform the applicant or contacting person to directly contact the competent state official, while shall inform the applicant regarding the competent agency in such case.

Section 11. Once a license applicant has submitted an application or made contact with a licensor or state agencies via electronic method, any contacts or documentation relating to such person shall be made via electronic method; unless such person has specified otherwise in the application or contact.

Section 12. Subject to Section 7, if it is necessary, during the process of licensing consideration, for a licensor or state agencies to have copies of any document or evidence issued to a license applicant by any state agencies, once a license applicant brings originals of document or evidence for showing to a licensor or state agencies, it shall be a duty of such state agencies to make copies and certify the documentation without any fees or expenses. The duty to make copies of document or evidence cannot be claimed as a cause for delay in the process of license consideration.

Section 13. In case the laws require that a license grantee shall display a license at an overt place, there shall be rights of a license grantee and duties of a licensor as follows;

(1) A license grantee may display such license via electronic method as announced by the licensor and such display shall be deemed lawful. Such announcement shall be applicable once it has been published in the Government Gazette and publicised via electronic method.

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(2) A licensor shall disclose information regarding issued licenses via electronic method for the general public to verify conveniently and without charges. Such disclosure shall contain items at least as appeared in the actual license and be updated all the time.

For the benefit of reducing burden of a license grantee, method which a licensor will announce under paragraph one may be set to be a specific format by prescribing in the Ministerial Regulation.

Section 14. In case the laws stipulate that an officer or an official has power to inspect a license, document, or evidence issued by state agencies, a person who has duty to display the license, document or evidence may do it by displaying the license in electronic format. Such electronic display shall be deemed lawful, except for identification card, passport, licenses, or other document or evidence prescribed in the Ministerial Regulation.

Section 15. In making contacts or submitting matters among state agencies, between state officials and state agencies, between the general public and state agencies, or between the general public and competent state officials; if it has been conducted via electronic method, it shall be deemed to be lawful and can be used as an evidence under any law. In case any state agencies cannot adopt to use electronic method, the exemption can be made by issuance of the Royal Decree to a specific case, while having to state reasons, necessities, and the time period for such exemption.

It shall be a duty of Department of Comptroller General, state agencies having duties to permit or inspect the public disbursement and the public spending, state agencies having duties to inspect the validity of state officials' operations to expediently amend laws, regulations, rules, prescriptions, and resolutions impeding the implementation of paragraph one.

During the absence of amendments of laws, regulations, rules, prescriptions, and resolutions under paragraph two, no person can deny the existence or accuracy of document or evidence under paragraph one solely on the ground that it has been made via electronic method.

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Section 16. In case there are laws, regulations, resolutions, or orders require that operations of state officials shall be made in writing, record, or document; if the state officials have made it via the system of electronic method specified by the heads of state agencies, it shall be deemed that the state officials have complied with such laws, regulations, resolutions, or orders.

The system of electronic method under paragraph one shall be consistent with electronic method which the Council of Ministers specifies under Section 6.

Section 17. Any information which state agencies shall store pursuant to the law on official information, or any documents in possession of state agencies which shall be stored pursuant to laws, regulations, rules, prescriptions, and resolutions of the Council of Ministers; if such information or document is not in an electronic form, the Council of Ministers may issue a resolution specifying state agencies to store it in an electronic form instead of document, and to submit the originals to Department of Fine Arts to further proceed according to the law on national archives.

Method of storage and electronic form under paragraph one shall be consistent with the standard specified by the Council of Ministers under Section 6.

Section 18. When it deems as appropriate, the Council of Ministers may stipulate that making and dissemination of the Government Gazette be conducted via electronic method instead of publishing. Such method must be promptly and conveniently accessed, while the general public shall be able to make copies of any matters therein by themselves. In case the general public want to get a copy of any matters, it shall be a duty of the Secretariat of the Cabinet to provide for promptly, the Secretariat of the Cabinet may charge the expense as publicised to the general public.

Section 19. Office of the Public Sector Development Commission, Office of the Council of State, Electronic Transactions Development Agency and Digital Government Development Agency (Public Organisation) shall jointly develop electronic method under Section 6 and propose to the Council of Ministers to prescribe state agencies to use and implement. Developments of such electronic method may be divided into initial and following phases. As for the initial phase of the implementation of this Act, the proposal shall be made and proposed to the Council of Ministers within two hundred and forty days after this Act has come into force.

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The proposal under paragraph one shall take into consideration the issues of connectivity, utilisation of existing information and equipment, and easy access by the general public.

While the Council of Ministers has not yet issued a resolution specifying electronic method under paragraph one, state agencies shall follow other commonly prevalent standards.

Section 20 . The heads of state agencies shall announce electronic channel for the general public to make contact under Section 10, and the system of electronic method for operations of state officials under Section 16 within ninety days after the Council of Ministers has issued the resolution under Section 6.

While the heads of state agencies have not yet announced electronic channel for the general public to make contact under Section 10, and the system of electronic method for operations of state officials under Section 16; it shall be deemed that submission of license application, making contacts, or official operation by electronic method via any electronic channels which are currently used by state agencies, are valid submission or contacts according to Section 10 or are lawful operation by electronic method according to Section 16, as the case may be.

Section 21. State agencies shall disclose information relating to licensing via electronic channel and announce electronic method for displaying license under Section 13 without delay.

While state agencies have not disclosed information relating to licensing via electronic channel, state agencies have a duty to send information relating to licensing, free of charge, to any persons request for it within three days after receiving such request.

While there is still no announcement under paragraph one, license grantee may display license by any electronic method, and such display shall be deemed lawful.

Section 22. The Council of Ministers shall specify a state agency to monitor and accelerate state agencies to implement Section 20 paragraph one and report to it every sixty days which state agencies have not yet implemented Section 20 paragraph one, as well as publicise such information to the general public.

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It shall be a duty of the state agency under paragraph one to inform every state agency regarding duties and timeframe to implement this Act by giving a warning every fifteen days.

Section 23. For the benefit of facilitating the general public to understand and being able to comply with the laws, it shall be a duty of Office of the Council of State to expediently provide and develop legal database and electronic search engine for convenience and easy access of the general public.

Section 24. The Prime Minister shall have charge and control of the execution of this Act, and shall have the power to issue Ministerial Regulations for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

Countersigned by:

.....
Prime Minister

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