

Client alert

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New Amendment to Thai Arbitration Act Paves Way for Foreign Arbitrators and Representatives to Act in Thai Arbitration Proceedings

Although attempts have been made for many years to portray Thailand as a competitive regional hub of international arbitration, legal and regulatory obstacles largely undermined the realization of this claim. In particular, Thai law precluded foreign representatives from acting in arbitration proceedings governed by Thai law and conducted in Thailand, and foreign arbitrators appointed to adjudicate arbitration proceedings in Thailand were required to go through the laborious process of obtaining a work permit to do so.

On 25 January 2019, the Secretary of the Cabinet issued a letter confirming the National Legislative Assembly's bill amending the Thai Arbitration Act B.E. 2545 (2002), which is designed to address these issues and improve the convenience of conducting arbitration proceedings in Thailand ("**Amendment**").

The Amendment introduces new rules for the work of both foreign arbitrators and representatives in arbitration proceedings in Thailand:

- A foreigner residing outside of Thailand, or a foreigner entitled to reside in Thailand, and who has been appointed to act as an arbitrator or a representative in arbitration proceedings in Thailand conducted by a government agency or organization established by law with its objectives directly related to resolution of disputes by arbitration (e.g. the Thailand Arbitration Institute and the Thai Arbitration Center), may request a certificate from such government agency or organization to support the consideration of Thai officials on immigration and working of aliens ("**Certificate**");
- The government agency or organization will issue the Certificate to allow the foreign arbitrator or representative to perform their duty according to the agreed upon arbitral rules or regulations, which will contain the name of the issuer of the Certificate, the case number of the dispute, the name and passport number of



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the foreign arbitrator or representative, and the estimated time period of the arbitration proceedings;

- A foreign arbitrator or representative who obtains the Certificate is allowed to obtain permission to enter and provisionally reside in Thailand during the time period denoted in the Certificate, but not in excess of the time period prescribed under the law on immigration; and
- Subject to the law on management of working aliens, a foreign arbitrator or representative who obtains the Certificate and is permitted to reside in Thailand, is entitled to perform their duties in Thailand, and the registrar under the law on management of working of aliens will issue a work permit to the foreign arbitrator or representative to perform their work during the time pending the granting of the permit.

Although it remains to be seen how the Amendment will be practically implemented, the new law signals a major thawing of restrictions on foreigners participating in arbitration proceedings in Thailand and should serve to achieve the long-held objective of making Thailand an attractive location for international arbitration proceedings for both Thai and foreign parties.

Following Royal endorsement, the Amendment will come into force the day after its publication in the Government Gazette, which can be expected to occur in the coming months.

We will continue to keep you updated regarding the implementation of the Amendment.