

SUMMARY OF THAI PRIVATE UNIVERSITY ACT B.E. 2546 (2003)

(Entry by Prachayani Praphamontripong)

Private higher education institutions in Thailand are governed by a national law, "Private University Act B.E. 2546 (2003)," stipulated and countersigned by the Prime Minister on October 13, 2003 under the proclamation of His Majesty King Bhumibol Adulyadej. Superseding the previous laws of 1979 and 1992, the 2003 law contains 9 chapters including 130 sections.

The general statement of this law signifies such essential definitions as private university, licensee, Board of Committee, University Council, and so forth. It is stated that a private higher education institution founded under the first law (1979) shall abide by this 2003 law and retain its juridical person status. Nonetheless, the new law affects only private institutions at the university level while excluding those established under an agreement between the Thai Government and other international organizations. The ultimate authority, the Minister of Education, is in charge of the execution of this law and supplementing ministerial regulations.

The first chapter refers to procedures for establishment of a private institution, whether 1) University; 2) Institute; and 3) College. The institution's objectives shall be to promote academic and advanced professional studies including teaching and research, to provide education to society, and to sustain national culture. A private institution shall be licensed and in so doing, its licensee shall submit a project proposal covering such particulars as management, finance, academic and curriculum, and personnel. Until the rector is appointed, the licensee shall be the representative of the private institution and shall transfer the ownership of land to the private institution. Moreover, the donation and transfer of non-movable assets to the private institution shall be tax exempt. In terms of administration, a private institution's internal systems shall be under regulations of the University Council. Additionally, despite being unprotected by Labor Law and Related Labor Law, employees of private institution shall receive benefits akin to those prescribed by the coverage of Labor Law and the Ministerial Regulations.

The second chapter features the power and duties of the Board of Committee in such various areas as approval, provision of comments and advice to the Minister on the issues relating to the

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private institution, clarification of academic curriculum, and the issuing of rules and regulations relating to this Act.

The third chapter specifies administration of the private institution. The Private University Council is composed of the president proposed by the licensee, the rector, qualified members of not more than fourteen but not fewer than seven persons proposed by the licensee and the Minister, and at least one half of the members shall have Thai nationality. Members of the University Council must have at least a bachelor degree and shall hold office for a four-year term. Any decision of the meeting must be finalized by the majority of votes, and for equal votes, the Chairperson's vote can be counted as final decision. The duties of the University Council are to approve development plans, to issue rules and regulations, to allocate funds, to approve financial plans and other related financial documents, to approve the amendments of curriculum, to approve student admission, to confer honorary degrees, to approve issues related to internal organizations, to approve academic operation, to appoint and remove the rector, vice rector, honorary professors, and full time faculty members, to formulate regulations on personnel administration, to provide quality assurance system, and so forth. The private institution shall also have an Academic Title Committee consisting of at least six qualified members but not exceeding twelve members from outside the institution. They shall hold position for three years, and their powers and duties shall be in regards with academic matters. Additionally, the powers and duties of the Rector and faculty are also specified in this chapter.

The fourth chapter contains regulations on degrees and academic insignia. The private institution shall teach any accredited field of study at any level of degrees. It shall also have power to confer any accredited degree ranging from certificates for completion of studies, Junior Degrees, Bachelor's, Master's, Doctoral, or honorary degrees in any accredited field of study.

The fifth chapter involves regulations on assets and accounting of the private institution. Sources of capital of the private institution shall include 1) funds and assets according to the provision when it was first established and later additional funds and assets obtained; 2) donations or contributions to the private institution stipulating under the use of specific interests; and 3) funds and other assets from past performance of activities of the private institution. The allocation of funds shall be categorized into seven areas: 1) General Funds; 2) Permanent Assets Funds; 3) Research Funds; 4) Technology and Library Funds; 5) Human Resource Development Funds; 6) Aiding Funds; and 7) Fixed Capital or other Funds. The private institution's revenues stem from 1) Benefit Funds, Tuition Fees, and other fees; 2) Other funds and assets donated without specific condition; 3) Subsidiary Funds from the State; 4) Benefits from investment; and 5) Other revenues and benefits.

The sixth chapter deals with subsidies and other governmental support. The government shall subsidize the private institution by allowing governmental officials to work in the private institution, establishing Development Funds for the private institution, exempting import tax for goods and equipment related to academic and research, and promoting resource usage among public and private universities.

The seventh chapter stresses regulations on supervision and control. The private institution shall facilitate the authorized officers in any visits with or without permission for inspection during office hours. The Board of Committee shall approve such matters as receiving gifts, borrowing money, leasing assets, purchasing/ disposing of assets whose value exceeds the specified amount by the Board of Committee. Further, the private institution shall notify in writing to the office of Higher Education Commission in matters such as classes suspended for more than three consecutive days and the retirement of full-time faculty members. Not only shall the Minister have the power to warn or order the private institution to stop teaching if it is found that the building and the campus do not conform to health or insecure conditions, but he shall also appoint a Controlling Board of Committee to monitor the private institution if there is one of the following reasons: 1) lack of sufficient capital; 2) violation or failure to comply with the provisions of this Act and the ministerial regulations; 3) cessation of instruction for more than two consecutive months; 4) conducting of activities that endanger national security. Aside from that, the Minister shall have the power to appoint an Appeal Deliberating Committee in the case that the private institution appeals against the control order of the Minister. When the private institution under control is found to deserve its continuity of operation, the Minister shall withdraw the control order and announce that withdrawal publicly. In turn, if it is found guilty, the Minister shall have the authority to withdraw its license.

The eighth chapter discusses dissolution and transfer of business of the private institution, stressing that if the licensee wishes to either dissolve or transfer the business, he/she shall notify the Board of Committee in writing along with appropriate justifications and that the dissolution of business and the transfer of license shall be announced in the Government Gazette.

The last chapter contains regulations on punishment. Whoever fails to comply with the Act shall be punished with imprisonment or fine or both. The level of punishment depends on each section stated in the Act.