

## Act Amending the Civil and Commercial Code (No. 18)

**B.E. 2551**

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BHUMIBOL ADULYADEJ REX.  
Given on the 23<sup>rd</sup> Day of February B.E. 2551  
Being the 63<sup>rd</sup> Year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is appropriate to amend the Civil and Commercial Code.

This Act contains certain provisions concerning restrictions on personal rights and freedoms, which, under Section 29, together with Sections 41 and 43 of the Constitution of the Kingdom of Thailand, can be done by virtue of the provisions of law.

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Legislative Assembly, as follows:

**Section 1.** This Act shall be called the “Act Amending the Civil and Commercial Code (No. 18) B.E. 2551”.

**Section 2.** This Act shall come into force upon the expiration of 120 days from the date of its publication in the Government Gazette.

**Section 3.** The provisions of Section 1020 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1020. Every person is, upon having paid the fee prescribed in ministerial regulations, entitled to inspect the documents kept by the Registrar, or to request a certified copy or extract of any document, to be delivered to him by the Registrar.

An interested person of any partnership or company is, upon having paid the fee prescribed in ministerial regulations, entitled to request the Registrar to prepare a certificate of registration of such partnership or company.”

**Section 4.** The provisions of Section 1023 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1023. Until such registration has been made, no advantage may be taken by the partners, the partnership or the company against third parties of the existence of the agreements, documents or particulars required by this Title to be registered, but third parties may take advantage of such existence.

However, the partner or shareholder who and the partnership or company which has, before such registration, received performance of an obligation is not bound to make restitution.”

**Section 5.** The following provisions shall be added as Section 1023/1 of the Civil and Commercial Code:

“Section 1023/1. A partnership or company may not raise Section 1023 to defend against a third party acting in good faith, in order to avoid liability on the ground that the partner, partnership, company or director has no authority to act.”

**Section 6.** The provisions of Section 1097 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1097. Any three or more persons may, by subscribing their names to a memorandum and otherwise complying with the provisions of this Code, promote and form a limited company.”

**Section 7.** Paragraph five of Section 1111 of the Civil and Commercial Code shall be repealed.

**Section 8.** The following provisions shall be added as Section 1111/1 of the Civil and Commercial Code:

“Section 1111/1. In forming a company, if all the following steps have been taken within the date the memorandum of association is made by the promoters, the directors may apply for registration of the memorandum of association and registration of the company simultaneously on the same day:

- (1) All shares to be registered by the company are subscribed for;
- (2) The statutory meeting is held to transact the business under Section 1108 with the presence of all promoters and subscribers, and all promoters and subscribers have approved the business so transacted;
- (3) The promoters have handed over the business to the directors; and
- (4) The directors have caused the subscribers to pay for shares under Section 1110, paragraph two, and such payment has been made.”

**Section 9.** Section 1147 of the Civil and Commercial Code shall be repealed.

**Section 10.** The provisions of Section 1175 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1175. Notice of a general meeting shall be published at least once in a local newspaper not later than seven days before the date fixed for the meeting, and be sent by mail with return receipt requested, to every shareholder whose name appears in the register

of shareholders not later than seven days before the date fixed for the meeting, except for notice of a general meeting to adopt a special resolution, in which case such act shall be done not later than fourteen days before the date fixed for the meeting.

The notice shall specify the place, the day and the hour of the meeting and the nature of the business to be transacted. In case of notice of a general meeting to adopt a special resolution, the substance of the proposed resolution must also be included.”

**Section 11.** The provisions of Section 1194 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1194. Any act which is required by law to be done by a special resolution shall be resolved by the general meeting by a majority of not less than three-fourths of the votes of the shareholders present and having the right to vote.”

**Section 12.** The provisions of Section 1204 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1204. Notice of any dividend that may have been declared shall be given by letter to each shareholder whose name appears in the register of shareholders. However, if there are shares entered in a certificate to bearer, the notice must also be published at least once in a local newspaper.”

**Section 13.** The provisions of Section 1226 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1226. When a company proposes to reduce its capital, it must publish at least once in a local newspaper and send to all creditors known to the company a notice of the particulars of the proposed reduction, requiring the creditors to present within thirty days from the date of such notice any objection they may have to such reduction.

If no objection is raised within the period of thirty days, none is deemed to exist.

If an objection is raised, the company cannot proceed with the reduction of its capital unless it has satisfied the claim or given security for it.”

**Section 14.** The provision of (4) of Section 1237 of the Civil and Commercial Code shall be repealed and replaced by the following:

“(4) If the number of the shareholders is reduced to less than three.”

**Section 15.** The provisions of paragraph one of Section 1240 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1240. The company must publish at least once in a local newspaper and send to all creditors known to the company a notice of the particulars of the proposed amalgamation requiring the creditors to present within sixty days from the date of such notice any objection they may have to it.”

**Section 16.** Part XI Removal of Defunct Companies from Register, Section 1246 of Chapter IV in Title 22 of the Civil and Commercial Code shall be repealed.

**Section 17.** The following provisions shall be added as Part XII Conversion of Registered Partnership and Limited Partnership into Limited Company, Sections 1246/1, 1246/2, 1246/3, 1246/4, 1246/5, 1246/6 and 1247/7 of Chapter 4 in Title 22 of the Civil and Commercial Code.

**“Part XII  
Conversion of Registered Partnership and Limited Partnership into  
Limited Company**

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Section 1246/1. A registered partnership or limited partnership with three or more partners may be converted into a limited company with the consent of all partners and the following steps being taken:

- (1) Notifying the Registrar in writing of the consent of the partners to convert the partnership into a limited company within 14 days from the date of consent of all partners; and
- (2) Publishing at least once in a local newspaper and sending to all creditors known to the partnership a written notice of the particulars of the proposed conversion requiring the creditors to present within 30 days from the date of the notice any objection they may have to the conversion.

If an objection is raised, the partnership may not proceed with the conversion unless it has paid the debt or given security for it.

Section 1246/2. If there is no objection or there is one but the partnership has paid the debt or given security for it, all the partners shall meet to give consent and proceed with the following:

- (1) Preparing the memorandum and articles of association of the company (if any);
- (2) Fixing the amount of share capital of the company, which must be equal to the contributions of all partners in the partnership, and fixing the number of shares of the company to be devolved upon each partner;
- (3) Fixing the money paid up on each share, which must not be less than 25% of the par value of each share;
- (4) Fixing the number of ordinary shares or preference shares, and determining the nature and preferential rights of the shares to be issued and allocated to the partners;
- (5) Appointing the directors and fixing their respective powers;

- (6) Appointing the auditor; and
- (7) Proceeding with other matters necessary for the conversion.

In taking the steps under paragraph one, the relevant provisions regarding limited companies shall apply *mutatis mutandis*.

Section 1246/3. The former managing partner shall deliver the business, assets, accounts, documents and evidence of the partnership to the board of directors of the company within 14 days from the date of consent by the partners and completion of the steps required under Section 1246/2.

If the partners have not paid for shares or have not paid for shares of 25% of the par value, or have not transferred the ownership of assets or have not executed documents and evidence for the exercise of rights for the board of directors, the board of directors of the company shall give written notice requiring the partners to pay for shares, transfer ownership or execute documents and evidence of the exercise of rights, as the case may be, for the board of directors within 30 days from the date of receipt of the notice.

Section 1246/4. The board of directors of the company shall apply for registration of the conversion into a limited company with the Registrar within 14 days from the date of completion of the steps required under Section 1246/3.

In applying for registration of conversion into a limited company, the board of directors shall submit together with the application for registration the minutes of the meeting at which the partners have given consent and proceeded with the conversion of the partnership into a limited company under Section 1246/2, the memorandum and articles of association, and the list of shareholders.

Section 1246/5. After the Registrar has registered the conversion of the registered partnership or limited partnership into a limited company, the former registered partnership or limited partnership shall cease being a registered partnership or limited partnership under the Civil and Commercial Code, and the Registrar shall make a note thereof in the Register.

Section 1246/6. After the registered partnership or limited partnership has been registered as being converted into a limited company, the company shall acquire all assets, debts, rights and liabilities of the former registered partnership or limited partnership.

Section 1246/7. After the registration of conversion into a limited company, if the company is unable to pay the debts taken over from the partnership converted, the creditors may enforce payment of the debts from the partners in the partnership converted according to the respective liabilities of the partners for the debt of the partnership.”

**Section 18.** The provisions of (1) of Section 1253 of the Civil and Commercial Code shall be repealed and replaced by the following:

“(1) Notify the public by at least one advertisement in the local newspaper that the partnership or company is dissolved and that its creditors must apply for payment to the liquidators; and”

**Section 19.** The following provisions shall be added as Chapter VI Removal of Defunct Registered Partnerships, Limited Partnerships and Limited Companies from Register, Sections 1273/1, 1273/2, 1273/3 and 1273/4, in Title XXII Partnerships and Companies, of the Civil and Commercial Code:

**“Chapter VI  
Removal of Defunct Registered Partnerships, Limited Partnerships and Limited  
Companies from Register**

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Section 1273/1. Where the Registrar has reasonable cause to believe that a registered partnership, limited partnership or limited company is not carrying on business or in operation, he shall send to the partnership or company by post with return receipt requested a letter inquiring whether the partnership or company is carrying on business or in operation and stating that, if no reply is received within 30 days from the date of sending the letter, an advertisement will be published in the newspaper with a view to striking the name of the partnership or company off the Register.

If the Registrar receives a reply from the partnership or company that it is not carrying on business or in operation, or does not receive any reply within 30 days from the date of sending the letter, the Registrar shall publish at least once in the local newspaper, and send to the partnership or company by post with return receipt requested, a notice that, at the expiration of 90 days from the date of sending the notice, the name of such partnership or company will, unless cause is shown otherwise, be struck off the Register.

Section 1273/2. Where the partnership or company is already dissolved and is in the process of liquidation, if the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the partnership or company are fully wound up, but the liquidator has not prepared a liquidation report or has not applied for registration of completion of the liquidation with the Registrar, the Registrar shall send by post with return receipt requested, to the partnership or company and its liquidator at his last known place of business, a letter requiring the presence of a liquidator, or the submission of a liquidation report or application for registration of completion of liquidation, as the case may be, and advising that, if such act is not done within 180 days from the date of sending the letter, a notice will be published in the newspaper with a view to striking the name of the partnership or company off the Register.

If the partnership, company or liquidator fails to act within the period under paragraph one, the Registrar shall publish at least once a notice in the local newspaper and send a notice by post with return receipt requested, to the partnership or the company and its liquidator stating that, upon the expiration of 90 days from the date of sending the notice, the name of the partnership or company will, unless cause is shown otherwise, be struck off the Register.

Section 1273/3. Upon the expiration of the period specified in the notice under Section 1273/1 or Section 1273/2, the Registrar may, unless cause is otherwise shown by the partnership or company or liquidator, strike its name off the Register. In this connection, the partnership or company shall lose its status as a juristic person from the time of striking its name off the Register by the Registrar, provided that the liability, if any, of the managing partner, partners, directors, manager and shareholders shall continue and may be enforced as if the partnership or company had not lost its status as a juristic person.

Section 1273/4. If a partnership, partner, company, shareholder or creditor of a partnership or company feels unjustly damaged by the partnership or company having been struck off the Register, the court, upon the application of the partnership, partner, company, shareholder or creditor, may, if satisfied that the partnership or company was at the time of the striking off carrying on business or in operation, or that it is just that the partnership or company be restored to the Register, order the name of the partnership or company to be restored to the Register, and the partnership or company shall be deemed to have continued in existence as if its name had not been struck off. The court may also order and stipulate any requirements considered just for placing the partnership or company and all other persons in the same position as nearly as may be as if the name of the partnership or company had not been struck off.

The application for a partnership or company to be restored to the Register may not be made after the expiration of 10 years from the date of striking of the name of the partnership or company off the Register by the Registrar.”

**Countersigned by**

**General Surayud Chulanont**

**Prime Minister**

*(Ref: Government Gazette, Volume 125, Part 41 Kor, of 3<sup>rd</sup> March B.E. 2551 (2008))*