

CHANDLER MHM

Newsletter

Draft Amendment to the Civil Procedure Code re: Pre-trial Mediation Procedures

In civil cases in Thailand, parties will generally engage in mediation in the court after a plaint is filed but before an actual lawsuit is entered into. This mediation process is designed to settle a dispute thereby reducing excessive proceedings in the courts.

The mediation process consists of both parties and a mediator. If both parties agree to each other's terms and are willing to settle, then the mediator will arrange for the parties to enter into a Compromise Agreement. If the mediation goes well, the court fees will be returned to the parties.

A draft **Amendment to Civil Procedure Code** may change this mediation process. This draft act would focus on the mediation process before the lawsuit. Under the draft amendment, once the Plaint is filed with the Court, any party may submit a motion to request that the court appoints a mediator for the mediation process.

The parties may submit an additional motion for the court to adjudge the terms of the compromise agreement under Section 138 of the Civil Procedure Code. Note that the court may reject such motion and decline adjudicating the terms of the compromise agreement if it is determined that the terms of the compromise agreement have been made in bad faith.

To submit this motion, the petitioner will have to pay 25 per cent of the Court fees according to table 1 of the court fees under the Civil Procedure Code as listed below, unless the court orders otherwise. Such fee would be returned to the petitioner in a case that the court

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declines to adjudge the compromise agreement.

If this amendment to the Civil Procedure Code is enacted, the mediation process in Thai Courts will be more complex because the process of court mediation will require additional motions to the court. In addition, a party will be required to pay 25 per cent of the court fees in order to request that the court render judgment to a compromise agreement.

We will continue to monitor the status of this draft amendment to the Civil Procedure Code, and provide updates when and if any changes occur.

Schedule 1: Court fees

Nature of Proceedings	Amount	Rate	Remark
(1) Cases where the relief applied for is not computable in terms of money, the Court fees shall be charged according to the amount as follows;	Not over 50,000,000 baht	2% but not over 200,000 baht	For court fees according to (a), (b) and (c), if the odd money of total amount is lower than one baht, it shall be rounder off.
(a) Other complaints out of those specified in (b) and (c).	Amount over 50,000,000 baht up	0.1%	
	Not over 50,000,000 baht	0.5% of the amount applied for Court's enforcement but not over 50,000 baht	
(b) Application to the Court for enforcement of an award made by an arbitrator in the country or application for revocation of arbitrator's award in the country.	Amount over 50,000,000 baht up	0.1%	
	Not over 50,000,000 baht	1% of the amount applied for Court's enforcement but not over 100,000 baht	
	Amount over 50,000,000 baht up	0.1%	
Application for the Court's enforcement of an arbitrator's award in foreign countries or application for revocation of an arbitrator's award in foreign countries.	Not over 50,000,000 baht	1% of amount of debt demanded but not over 100,000 baht	
	Amount over 50,000,000 baht up	0.1%	

(c) Application for the enforcement or foreclosure of a mortgage.			
(2) Cases where the relief applied for is not computable in terms of money; (a) General cases including non-contentious cases. (b) Appeal or dika appeal of order according to Section 228 (2) and (3).		200 baht per a case 200 baht per a case	The court fees shall not be collected for the appeal or dika appeal according to Section 228 (1)
(3) Cases where the relief applied for is computable in terms of money together with that is not computable in terms of money.		The court fees shall not be collected for the appeal or dika appeal according to Section 228 (1)	
(4) For the cases where the requests for paying damages, maintenance or living allowance, annuities, salaries, pensions, costs of keeping or any other periodical payments to be made in future, except interest, rent or damage upon which the Court is authorized to pass a judgment or give an order under Section 142, if in such a case, there is a request for paying an immediate debt or a request in any preceding items being put together therein, the Court fees for a request in this item as a separate part.		100 baht	

This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact person(s) at Mori Hamada & Matsumoto or Chandler MHM Limited, or any of the Key Contacts listed in the far-right column.