

CHANDLER MHM

Newsletter

Revocation of Ministerial Notification regarding Domination of Mining Business by Foreigner

On 30 January 2018, the Ministry of Industry issued a notification regarding prohibited actions for foreigners; "Notification of Ministry of Industry Re: Prescribing Prohibition on Actions with the Nature of Mining Business Taking Over by Foreigners and Prohibition on Submission of Application for License for Benefit of other Persons B.E. 2560" (the "2017 Notification") to prohibit foreigners from operating mining businesses through the use of "cover up" schemes in order to conceal ultimate foreign ownership.

The 2017 Notification provided details of actions that can be as effecting a business takeover by foreigners and which are thus prohibited, as well as imposed self-certification duties on the applicants and holders of mining leases, licenses for minor-scale mining and reporting of mineral panning.

On 28 January 2020, the Ministry of Industry issued a notification to revoke the 2017 Notification. This notification was published in the Government Gazette on 29 January 2020 and became effective on the day after publication, i.e. 30 January 2020. The reasons for revocation as stated in the notification are that (i) procedures for examining the ratio of shares held by foreigners during the business registration process under the control of the Department of Business Development, Ministry of Commerce have been put in place; and (ii) rules prescribed under the 2017 Notification imposed unnecessary burden on business operators, which may be an obstacle to the conduct of the occupation under the rules prescribed in Section 77 of the Constitution of the Kingdom of Thailand, B.E.2560.

As a result, the 2017 Notification is revoked entirely, and thus the prohibitions and self-certification duties stated therein are no longer valid.

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