

Skill Development Promotion Act

B.E. 2545

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Bhumibol Adulyadej, REX.

Given on 22<sup>nd</sup> Day of September B.E. 2545

Being the 57<sup>th</sup> Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to promulgate Skill Development Promotion Act to replace Vocational Training Promotion Act.

Contents of this Act include the limitation of the people's rights and freedom permitted under Articles 29, 31 and 35 of the Thai Constitution.

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

Section 1 This Act shall be called "Skill Development Promotion Act, B.E. 2545"

Section 2<sup>1</sup> This Act shall be in effect after one hundred and twenty days from date of announcement in the Government Gazette.

Section 3 The Vocational Training Promotion Act, B.E. 2537 shall be repealed.

Section 4 The ministries, government bureaus, departments, and government agencies are not governed under this Act.

Section 5 In this Act, the following terms shall mean,

"Skill Development"<sup>2</sup> means a process which enables trainees and the working age people to gain access to dexterity, knowledge and ability, career ethics and good working attitude by skill training, establishing skill standards, and other relating activities.

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<sup>1</sup> Announce in the government gazette, Volume 119, Chapter 981, Page 1, 1 October B.E. 2545

<sup>2</sup> Definition of "Skill Development" was amended by the Skill Development Promotion Act (2<sup>nd</sup> issue) B.E. 2557

“Skill Training” means the pre-employment training, skill up-grading training and training for job change.

“Pre-employment Training” means skill training prior to employment to enable the workers to work according to the skill standards.

“Skill up-grading Training” means an additional training activity provided by the employer to his employees to enable them to have more and better knowledge and skill.

“Training for the job change” means an additional training activity provided by the employer to his employees to have knowledge and skills in other jobs or trades.

“Curriculum” means subjects, contents and skill training delivery method.

“Training Provider” means an authorized person who arranges a skill training activity in accordance with the curriculum and the details for training as shall be seen appropriate to registrar under this Act.

“Trainee” means a person who receives training offered by the training provider.

“Training Instructor” means a person who delivers training instruction to the trainee.

“Training Site” means a place where the training provider arranges training activity for the trainee.

“Skill Training Center” means a training center aside from that arranged by the training provider.

“Skill Standards” means technical regulations used to determine the level of expertise and the working attitude of the employees in various trades under this Act.

“Skill Standard Test” means a test used to determine skills, knowledge, abilities and the working attitude of the employee according to the established standards.

“Skill Standard Testing Provider” means an authorized person who arranges the skill standard test under this Act.

“Skill Standard Testing Examiner” means a person who examines the test performed by those requesting for the test.

“Identity Book”<sup>3</sup> means documents or other things use for recording personal’s profile related to education, training, seminar, skill standard test, occupation, past career or other cases as the committee’s prescription for the benefits of career or employment.

“Assessment”<sup>4</sup> means the consideration and measurement of skills, knowledge, personal attributes and experiences or success in career as the committee’s prescription.

“Assessor”<sup>5</sup> means a person who registers to be an assessor for the skill and knowledge certificate assessment

“Certification of Skill and Knowledge”<sup>6</sup> means certification of skill and knowledge to perform work which a person has passed the assessment in each level as prescribed by the Committee’s prescription.

“Certificate of skill and knowledge”<sup>7</sup> means a certificate issued to a person who passes skill and knowledge test.

“Professional Organization”<sup>8</sup> means group of people or institutions whose purpose is to promote careers which the committee has endorsed the rights and obligations under this Act and comply to standard, method and condition which the Committee prescribes. It shall also include other professional organizations under other law.

“Business Operator” means a person who engages in industrial, commercial or other businesses either he is or is not the employer of the trainee.

“Employer” means an employer under the Labour Protection Law.

“Employee” means an employee under the Labour Protection Law.

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<sup>3</sup> Definition of “Identity book” was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>4</sup> Definition of “Assessment” was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>5</sup> Definition of “Assessor” was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>6</sup> Definition of “Certification of skill and knowledge” was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>7</sup> Definition of “Certificate of skill and knowledge” was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>8</sup> Definition of “Professional organization” was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

“Fund” means Skill Development Fund.

“Committee” means Skill Development Promotion Committee.

“Member” means member of the Skill Development Promotion Committee.

“Officials” means person appointed to act according to this Act.

“Registrar” means the Director General or any person appointed by him.

“Director General” means the Director General of the Department of Skill Development.

“Minister” means the Minister in charge of the execution of this Act.

Section 6<sup>9</sup> The Minister of Labour and Social Welfare shall be in charge of the execution of this Act and is empowered to appoint the officials to issue Ministerial Regulations to determine the fee which shall not exceed the rate at the end of this Act, Fee exemption and other activities, along with regulations and announcements in accordance with this Act.

Such Ministerial Regulations and regulation announcements shall come into effect upon the date of announcement in the Government Gazette.

Section 7<sup>10</sup> The Minister has an authority to:

- (1) Prescribe trades for skill development promotion.
- (2) Prescribe trades, positions or job description which may be harmful to the public or requires a skilled person who obtains certificate of skill and knowledge, according to the recommendation of committee with the cabinet approval. Any trades, positions or job description which are already regulated by legal entities shall be under their government law.

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<sup>9</sup> Section 6 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>10</sup> Section 7 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

## **Chapter 1**

### **Arrangement for Skill Training**

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#### **Part 1**

#### **Pre-employment Training**

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Section 8 To obtain the rights and the benefits according to this Act, the pre-employment training provider shall prepare a detailed training program for the trades prescribed by the Minister as per Section 7 and proposed to the registrar for approval. Such program must include:

- (1) Curriculum
- (2) Place or center for training
- (3) Name and qualification of the training instructor.
- (4) Period of training
- (5) List of equipment necessary for training either still in use or to be acquired in the future.
- (6) Method and standards used for evaluating the training
- (7) Others as to be prescribed by the Committee.

The consideration for approval given by the registrar shall be in accordance with the standard, method and conditions prescribed by the Committee.

Any alteration or amendment to the sub-clause (1), (2), (4) or (6) after these sub-clauses have been approved cannot be made without the consent of the registrar.

Section 9 The qualification of the training instructor must comply with the Committee prescription.

Section 10 The training provider shall prepare the regulations for training in Thai language and must contain at least these information.

- (1) Training period
- (2) Date and time of training and breaks

- (3) Holidays
- (4) Leave and rules of taking leave
- (5) Allowance during training session
- (6) Conditions required for canceling training agreement
- (7) Rules for compensation in case of any accident or sickness arising from training
- (8) Others as to be prescribed by the Committee.

Section 11 A written agreements must be made by and between the training provider and the trainee and must cover clauses as prescribed by the Committee.

Section 12 The training provider must follow the regulations concerning the protection of trainee as prescribed by the Minister. Also must prepare and keep record or bio-data of trainee.

Section 13 Upon completion of the training course as per Section 8 (6), the provider shall issue a certificate to the trainee in 15 days from the date of achievement and then notify the registrar.

Section 14 In case the training provider wishes to transfer his business to other person, he would notify the registrar in writing not later than 15 days prior to such transfer and indicate that the transferee wishes or does not wish to continue the pre-employment training activity. In such case both the former and the new providers must jointly sign in an agreement.

In case transferee wishes to take over the pre-employment training activities, the registrar would record down and shall regard the transferee as the registered training provider under Section 8 from the date of transfer with the same rights and duties that the former provider originally had.

If the transferee wants to stop the pre-employment training activities, then the registrar shall send the trainees who still have unfinished training to another training provider or to the government training institute in the same trade. In doing so, the former training provider must be responsible for all the remaining training cost.

Section 15 The training provider is not allowed to demand or receive any kind of training fees or remuneration from the trainee.

Section 16 The training provider may arrange for the trainee to receive training at the government educational or training institute or other training institutions accepted by the registrar.

The curriculum and expenses for such training as per Paragraph 1 must be approved by the registrar.

Section 17 If the training provider close down his business or has other reason that he can no longer provide further training activities, he shall send a letter informing the registrar not later than 15 days prior to date of such closure. In case it is Pre-employment, Paragraph 3 of Section 14 shall be applied to the trainees *mutatis mutandis*, who have not completed their training at the date of such closure. Except that with the consent of the Committee, the former training provider may not be responsible for the remaining training cost

Section 18 For the benefit of the skill development, the training provider may admit students from school or universities to receive training with the curriculum of the institute and the provider. In doing so, the provider must submit the prepared curriculum to the registrar prior to the commencement of training session, or except that the curriculum has already been submitted to the registrar. In this case Section 11, 12, 13, 15, 33, 34, 35, 36 and 37 shall be applied accordingly *mutatis mutandis*.

Persons sent by the government to attend such training are also covered under Paragraph 1.

Section 19 The establishment of skill training center must conform to the standard, method, and condition as prescribed by the Committee.

## **Part 2**

### **Skill up-grading Training and Training for Job Change.**

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Section 20 To obtain the rights and benefits according to this Act, the training provider must submit the curriculum, all related details and list of expenses to be spent in arranging training activities to the registrar for approval.

Action taken for approval by the registrar must be in accordance with the standard, method and conditions as stipulated by the Committee.

In providing training activities as per Paragraph 1, Section 15, 16,17 and 19 shall be applied mutatis mutandis.

Section 21 During the training course, the training provider who is also the employer still has to abide by the law, rules and employment contract.

In case the training activities is held with the request of the employee and in written agreement, the employer may arrange training after the employee' s regular working hours or on holidays with wages paid not less than the regular wage rate according to the actual number of hours spent in such training.

## **Chapter 2**

### **Skill Standards**

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Section 22 To promote skill development, the Committee shall stipulate the National Skill Standards for various trades and present to the Minister for approval.

Following the approval and announcement of skill standards in the Government Gazette, the Department of Skill Development shall arrange a skill standard test in certain

trades as per Section 23, or the skill standard testing provider shall conduct such test according to Section 24.

The qualification of applicants, the testing method and issuance of achievement certification shall be as prescribed by the Committee.

Section 23 The Department of Skill Development shall hold the skill standard test and promote people to participate in such event.

Section 24 Any person wishing to conduct skill standard test can apply for permission to the registrar.

The application for the permit, the permit issuance, the qualification of skill standard examiner, the permit suspension and revocation shall be in accordance with the standard, method and conditions as stipulated by the Committee.

Section 25 In conducting skill standard test, fees shall be collected from the applicants not higher than the rate prescribed by the Committee.

Section 26 Any person requiring his skill standard to be certified may apply to the registrar.

The quest for skill standard certification, skill standard certification, approval of conduction testing for approved skill standards and the issuance of certified letter to a person passing skill test as per Paragraph 1 shall comply with standard, method and conditions prescribed by the Committee.

## Chapter 2.1<sup>11</sup>

### Certification of Knowledge and Skill

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Section 26/1<sup>12</sup> A person who wishes to have Identity Book or wishes to record additional information in the Identity Book, he/she shall submit the application to the registrar.

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<sup>11</sup> Chapter 2.1 Certification of Knowledge and Skill (from section 26/1 to section 26/15) was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

The Identity Book's format, issuance and recording shall comply with standard, method and condition which the Committee prescribes.

Section 26/2<sup>13</sup> Once the registrar obtain the application for Identity Book or record additional information in the Identity Book as in 26/1, the registrar shall examine information from documents or evidences which the applicant submits or the registrar may request for information from government agencies, business establishments or a person who knows such information. In case that the registrar believe that the information is correct, he/she shall record the information in the Identity Book of the applicant and return the Identity Book to the applicant.

In case that the information is changed later or is not correct, the registrar shall correct the information in Identity Book.

Section 26/3<sup>14</sup> Workers in trades, positions or job description as the Minister prescribes in section 7(2), must obtain Certification of Knowledge and Skill as in section 26/10.

Section 26/4<sup>15</sup> The following Skill and Knowledge Assessment Center shall be provided:

- (1) Department of Skill Development shall be the central Skill and Knowledge Assessment Center.
- (2) Professional Organizations or government agencies as the Committee prescribes and get approval from the registrar to be Skill and Knowledge Assessment Center.

Section 26/5<sup>16</sup> Department of Skill Development, as the central Skill and Knowledge Assessment Center, shall have these authorities:

- (1) Promote, support and provide assessment and issue Certificate of Skill and Knowledge.

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<sup>12</sup> Section 26/1 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>13</sup> Section 26/2 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>14</sup> Section 26/3 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>15</sup> Section 26/4 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>16</sup> Section 26/5 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

- (2) Survey, study, analyze, research, collect and record information related to trades , positions or job description in the establishments.
- (3) Coordinate with government agencies, private sector or Professional Organizations to request for support in order to comply with this Act.
- (4) Any actions according to the Committee assigns.

Section 26/6<sup>17</sup> The Skill and knowledge Assessment Center as in section 26/4 (2) shall have authority to provide assessment and issue Certificate of Skill and Knowledge.

Section 26/7<sup>18</sup> The Professional Organizations or government agencies which wish to be a Skill and Knowledge Assessment Center as in section 26/4 (2) shall submit the application to the registrar.

Submitting application, issuing certificate, renewing certificate and issuing substitute certificate for a Skill and Knowledge Assessment Center shall be complied with standard, method and condition prescribed in the Ministerial Regulation.

Section 26/8<sup>19</sup> Skill and Knowledge Assessment Centers as in section 26/4 (2) shall be valid for 2 years from the date of issuance by the registrar.

Section 26/9<sup>20</sup> The Skill and Knowledge Assessment Centers must present the certificate for Skill and Knowledge Assessment Centers clearly in the establishment.

Section 26/10<sup>21</sup> A person who wishes to apply for a Certification of Skill and Knowledge shall submit the application to the Central Skill and Knowledge Assessment Center or the Skill and Knowledge Assessment Centers as in section 26/4 (2)

Once the Central Skill and Knowledge Assessment Center or the Skill and Knowledge Assessment Centers as in section 26/4 (2) obtain the application, they shall assess in order to issue the Certification of Skill and Knowledge.

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<sup>17</sup> Section 26/6 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>18</sup> Section 26/7 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>19</sup> Section 26/8 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>20</sup> Section 26/9 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>21</sup> Section 26/10 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

Application submission, assessment, issuance of the Certification of Skill and Knowledge and the substitute Certification of Skill and Knowledge, the renewal of Certification of Skill and Knowledge shall be complied with standard, method and condition prescribed by the Committee.

Section 26/11<sup>22</sup> A person who wishes to register as a assessor shall submit the application to the registrar. After the registrar records, he/she shall issue the registration certificate and an assessor identity card to that person.

The assessor qualification, registration application, issuance of the registration certification and the substitute registration certificate and the renewal of the registration certificate shall be complied with standard, method and condition prescribed by the Committee.

An assessor identity card format shall be prescribed by the Committee.

In case that the assessor identity card damages or is lost, the assessor shall submit the application to replace the original assessor identity card to the registrar.

Section 26/12<sup>23</sup> While acting as an assessor in the Central Skill and Knowledge Assessment Center, the assessor shall receive compensation and other allowance as prescribed by the Committee.

In case that an assessor is the Department of Skill Development Official and works at the Central Skill and Knowledge Assessment Center, he/she shall receive compensation and other allowance as prescribed by the Committee with the approval of Ministry of Finance.

Section 26/13<sup>24</sup> the Central Skill and Knowledge Assessment Center or the Skill and Knowledge Assessment Center as in section 26/4 (2) which are the government agencies may collect fee from the skill and knowledge certificate applicant according to the Ministerial Regulation.

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<sup>22</sup> Section 26/11 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>23</sup> Section 26/12 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>24</sup> Section 26/13 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

The Skill and Knowledge Assessment Centers as in section 26/4 (2) which is a professional organization may collect service fee from the skill and knowledge certificate applicant not more than the rate prescribed by the Minister.

Section 26/14<sup>25</sup> For the benefit of the staff in a auditing, the Skill and Knowledge Assessment Center as in section 26/4 (2) shall keep documents and evidence of the Certification of Skill and Knowledge and the result of an assessor for at least 2 years.

Section 26/15<sup>26</sup> The Skill and Knowledge Assessment Center as in section 26/4 (2) shall report performance to the registrar according to the standard and method that the Committee prescribes.

### Chapter 3

#### Skill Development Fund

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Section 27 A Fund called “Skill Development Fund” shall be set up in the Department of Skill Development, Minister of Labour and Social Welfare. The Fund is intended to be used as a revolving fund for all the expenditures involving skill development promotion.

The Fund shall include:

(1) Fund transferred from the Skill Development Fend set up in the year B.E. 2539 (A.D. 1996) at the resolution of the cabinet and managed according to the regulations of the Ministry of Labour and Social Welfare.

(2) Subsidy allocated by the government

(3) Money contributed by the business operators towards the Fund

(3/1)<sup>27</sup> Fee or testing fee which is collected according to this Act

(4) Money and/or property donated to the Fund

(5) Interest or benefit from the Fund

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<sup>25</sup> Section 26/14 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>26</sup> Section 26/15 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>27</sup> Section 27, the 2<sup>nd</sup> paragraph (3/1) was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

- (6) Money and/or property which become the property of the Fund, except those listed in sub-clause (1) to (5)

The Fund will not be remitted to Ministry of Finance according to the law governing reserve and budgeting.

The receipt, payment, safe-keeping and management of the Fund shall be in accordance with the regulations prescribed by the Committee with the approval of the Ministry of Finance.

The Department of Skill Development shall keep and disburse the Fund according to this Act.

Section 28 The Fund shall be used for the following activities:

- (1) Loan granted to trainee involving training activity under this Act.
- (2) Training providers, skill standard testing providers and business operators can loan money from the Fund for expenses of providing skill training or skill testing according to the Act.
- (3) Aid or support in any activity involving skill development promotion as stipulated by the Committee.

(3/1)<sup>28</sup> Aid or support Professional Organizations which contribute to skill development promotion, classify and determine skill and knowledge of the workers and determine appropriate wage range for the level of skill and knowledge of workers according to standard that the Committee prescribes.

(3/2)<sup>29</sup> Aid or support of the Central Skill and Knowledge Assessment Center operation in certifying skill and knowledge in case that there are not enough the Skill and Knowledge Assessment Center as in 26/4 (2) to certify skill and knowledge. Aid or support the Skill and Knowledge Assessment Center as in 26/4 (2) to certify skill and knowledge in trades, positions or job description which need promotion or support to provide sufficient workers for labor demand or according to the Committee sees appropriate for the benefits of skill development promotion as the standard set by the Committee.

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<sup>28</sup> Section 28, the 1<sup>st</sup> paragraph (3/1) was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>29</sup> Section 28, the 1<sup>st</sup> paragraph (3/2) was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

#### (4) The Fund management

Lending must be in accordance with the regulations prescribed by the Committee with the approval of the Ministry of Finance.

The Committee may allocate the Fund not exceeding five percent of each year fund for managing cost.

Section 29<sup>30</sup> The Business Operators engaging in the business where the type, size, and area as stipulated by the Minister with the recommendation of the Committee must make contributions towards the Fund at the rate fixed as per Section 30.

In case that any business operators as mentioned in the first paragraph arrange skill training for their employee as prescribed in chapter 1 or the employees participating in National Skill Standard Test and pass the test as prescribed in chapter 2, the employee shall be deemed as passing the certificate of skill and knowledge as in chapter 2/1. The business operators do not need to make contributions towards the Fund in that year, according to standard prescribed by the Committee.

Section 30 In collecting the contribution from the business operator under Section 29, the Minister with the recommendation of the Committee has power to prescribe the rate of contributions of not higher than one percent of the wage paid in the year prior to the year the contribution starts, and the procedure of payment.

The minimum and the maximum wage used as the base for calculation of contribution as per paragraph 1 shall be prescribed by the Minister with the recommendation of the Committee.

Section 31<sup>31</sup> If any business operator fails to make the contribution within time, or has not contributed in full amount according to the prescribed proportion of trainee and employees, the business operator must pay a surcharge at the rate of 1.5 percent per month of the amount of contribution not delivered or of the remaining portion in the next due date. A fraction of a month from date of default, if more than 15 days shall be counted as 1 month, and if less, it shall be disregarded.

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<sup>30</sup> Section 29 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>31</sup> Section 31 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

In case the Director General has issued an order to the business operator to pay his contribution or surcharge as Paragraph 1, and if he fails to do so, the provisions relating the administrative law shall be applied.

Standard and method for assessing the contribution or surcharge in the 2<sup>nd</sup> paragraph shall be complied with regulation prescribed by the Committee.

Section 32 Within 6 months after end of the fiscal year, the Committee shall submit the balance sheet and the statement of account for the past year which has been audited and certified by the office of the Auditor General to the cabinet.

The Ministry shall submit the balance sheet and the statement of account to the Prime Minister who shall submit further to the House of Representatives and the Senate before announcing in the Government Gazette.

#### Chapter 4

#### Rights and Benefits<sup>32</sup>

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Section 33 The training provider who arranges skill development training activity in certain trades stipulated by the Minister under Section 7 shall have the following privileges.

(1) Income tax exemption on the percentage of training expenses as prescribed in the Royal Decree according to the Revenue Code.

(2) Assistance granted by the Department of skill Development in providing the training of training personnel, skill standard testing provider, supervisors and other as well as on curriculum and equipment development.

(3) Consultation service from the Department of Skill Development involving skill development activities.

(4) Other privileges as shall be granted in Ministerial Regulations.

Section 33/1<sup>33</sup> The business operator who hires workers with Certification of Skill and Knowledge as prescribed by the Committee shall obtain the following rights and benefits:

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<sup>32</sup> Chapter 4 Rights and Benefit was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>33</sup> Section 33/1 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

(1) Income tax exemption on the percentage of payroll expenses of workers who obtain the certificate as in section 26/3 and pay within wage range as in section 39 (5) as prescribed in the Royal Decree according to the Revenue Code.

(2) Consultation service from the Department of Skill Development involving the analytical procedure for job classification or wage and compensation management.

(3) Benefit of the approval and the utilization of the mark which represents that the business operator hires workers with the Certification of Skill and Knowledge. Mark, standard, method and condition for the approval and the utilization of the mark shall be complied with regulation prescribed by the Committee.

(4) Other privileges as shall be granted in Ministerial Regulations.

Section 34 In addition to 33, the training provider providing training activities in the skill development center established under Section 19 shall have following additional privileges.

(1) Exemption on import duty and Value Added Tax (VAT) for tools and machinery brought into the kingdom for training purpose as prescribed in Ministerial Regulations regarding tariff law which will be enacted in the Royal Decree under the Revenue Code

In this case, a person requesting tax exemption must list items of equipment and machinery which have been granted exemption and submit to the Committee for consideration.

(2) Deductions on utility charges for electricity and pipe water bills in the amount of two times of the training expenses as prescribed in the Royal Decree according to the Revenue Code.

(3) Other privileges as shall be prescribed by the Ministerial Regulation.

Section 35 Application for privileges under Section 33 (2), (3), (4) and Section 34(4) must be submitted to the registrar in accordance with the standard, method and conditions prescribed by the Committee.

Section 36 Under the immigration law, the training provider may bring in foreign experts, instructors, their spouses and dependents. The number of experts and the conditions as well as period of stay shall be decided by the Committee. However, the length of their stay must not beyond the permitted time according to the immigration law.

Section 37 The training provider is excluded from the law governing private schools.

## Chapter 5

### Skill Development Promotion Committee

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Section 38<sup>34</sup> There shall be a Skill Development Promotion Committee comprising the Permanent Secretary of the Ministry of Labour and Social Welfare as Chairman, the representatives of Ministry of Finance, the Ministry of Science and Technology, the Ministry of Education, the Ministry of Industry, the Bureau of Budget, the Board of Investment, Thai Chamber of Commerce, the Federation of Thai Industries, the Thai Bankers Association, the Tourism Council of Thailand as Members and six other members appointed by the Minister of which two are experts, and other two are representatives of employers and employees.

The Director General of the Department of Skill Development shall be a member and secretary. The Committee is authorized to appoint the official of the Department of Skill Development to act as the assistant secretary

The Committee members of two experts appointed by the Minister according to the first paragraph are skill development experts with at least 10 years' experience.

Committee members representing employers and employees shall be appointed by the Minister in accordance with the standard and method prescribed in the Ministerial of the Ministry of Labour.

Section 39<sup>35</sup> The Committee shall have the following authority:

- (1) Propose to the Minister the policy, plan and measurement regarding skill development activities, certifying skill and knowledge as well as skill development fund.
- (2) Propose and give advice to the Minister in issuing Ministerial Regulations, regulations, or announcement according to this Act.
- (3) Issue regulations or announcements for the execution of this Act.
- (4) Provide national skill standards for various trades mentioned in Section 22. In case that any skill standards are prescribed by law or are international skill standards, the national skill standards shall be prepared in the same way.
- (5) Classify and determine skill and knowledge level for workers and determine appropriate wage range for skill and knowledge in each trade for the benefits of wage and compensation management according to skill and knowledge.

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<sup>34</sup> Section 38 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>35</sup> Section 39 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

- (6) Set up criteria for skill development promotion and Certification of Skill and Knowledge.
- (7) Promote the business operator to employ those who have passed skill standard test to work in their trade.
- (8) Promote the establishment of Skill Training Centers and Skill Standard Test Centers and Skill and Knowledge Assessment Center as in 26/4 (2)
- (9) Promote skill contest events
- (10) Promote the coordination between the government and private sectors involving skill development and the common use of resources.
- (11) Promote assessment and Certification of Skill and Knowledge in the profession
- (12) Promote the establishment of Professional Organizations and the participation in the implementation of this Act.
- (13) Follow up the result of skill development activities, skill standard test, the Certification of Skill and Knowledge and the performance of the Skill Development Fund.
- (14) Consider and investigate an appeal the registrar's order according to this Act.
- (15) Perform other duties as prescribed in this Act or in other law written specifically to be the Committee's duties or perform other duties as assigned by the Minister

Section 40<sup>36</sup> the Committee members appointed shall remain in office for two years term.

Once the term mentioned in the first paragraph is completed and the new Committee is not assigned, the existing committee shall perform their duties until the new committee is assigned.

The terminated members may be re-appointed to the Committee for another term, but not more than 2 terms consecutively.

Section 41 In addition to vacating office at the end of term, members appointed by the Minister shall vacate the office upon following cases.

- (1) Death
- (2) Resignation
- (3) Being removed by the Minister for malfeasance and tarnished conduct
- (4) Incompetency or quasi-incompetency

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<sup>36</sup> Section 40 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

- (5) Bankruptcy
- (6) Imprisonment by the court's final verdict except in cases of light penalty

Upon termination before the term of office ends, the Minister may appoint a new member to replace the vacant post. In this case, the new Committee member shall hold the office for the remaining term left by the former members.

Section 42 Quorum for the Committee's meeting must have not less than half of the entire number of the Committee's members

The Committee meeting shall be chaired by the chairman of the Committee. When he is not present or cannot proceed the meeting, the attending members shall elect one member to chair the meeting.

The resolution of the meeting shall be decided by the majority. One member has one vote. In case of an equality of votes, the deciding vote shall be from the chairman of the meeting.

Section 43 The Committee shall appoint sub-committees to work as directed by the Committee.

The meeting of the sub-committee shall be as outlined in Section 42

Section 44 The Department of Skill Development shall be the administration unit of the Committee and shall follow up any person who gets the privileges from this Act to strictly follow the Act and then report to the Committee.

## Chapter 6

### The Registrar and the Officials

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Section 45<sup>37</sup> The registrar and the officials shall be empowered to:

(1) Issue a letter inviting training providers, instructors, trainees, skill standard testing provider, skill standard testing examiner, business operators, a person who obtains a certification to be a Skill and Knowledge Assessment Center, assessment applicant, a person who works in a Knowledge Assessment Center or persons involved to give statement or issue an order to them to submit document or other supporting document for consideration.

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<sup>37</sup> Section 45 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

(2) Enter the training site, centers, skill standard testing center, enterprises or Skill and Knowledge Assessment Center during working hour is to inspect and give advice to the training provider, skill standard testing provider, the business operator, person who works in Skill and Knowledge Assessment Center or related person to perform according to this Act.

Section 46<sup>38</sup> In performing the duty under Section 45 (2), the registrar or the officials may request the training provider, skill standard testing provider the business operator, assessor, person who works in Skill and Knowledge Assessment Center or persons involved to facilitate their visits as appropriate.

Section 47 In performing the duty, the registrar and the officials must show their identity cards which must conform to the format prescribed by the Minister.

## Chapter 7

Revocation of the status of training provider, the suspension and the revocation of permit

Revocation of certificate and permission to use mark<sup>39</sup>

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Section 48 In case the provider violates or fails to follow this Act or Ministerial Regulation, Regulation or announcement, issued under this Act, the registrar shall have a written notice to the provider for correction within time specified.

If failure to do so or not take a remedy action within a period given in the paragraph 1, the registrar have authority to revoke the status of the training provider.

Such the notice of the revocation shall be made in writing and deliver to that provider. If he cannot be located or if he refuses to receive the notice, such notice shall be posted in an open place easy to be seen at the training site or training center as the case may be. In doing so, it shall be assumed that the provider had already received the notice from the date of posting it. Except in the case the provider cannot be located, then it shall be regarded as having received the notice after fifteen days from date of posting the notice.

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<sup>38</sup> Section 46 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>39</sup> Chapter 7 Revocation of the status of training provider, the suspension and the revocation of permit Revocation of certificate and permission to use mark was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

In case of the revocation as described in paragraph 2, if it is Pre-employment training Paragraph 3 of Section 14 shall be applied to the trainees having not completed their training, Mutatis Mutandis,

Section 49 If the skill standard training provider fails to comply with the provisions given in this Act, or Ministerial Regulation, regulation or announcement, issued under this Act, the registrar shall order the provider to abide by the law or to correct within time specified.

If the provider still ignores to do so as in Paragraph 1, then the registrar shall suspend or withdraw his permit as the case may be.

The order to suspend or withdraw the permit shall be in written notice, if the provider cannot be located or refuses to accept, such order shall be posted up in an open place and can be seen clearly at the training site or centers and shall assume that the provider has had known such notice. Except when the provider cannot be located, then it shall be assumed that the provider has received the order after 15 days from date of posting the notice.

During suspension or revocation of permit, the provider must not be allowed to engage in any training activity.

Section 49/1<sup>40</sup> In case that the registrar sees that the Skill and Knowledge Assessment Center or an assessor comply or fail to comply to this Act. In case the act to comply or fail to comply can be corrected, the registrar shall order in written form to correct it within time limit.

In case that the registrar have order as in paragraph 1, if the Skill and Knowledge Assessment Center or assessor does not follow it correctly or does not correct it within time limit, the registrar can order the Skill and Knowledge Assessment Centers or assessors to stop their operation until they follow or correct the order correctly.

During the time period that the Skill and Knowledge Assessment Centers or assessors are ordered to stop their operation, they shall be prohibited to take any actions related to the Certification of Skill and Knowledge.

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<sup>40</sup> Section 49/1 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

Section 49/2<sup>41</sup> In case that the registrar finds out that the Skill and Knowledge Assessment Centers or assessors comply or fail to comply to this Act. In case the act to comply or fail to comply cannot be corrected, the registrar shall withdraw the **certificate for Skill and Knowledge Assessment Center** or **assessor certification**.

Section 49/3<sup>42</sup> Order from the registrar as in section 49/1 and 49/2 shall be made in written form and notice the order to Skill and Knowledge Assessment Centers or assessors and adopt the provisions of Section 48 paragraph 3 shall apply mutatis mutandis.

Section 49/4<sup>43</sup> In case that a business operator which gets the permission to use mark as in 33/1 (3), hires workers with Certificate of Skill and Knowledge less than the Committee prescribes, the registrar shall issue order in written form to have the business operator follow or correct in within 120 days from the order's date. If the business operator does not follow the order, the registrar shall withdraw the permission to use mark.

Section 49/5<sup>44</sup> In case that the issuance of Certificate of Skill and Knowledge is not correct or not comply to section 26/1, the registrar is authorized to withdraw the Certificate of Skill and Knowledge.

## Chapter 8

### Appeal

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Section 50 The provider whose permit is withdrawn as Section 48 has the right to appeal to the Committee within 15 days from the date of receiving the notice. The Committee shall notify the result of decision in 30 days from the date of accepting the appeal.

Decision of the Committee shall be final.

During the time of appeal, it shall be assumed that the person making the appeal still has the rights and benefits under this Act until the appeal is turned down.

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<sup>41</sup> Section 49/2 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>42</sup> Section 49/3 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>43</sup> Section 49/4 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>44</sup> Section 49/5 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

Failure to appeal within time specified in Paragraph 1 or if the Committee acquits the case, the right and benefits under this Act shall be ceased from date of withdrawal notice issued by the registrar or from the date of acquittal issued by the Committee as the case may be.

Section 51 **Skill standard testing provider** whose permit has been suspended or withdrawn under Section 49 has the right to appeal to the Committee within 15 days from the date of receiving the notice. The Committee shall notify the result of decision in 30 days from the date of receiving appeal

The verdict of the Committee shall be final.

Section 51/1<sup>45</sup> The Skill and Knowledge Assessment Center as in section 26/4 (2) and assessor as in 49/2, 49/3, 49/4 or 49/5 has the right to appeal registrar's order to the committee within 15 days from the date of receiving the order. The committee shall consider the appeal within 45 days from the date of receiving appeal and inform the result without delay.

The committee's decision is final.

52 The appeal and the decision of the appeal shall be in accordance with the regulation stipulated by the Committee.

## Chapter 9

### Penalty

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Section 53<sup>46</sup> Any person performs skill standard testing without the Certificate of Skill and Knowledge as in section 24 or violates section 49 paragraph 4 shall be fined not more than 60,000 Baht.

Section 53/1<sup>47</sup> Any person refuses to abide by section 26/3 shall be fined not more than 5,000 Baht.

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<sup>45</sup> Section 51/1 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>46</sup> Section 53 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>47</sup> Section 53/1 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

Section 53/2<sup>48</sup> Any person hires workers without the Certificate of Skill and Knowledge as in section 26/3 to work in trades, positions or job description which may harm public safety or need to use person with skill and knowledge as prescribed by the minister as in section 7 (2) shall be fined not more than 30,000 Baht .

Section 53/3<sup>49</sup> Any person operates as a Skill and Knowledge Assessment Center as in section 26/4 (2) or assessor without a Certificate of Skill and Knowledge from the registrar as in section 26/7 or 26/11 shall be fined not more than 60,000 Baht.

Section 53/4<sup>50</sup> Any person uses mark as in section 33/1 (3) without permission shall be fined not more than 5,000 Baht.

Section 53/5<sup>51</sup> Any person refuses to give information or refuses to abide by the order of the registrar or of the officials, obstruct or does not facilitate to the registrar or to the officials who are performing their duty under Section 45 or 46 shall be fined not more than 5,000 Baht .

Section 53/6<sup>52</sup> Any person violates section 49/1 paragraph 3 shall be fined not more than 5,000 Baht.

Section 53/7<sup>53</sup> All of the violations under this Act, the registrar shall have the power to consider the fine.

#### Transitory Provisions

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Section 54 The training provider under Vocational Training Promotion Act. B.E. 2537 shall be the Provider under this Act.

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<sup>48</sup> Section 53/2 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>49</sup> Section 53/3 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>50</sup> Section 53/4 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>51</sup> Section 53/5 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>52</sup> Section 53/6 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

<sup>53</sup> Section 53/7 was amended by the Skill Development Promotion Act (2nd issue) B.E. 2557

Section 55 The Vocational Training Promotion Committee who still remain in position under B.E. 2537 Act shall be the Skill Training Promotion Committee under the new Act until the new Committee is appointed under this Act.

Section 56 Ministerial Regulations, regulations or announcement issued under Vocational Training Promotion Act. B.E. 2537 Act and still in force, shall be still effective if they do not oppose to this Act, until the Ministerial Regulation, other regulations or announcement according to this Act shall be issued and come into force.

Person receiving the Kings Command:

Pol. Lt. Col. ThaksinShinawatra, Prime Minister

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*Draft-not yet approved by the Office of the Council of State*

## Fee Rate

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- (1) Identity Book 100 Baht each
- (2) Recording information in the Identity Book 50 Baht per transaction  
But not more than 500 Baht in total per time
- (3) Registration for Skill and Knowledge Assessment Center as in section 26/4 (2) 2,000 Baht
- (4) Certificate for Skill and Knowledge Assessment Center as in section 26/4 (2) 10,000 Baht
- (5) Renewal of Certificate for Skill and Knowledge Assessment Center as in section 26/4 (2) 10,000 Baht
- (6) Substitution of Certificate for Skill and Knowledge Assessment Center as in section 26/4 (2) 500 Baht
- (7) Assessment for issuing Certificate of Skill and Knowledge as in section 26/13 5,000 Baht
- (8) Substitution of Certificate of Skill and Knowledge 100 Baht each
- (9) Assessor Registration Certificate 1,000 Baht each
- (10) Substitution of Assessor Registration Certificate 100 Baht each
- (11) Assessor Identity Card 100 Baht each
- (12) Permission to use mark as in section 33/1 (3) 5,000 Baht

The Ministerial Regulation may set fee or fee rate differently by considering trades, positions or job description.

Note: Reason to enact this Act is that the old Vocational Training Promotion Act, B.E. 2537 was unsuitable for the present skill training development situation. Therefore, in order to promote skill development activity efficiently and suitably, it is appropriate to revise the Vocational Training Promotion Act, B.E. 2537 that shall include encouragement of the employer or the business operator to participate more in skill development activities and setting up the skill development fund.

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**The Skill Development Promotion Act (the 2<sup>nd</sup> issue), B.E. 2557**

Section 2<sup>54</sup> This Act shall be in effect after 90 days from the date of announcement in the Government Gazette.

Section 20 Add the fee rate list attached to this Act as the list of fee rate for the Skill Development Promotion Act, B.E. 2545.

Section 21 The current Skill Development Promotion Committee according to the Skill Development Promotion Act, B.E. 2545 shall perform their duties according to the Skill Development Promotion Act, B.E. 2545 which was amended until the new Skill Development Promotion Committee as in the Skill Development Promotion Act, B.E. 2545 which was amended will be assigned.

Section 22 The Minister of Labour shall act according to this Act.

Note: Reasons to enact this Act are that the Skill Development Promotion Act, B.E. 2545 does not contain provision related to the promotion of workers' skills and knowledge and the development of business operators' efficiency as well as public safety in working. In order to efficiently and appropriately promote and develop skill in the current situation, it is appropriate to amend provision to include any trades, positions and job description that may harm public safety or the need to execute by persons with Certificate of Skill and Knowledge, along with the assessment system to certify skill and knowledge. The registrars or officials have authority to monitor the Skill and Knowledge Assessment Centers and determine that the fee collected from the Certification of Skill and Knowledge shall be contributed to the Skill Development Fund for the purpose of any operation related to the Certification of Skill

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<sup>54</sup> Announce in the government gazette No. 131 chapter 87 Kor Page 19 Date 26 December B.E. 2557

and Knowledge. In order to motivate business operators to participate in skill development promotion, business operators shall also receive privileges as prescribed by this Act. The component of the Skill Development Promotion Committee is also adjusted under this Act for a better efficiency.

*Draft-not yet approved by the Office of the Council of State*