

## **Regulation of Ministry of Industry**

**Re: Authorizing the private party to be the examiner of documents and facts  
and to make the verification report on behalf of the official**

**B.E. 2557 (2014)**

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As the Factory Act B.E. 2535 (1992) has prescribed that to apply for the permits in any cases, the factory operator shall submit the application form with related documents to the official; the official, therefore, have the duty to consider all the facts shown in such application form and documents as well as other facts concerned with the factory or machine and then shall prepare a report to identify whether or not the factory operator has complied with the law for such application. Presently, the government sector has the restriction on the number of personnel, which is not sufficient to the workload. In addition, consideration of the application form and related documents or other facts concerned may need some specific knowledge and equipment; therefore, it deems appropriate to authorize the private party to be able to examine the application form and related documents as well as other facts concerned and then to make the verification report on behalf of the official. By the virtue of Article 9 of the Factory Act B.E. 2535, the Ministry of Industry, hereby issue the regulation as follows:

1. This regulation is named the “Regulation of Ministry of Industry on authorizing the private party to be the examiner of documents and facts and to make the verification report on behalf of the official B.E. 2557”

2. This regulation shall take effect on the next day of the publishing date in the government gazette.

3. This regulation shall enforce only to the case when the factory operator requests the private party as defined in this regulation to examine documents and facts and to make the verification report for the application for a factory operation permit or factory expansion.

4. In this regulation;

“Factory operator” means an operator of a group-1 or group-2 or group-3 factory according to the Factory Act B.E. 2535.

“Private party” means a juristic person as prescribed in this regulation.

“Certificate” means a certificate that the registrar issued to a person who has passed the examination as the “Examiner of documents and facts and maker of the verification report”.

“Registration of a private party” means a registration of a private party as the examiner of documents and facts and as a maker of the verification report on behalf of the official according to Article 9 of the Factory Act B.E. 2535

“Certificate of registration” means a certificate that a registrar issued to the juristic person applying for a private party registration.

“Registrar” means Director-General of the Department of Industrial Works or other person assigned by the Director-General of the Department of Industrial Works.

“Examination of documents and facts and making of the verification report” means an examination of the application form and its attached documents or related documents or of other facts concerned with the application for a factory operation permit or factory expansion, or those concerned with factory or machine, in order to verify either facts or laws, or both.

“Official” means the official as defined by the Factory Act B.E. 2535.

## Chapter 1

### Examiner of documents and facts and maker of the verification report

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5. Anyone who wishes to take the examination for the “examiner of documents and facts and maker of the report” shall have the qualifications and not have the prohibited qualifications as follows:

- (1) Be Thai nationality
- (2) Not be less than forty years of age
- (3) Not be a government official or state official
- (4) Not be a political official
- (5) Not be an unsound minded person
- (6) Not be a quasi-incompetent person or incompetent person by the court order, as the case maybe
- (7) Not be under a receivership or a bankruptcy order
- (8) Not be dismissed or expelled from the official service on the ground of corruption, provided that from the date of removal from office, the period of three years has not elapsed.
- (9) Be a graduate of at least a bachelor degree of engineering or science or other areas prescribed by the Department of Industrial Works, and hold a professional certificate as prescribed by law.

(10) Had been a government official for at least 15 years in a position that required the educational qualification specified in this clause, or had been employed in the private sector for at least 15 years in the work related to either environmental engineering or safety, or more.

(11) Not be revoked from the registration and certificate as mentioned in clause 9, provided that from the revocation date, the period of three years has not elapsed.

6. A person mentioned in clause 5 can submit the application for the examination for the “examiner of documents and facts and maker of the verification report”.

The application form shall be in pursuant to the Or.Cho.1 Form annexed with this regulation.

7. Department of Industrial Works shall be designated as the organizer of the examination for the “examiner of documents and facts and maker of the verification report”.

Criteria and procedure of the application, the examination, the exam evaluation, or other operations concerned with the examination mentioned in the first paragraph shall be in accordance with the prescription of Department of Industrial Works.

8. When the applicant mentioned in clause 6 has passed the examination by the criteria prescribed in clause 7, a registrar shall register and issue a certificate to the passer.

Certificate shall be made in pursuant to the Or.Cho. 2 Form annexed with this regulation.

Registration and certificate mentioned in the first paragraph shall be valid for 3 years since the date of registration.

9. In case where the validity period of the registration and certificate of a person according to clause 8 ends, if a new registration is required, such person shall proceed in pursuant to the prescription of this chapter.

In case where it is founded later, whether before or after the registration mentioned in clause 8, that the applicant according to clause 6 does not have the required qualifications or has the prohibited qualifications, a registrar shall have power to reject or revoke the registration and certificate. In case where a registrar has revoked the registration and certificate, a person whose registration and certificate has been revoked cannot apply for the examination until the three years period, counting from the date of revocation has elapsed.

## Chapter 2

Private party who examines documents and facts and  
makes a verification report on behalf of the official

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10. A private party that wishes to be an examiner of documents and facts and a maker of a verification report on behalf of the official shall have the qualification and not have the prohibited qualifications as follows:

(1) Be a juristic person, according to Thai law, with the objectives to examine documents and facts and make a verification report on behalf of the official as defined by the factory law, as well as with a registered capital or a paid-in share according to the law, or with asset of not less than five millions baht.

(2) Not be under a receivership or a bankruptcy order

(3) Employ a person with the following qualifications as a permanent staff of a juristic person

1. Graduate of at least a bachelor degree of mechanical engineering, electrical engineering, environmental engineering, and industrial engineering and such person shall have a professional permit according to the law related.

2. Graduate of at least a bachelor degree in other areas as prescribed by the Department of Industrial Works.

(4) Have a managing director or a managing partner or a representative of other juristic person other than the company or the limited partnership in the same manner of a managing director or a managing partner. And such person mentioned in this clause shall be registered in accordance with the prescription in Chapter 1.

(5) Having been registered as a private party in pursuant to the Chapter 3

(6) Not be revoked from the registration as a private party, provided that from the revocation date, the period of three years has not elapsed.

From 1 January B.E. 2561 (2018) the juristic person as prescribed in this chapter shall be certified with the TISI 17020 and shall be regarded as one of the qualifications of the juristic person prescribed in this chapter.

### Chapter 3

#### Registration of a private party as an examiner of documents and facts and a maker of a verification report on behalf of the official

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11. A juristic person, having the required qualifications and not having the prohibited qualifications mentioned in Clause 10 (1), (2), (3), (4) and (6) and not being a juristic person whose representative or personnel having been revoked from a registration of a private party and a certificate is a founder or a board director or a representative by law, if wishing to register as a private party to examine documents and facts and make a verification report on behalf of the official, shall submit the related document for a registration to a registrar.

Application form for a registration of a private party shall comply with the Or.Cho. 3 Form annexed to this regulation.

By 31 December B.E. 2560 (2017) a juristic person registered in compliance with this chapter shall receive a certification of TISI 17020. In case where it has not certified within such due date, it shall regard that such a registered juristic person does not have the qualification required by Chapter 2 and the provision in Clause 22 shall be applied *mutatis mutandis*.

12. In case where a registrar have examined an application form for a registration of a private party and related documents and where the required qualifications are met and no prohibited qualifications as specified in Clause 10, as well as such juristic person is not prohibited by Clause 11, he/she shall approve the application for a registration of a private party and shall issue a certification of registration to such juristic person.

Certification of registration shall comply with Or.Cho. 4 Form annexed to this regulation.

A registrar shall promulgate list of juristic persons having been registered as a private party in the notification and publish it in the government gazette.

13. Validity period of a registration of private party and certificate of registration is three years since the date of registration.

14. Juristic person having registered as a private party, if wishing to renew the registration after its expiration, shall apply for renewal before the date of expiration and the text prescribed in this chapter shall be applied for renewal of registration *mutatis mutandis*.

## Chapter 4

### Examination of documents and facts and making of a verification report on behalf of the official

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15. Juristic person having been registered as a private party according to Chapter 3, when it is to examine documents and facts and make a verification report for any factory on behalf of the official, must get an authorization in writing from such factory operator.

Authorization form shall be complied with the Or.Cho. 5 Form annexed to this regulation.

16. Examination of documents and facts and making of a verification report of the authorized juristic person shall be performed by a person according to Clause 10(4) who has been registered in pursuant to Chapter 1 and has employed by such authorized juristic person only.

A verification report shall be complied with the form prescribed by the Permanent Secretary to Industry.

17. The person who performs the examination of documents and facts and making a verification report as mentioned in Clause 16 and the authorized juristic person as mentioned in Clause 15 shall have collective responsibility over result of the examination of documents and facts, and both parties shall undersign on a verification report mentioned in Clause 16.

18. A verification report mentioned in Clause 16, which is undersigned completely in compliance with Clause 17, can be used as a substitute for the execution of the official on the examination of an application for a factory operation permit or factory expansion, as the case maybe.

19. Responsibility according to Clause 17 will end when:

(1) there is the order that does not allow a termination of responsibility when no argument or lawsuit has been filed to the Administration Court or the Court of Justice.

(2) there is the order allowing a termination when the factory operation is ended.

20. A person who has performed the examination of documents and facts and making of a verification report as mentioned in Clause 16 or a juristic person who has been authorized pursuant to Clause 15 cannot revoke his/her own verification report as specified in Clause 17.

21. A juristic person who has been authorized as mentioned in Clause 15 must prepare an annual summary report of the examinations of documents and facts and making of verification reports and submit it to Department of Industrial Works before 1<sup>st</sup> March of the following year even if it will be the last year of the registration.

A summary report mentioned in the first paragraph shall be complied with the Or.Cho. 6 Form annexed to this regulation.

A juristic person as specified in the first paragraph must report qualifications and that it does not have the prohibited qualifications in writing once a year to Department of Industrial Works. Submission must be made by 15<sup>th</sup> January of the following year.

## Chapter 5

### Supervision

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22. In case when a juristic person, registered as a private party, who has duties to examine documents and facts and make a verification report on behalf of the official, is found disqualified or holds some prohibited qualifications as specified in this regulation, a registrar shall have the power to revoke its registration and certification of registration.

In case when a revocation as specified in the first paragraph has been made, it shall regard that the registration and the certificate of registration are expired on the revocation date and a registrar shall make a notification of such revocation and publish it in the government gazette. In such case, the revoked juristic person cannot apply for a registration as mentioned in Chapter 3 until the three-year period, counting from the revocation date, has elapsed.

During the three-year suspension period, such juristic person shall be regarded as being disqualified according to Chapter 2 of this regulation and cannot perform the examination of documents and facts and make a verification report on behalf of the official.

23. When it appears that the verification report as specified in Clause 16 does not comply with this regulation or facts, but it is not so serious that it affects to whether the order of the official issued based on such report was lawful or unlawful, the Department of Industrial Works or the Provincial Industrial Office, as the case maybe, then shall notify to the factory that authorized to make such report to revise the report or check the documents or facts and remaking the report again within seven days. When the factory operator has finished such revision, it shall regard that the former report cannot be used anymore as a document to consider for approving the factory operation permit or factory expansion permit, as the case maybe, and that a new verification report shall be used instead.

However, if the wrongdoing done in the first paragraph is a serious matter that it made the order of the official unlawful, Department of Industrial Works or the Provincial Industrial Office, as the case maybe, shall take such wrongful facts for revocation of the order or for other executions made further.

The provisions in the first and second paragraphs shall not be used as an excuse for the official in ordering or executing any actions according to his/her authority prescribed under the Factory Act B.E. 2535.

24. In case where a verification report has been revised or the reexamination of documents and facts have been made so that a new verification report is made according to Clause 23, the factory operator authorizing such examination shall submit a revised or a new verification report as prescribed in Clause 16 and 17 to the office mentioned in Clause 23 within seven days since the day that such revision or rewriting of a verification report or a reexamination of documents and facts has been made, as the case maybe.

25. In case where it is found that a juristic person who examines documents and facts and makes a verification report fails to comply with this regulation, a registrar may order such juristic person to perform in accordance with the regulation within a due period. If such juristic person fails to perform within such due period, a registrar shall have the power to revoke a registration of such juristic person temporarily, not exceeding thirty days per each order. During such suspended period, it shall regard that such juristic person is disqualified according to Chapter 2 of this regulation and cannot provide the examination of documents and facts service and cannot make a verification report on behalf of the official.

26. During the registration period as a private party in pursuant to Clause 13, if such juristic person has already been temporarily revoked from a registration, as prescribed in clause 25, twice, in this case, a registrar may revoke a registration and certificate of registration of such juristic person instead of a temporary revocation for the next failure done by such juristic person. In this case, the provision of the second and third paragraphs of Clause 22 shall be applied.

27. The examination arranged to select a person to register as an examiner and maker of a report on behalf of the official as the execution in according to Section 9 of the Factory Act B.E. 2535 that the Department of Industrial Works had arranged before the enforcement of this regulation shall be regarded as the examination and registration mentioned in Chapter 1 mutatis mutandis. The registration made in pursuant to this clause shall be valid for three years since the next day of the enforcement date of this regulation and the next examination and registration made after the enforcement of this regulation shall comply with this regulation.

28. In case where there is a problem occurred from any executions of this regulation, the Permanent Secretary of Ministry of Industry shall be a final decision maker.

This regulation shall take effect from 1<sup>st</sup> July B.E. 2557 (2014) onwards.

Announced on 3<sup>rd</sup> July B.E. 2557

(Mr. Witoon Simachokedee)

Permanent Secretary to Industry

For Minister of Industry