

ROYAL DECREE ON COMMODITIES CONTROL (NO. 12) B.E. 2545 (2002)

BHUMIBOL ADULYADEJ, REX.

Given on the 31st Day of December B.E. 2545;

Being the 57^h Year of the Present Reign.

His Majesty King Bhumibol Adulyadej graciously pleased to proclaim that:

Whereas, it is expedient to amend the means to control commodity in regard to caffeine in every area throughout the kingdom for public welfare;

By virtue of section 221 of the Constitution of the Kingdom of Thailand and section 5 of the Commodities Control Act B.E. 2495 which contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section 35, section 48 and section 50 of the Constitution of the Kingdom of Thailand, so permit by virtue of law, the Royal Decree is issued as follows:

Section 1. This Royal Decree is called the “Royal Decree on Commodities Control (No. 12) B.E. 2545 (2002).”

Section 2. This Royal Decree shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. Royal Decree on Commodities Control (No. 11) B.E. 2543 (2000) shall be repealed.

Section 4. The commodity controlled under the Ministerial Regulation on prescription of caffeine as a control commodity and appointment of commodity control officer B.E. 2545, namely caffeine, shall be a commodity controlled under the means prescribed in this Royal Decree in every area throughout the kingdom.

Section 5. No person shall bring, move, sale, possess, use, or transform the commodity under this Royal Decree unless such person has obtained a permit.

The permit under paragraph one shall be in accordance with the form as prescribed by the Director-General of Department of Internal Trade.

Section 6. The following persons have the right to apply for a permit to bring, move, sale, possess, use, or transform the commodity under this Royal Decree:

(1) a person obtaining a license to import or export caffeine from the Department of Foreign Trade

(2) a person obtaining a license to produce modern medicine in which caffeine is a component

(3) a person obtaining a license to produce food or a person who has obtained a permission number for the production of food which does not fall within the definition of factory of a producer who produces beverages with caffeine

(4) a person obtaining a license to operates a blueprint paper manufacture using caffeine as raw material

(5) a person who needs to use caffeine in an experiment and has obtained a certificate from Food and Drug Administration Agency, Ministry of Public Health.

Section 7. In Bangkok, an application for permit shall be submitted to the Director-General of the Department of Internal Trade and for other provinces, it shall be submitted to a Provincial Governor. In this regard, such application shall be submitted at the Department of Internal Trade or Provincial Commercial Office, as the case may be, in accordance with the rules as prescribed by the Director-General.

Each time the commodity is brought or moved under this Royal Decree, a permit shall be obtained and a person who brings or moves such commodity shall bring such permit every time.

Section 8. A permit for sale, possess, use or transform the commodity under this Royal Decree shall be enforced until the 31st of December of the year of issuance of such permit.

If a person obtaining a permit under paragraph one wishes to renew the permit, he or she shall submit an application for renewal prior to the expiration date of such permit and upon submitting such application, operation shall continue until the person granting the permission orders not to renew the permit.

In regard to an order not to renew under paragraph two, the granter shall issue such order in writing and shall notify an applicant not to be in possession of the commodity specified in the application for permit renewal within thirty days as from the date of being notified of the order not to renew a permit and upon carrying out such act, the applicant shall notify, in writing, the Director-General of the Department of Internal Trade or Provincial Governor, as the case may be.

Section 9. A person obtaining a permit shall prepare a report, for a person granting permission, every month within the seventh of the following month, illustrating the amount of sale, possession, usage, transforming including storage, name and address of a purchaser and source of the commodity under this Royal Decree in accordance with the form as prescribed by the Director-General of the Department of Internal Trade.

Section 10. Any person possesses a commodity which falls within the scope for which permission must be granted under this Royal Decree prior to the date this Royal Decree comes into force shall submit an application for permission to possess within thirty days as from the date this Royal Decree has come into force. If a person granting permission of an area is of an opinion that permission shall not be granted or may not be possible as the person applying is not a person under section 6. The provision in section 8 paragraph three shall apply *mutatis mutandis*.

Section 11. A permit to bring, move, distribute, possess, use or transform the commodity under this Royal Decree prior to the date this Royal Decree comes into force shall continue to be valid until its expiration date.

Section 12. The Royal Decree shall not apply to a commodity prescribed under this Royal Decree which belongs to a government agency, state enterprise or other state agencies.

Section 13. The Minister of Interior and the Minister of Commerce shall have charge and control of the execution of this Royal Decree.

Countersigned by

Police Lieutenant Colonel Thaksin Shinawatra

Prime Minister

Department of Internal Trade

Remark: The rationale for the promulgation of this Royal Decree is that since caffeine prescribed as a controlled commodity under the law on commodities control is used as an ingredient in producing narcotics class 1 which is a hazardous narcotic destroying public welfare and in order to prevent the use of caffeine as an ingredient in producing narcotics, it is, thereby, expedient to amend the control means and to prescribe rules in moving, selling, possessing, using or transforming such commodity in every area in the kingdom. It is, therefore, necessary to enact this Royal Decree.

Department of Internal Trade