

Legal News Update

KPMG in Thailand



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Cannabis and hemp to be removed from the narcotics list

Cannabis and hemp have been classified as narcotics under Category 5 under the Narcotics Act of Thailand (currently, Narcotics Code) for many years. At the same time the extensive medical properties of both cannabis and hemp has long been known.

In 2019, the possession and use of cannabis for medical and research purposes under certain conditions was legalized for the first time in Thailand. In December 2020, legalization of cannabis and hemp became more concrete and conspicuous after the launch of the Notification of Ministry of Public Health, RE: Narcotics under Category 5 of the Narcotics Act B.E. 2563 (2020) ('Notification B.E. 2563'). Many parts of the cannabis and hemp cultivated in Thailand are exempt from being considered narcotics under Category 5 by virtue of this Notification B.E. 2563.

Since the start of 2022, declassification of cannabis and hemp has become a reality with the **Notification of Ministry of Public Health, RE: Narcotics under Category 5 of the Narcotics Act B.E. 2565 (2022) ('Notification B.E. 2565')**. The notification, published in the royal gazette on February 9, 2022 reclassifies the list of narcotics under Category 5.

The notification has 'unlocked' cannabis and hemp from narcotic classification, creating opportunities for the general public and business owners to freely utilize cannabis and hemp for wider purposes. Highlights of Notification B.E. 2565 and its implications with regard to cannabis and hemp are summarized below.

- **The difference in legality between parts of plants and extracts of plants**

According to the Narcotics Code, the names and types of narcotics must be announced, withdrawn, or amended by the Minister of Public Health as consented by the Narcotics Control Board in the form of Notification of Ministry of Public Health.

Considering Notification B.E. 2565, it appears that all parts of cannabis plants and hemp plants, including leaves, barks, body, fibers, branches, roots, seeds and inflorescences, do not exist in the list of narcotics under Category 5, as reclassified by this notification. All parts of cannabis plants and hemp plants will therefore no longer be considered narcotics. It is important to note that under this notification, the extracts from all parts of cannabis and hemp remain classified as narcotics under Category 5, with the following exceptions:

- i. Extracts which contain no more than 0.2% of tetrahydrocannabinol, THC by weight, with permission to extract from cannabis or hemp plants cultivated in Thailand;
- ii. Extracts from cannabis or hemp seeds, derived from cultivation in Thailand; or
- iii. Extracts regarded as quality-controlled substances used for analysis and control of quality of drug testing in body, categorized as medical device under medical equipment law and used only for specific purposes.

- **Notification B.E. 2565 is effective from June 9, 2022**

The notification clearly mentions that the change will be effective 120 days after its publication date in the Royal Gazette. Therefore, until June 8, 2022, Notification B.E. 2563 is deemed in effect and both cannabis and hemp are not yet officially removed from the narcotics list under Category 5.

During this period, any persons committing any offenses relating to cannabis and hemp parts or extracts, which are listed as narcotics under Notification B.E. 2563, could be deemed in violation of the Narcotics Code and subject to penalties under the Narcotics Code.

- **The new Cannabis-Hemp Act will be enacted to control, administer, and restrict the cultivation, extraction, processing and use of cannabis and hemp.**

Although all parts of cannabis and hemp as well as certain extracts will no longer be considered narcotics, legislation and regulations are still necessary to restrict and control any misuse.

Currently, the new Cannabis-Hemp Act (Act) is merely a draft and in the consideration process of parliament and relevant sectors. It is anticipated that this Act will be publicly announced before the effective date of Notification B.E. 2565 to support a smooth transition.

The Act may specify significant provisions including:

- The establishment of a cannabis-hemp committee
- The permission for production, importation, exportation, distribution etc.
- The notification for cultivation for household use, medical use etc.
- The prohibition of sale to minors, pregnant women, lactating women etc.
- The prohibition of use for entertainment and recreation etc.
- The penalties and measures in case of breach of provisions of the Act

Subordinated legislation containing more details of relevant practices may be released following the enactment of the Act.

Business operators who are interested in business opportunities related to cannabis and hemp should keep an eye on these new laws so as not to miss any updates and requirements of the legislations.

How can KPMG Law assist you?

KPMG Law will closely monitor the movement of these laws. Once the change in law is fully effective KPMG Law can support business operators seeking business opportunities in the cannabis or hemp sector. We can provide legal advice and assist with filing applications for permission and notification to relevant authorities.

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