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# Cannabis and Hemp Business Guide – Thailand

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## Introduction

Cannabis (both marijuana and hemp) has been classified as a category 5 narcotic under the Narcotics Act since 1979. All activities related to the plants and their derivatives had been very much restricted until the recent rise of the cannabis legalization movement—its first milestone being Amendment (No.7) to the Narcotics Act, effective since February 19, 2019. The Thai government has since been working to reclassify the products and lay out the regulatory pathways to accommodate these new “economic plants.”

Most of the product classifications discussed here are based upon the tetrahydrocannabinol (THC) content, and sometimes upon cannabidiol (CBD) content. Generally speaking, THC is a psychoactive substance with fewer medical applications, while CBD is not psychotropic and has more medical applications. A higher THC content is therefore associated with a greater risk of abuse, and thus stricter regulations apply. Under the most recent legal amendments, Thai law defines marijuana as plants in *cannabis* genus, and hemp as *cannabis sativa* L. *subsp. sativa* having no more than 1.0 % by dry weight of THC.

The key regulator of cannabis-related products is the Thai Food and Drug Administration (Thai FDA), a government agency operating under supervision of the Ministry of Public Health. Working closely with the Narcotics Control Committee, the Thai FDA is mainly responsible for granting and administering licenses and post-marketing control, among others. Representatives of the Thai FDA also sit on most of the policymaking committees.

The Thai government considers cannabis legalization as a complex task affecting diverse groups of stakeholders. Notable stakeholders include modern medicine practitioners, hospitals, patients, universities, farmers, the domestic and foreign pharmaceutical industry, and the Thai government’s narcotic suppression authority. Traditional medicine practitioners are an additional and particularly influential group of stakeholders, unique to Thailand, as they utilize ancient traditional formulations containing marijuana.

The Thai government has adopted a protective stance towards Thai stakeholders, especially during the first stage of legalization, which is now until 2024. This stance will be reflected in the following discussions.

## Key Dates

<b>April 28, 1979</b>	The Narcotics Act (No. 1) took effect, declaring cannabis a category 5 narcotic.
<b>January 1, 2018</b>	The first Hemp Regulation came into effect, allowing cultivation and processing of hemp only for industrial or non-commercial uses, such as for household cooking or research and development.
<b>January 28, 2019</b>	The National Council for Peace and Order's Ordinance No. 1/2562 became effective, rejecting Thai patent applications related to cannabis (see also <b>Intellectual Property</b> , below).
<b>February 19, 2019</b>	The Narcotics Act amendment (No. 7) came into effect, legalizing medical marijuana as the first milestone of the cannabis legalization movement.
<b>February 2019</b>	Public scoping of the draft ministerial regulation on medical marijuana licensing began.
<b>March 30, 2019</b>	The ministerial notification came into effect, setting out 16 Thai traditional medicine formulations that may be consumed for therapeutic purposes.
<b>May 21, 2019</b>	End of the "amnesty period," during which persons possessing marijuana for certain purposes (medical and research, among others) may declare their possession to the Thai FDA and be exempted from criminal punishment.
<b>August 7, 2019</b>	The Government Pharmaceutical Organization (GPO) launched the first batch of medical marijuana oil (4,500 units of 5 milliliters each) for clinical trials in public hospitals.
<b>August 31, 2019</b>	The "delisting" ministerial notification became effective, carving modern drugs, cosmeceuticals, nutraceuticals, cosmetics, and food containing hemp or a certain amount of CBD out of the scope of Narcotics Act (see also <b>Product Classification</b> , below).
<b>November 2019</b>	Public scoping of the draft second Hemp Regulation.
<b>Q1-Q2 2020</b>	Regulations for domestic production and marketing of products delisted on August 31, 2019, are expected to come into effect.
<b>Sometime in 2020</b>	<ol style="list-style-type: none"><li>1. The ministerial regulation on licensing of medical marijuana is expected to come into effect; and</li><li>2. The second Hemp Regulation is expected to become effective, allowing cultivation or processing for production of modern drugs, cosmetics, food, etc.</li></ol>
<b>February 20, 2024</b>	Private businesses may be licensed for commercializing medical marijuana independently, without needing to partner with the Thai government.
<b>September 1, 2024</b>	Products delisted on August 31, 2019, may be imported into Thailand.

## Product Classification

No.	Relevant Product	Status	Governing Law	Definition	Remarks
1	Isolated CBD	Deregulated	-	CBD $\geq$ 99 % and THC $\leq$ 0.01 %	-
2	Hemp fiber product	Deregulated	-	-	-
3	Dried plant part	Deregulated	-	Only stalks, stems and fibers	-
4	Marijuana plant, its raw parts, flower and leaves	Handling requires regulatory approval	Narcotics Act	Plants in <i>cannabis</i> genus	-
5	Hemp plant, its raw parts, flower and leaves	Handling requires regulatory approval	Narcotics Act	<i>Cannabis sativa</i> L. <i>subsp. sativa</i> having THC $\leq$ 1.0 %	-
6	Medical Marijuana	Handling requires regulatory approval	Narcotics Act	-	Inclusive of medicinal formulations having THC > 0.2 %. Until February 19, 2024, only the Thai government and partners have standing for commercial approval.
7	Modern Drug	Handling requires regulatory approval	Drugs Act	Modern drug formulation having THC $\leq$ 0.2 %	Until August 31, 2024, the definition applies only to domestically produced goods.
8	Traditional Drug	Handling requires regulatory approval	Herbal Products Act	Traditional drug formulation having THC $\leq$ 0.2 %	Until August 31, 2024, the definition applies only to domestically produced goods.
9	Cosmeceutical	Handling requires regulatory approval	Herbal Products Act	Cosmeceutical formulation having THC $\leq$ 0.2 %	Until August 31, 2024, the definition applies only to domestically produced goods.
10	Nutraceutical	Handling requires regulatory approval	Herbal Products Act	Nutraceutical formulation having THC $\leq$ 0.2 %	Until August 31, 2024, the definition applies only to domestically produced goods.
11	Cosmetic	Handling requires regulatory approval	Cosmetics Act	Containing hemp seed oil or hemp seed extract; the seeds must be killed seeds	Until August 31, 2024, the definition applies only to domestically produced goods.
12	Food, beverage, and food additive	Handling requires regulatory approval	Food Act	Containing hemp seed or hemp seed oil; the seeds must be killed seeds	Until August 31, 2024, the definition applies only to domestically produced goods.
13	Recreational marijuana	Banned	Narcotics Act	-	-
14	Products derived from marijuana, hemp, or cannabinoids not falling within any of the above classifications.	Banned	Narcotics Act	-	-

## Activity-Focused Regulatory Overviews

### Cultivating Marijuana

Marijuana (see **Product Classification**) may be cultivated for medical purposes only. Regulatory approval (i.e., licensing) from the Thai FDA under the Narcotics Act is required. Currently, such licenses have been granted to the Government Pharmaceutical Organization, government research institutions, and public hospitals. Licensing rules and procedures for private companies will be implemented by the now-pending ministerial regulation expected to be issued by 2020. In any case, an exclusivity period applies until February 2024, during which only the Thai government and its partners have standing for a commercial license, but a non-commercial license (e.g., for research and development) may be issued for other applicants.

### Cultivating Hemp

Hemp (see **Product Classification**) may be cultivated for medical or industrial purposes, or for production of drugs, herbal products, cosmetics, or food in accordance with their governing laws (see **Product Classification**). Regulatory approval (i.e., licensing) from the Thai FDA is required under the Narcotics Act. Currently, such licenses have been granted to government research institutions, notably the Highland Research and Development Institution. Licensing rules and procedures for private companies will be implemented by the pending ministerial regulation expected to be issued in 2020. Unlike marijuana (see **Cultivating Marijuana**), there is no exclusivity period for the cultivation of hemp, but the hemp seeds must be those certified by the Department of Agriculture, with few exceptions.

### Importing or Producing Medical Marijuana

Notable examples of medical marijuana (see **Product Classification**) include cannabis oil and Thai traditional medicines with raw marijuana parts as ingredients. For production or importation of medical marijuana, regulatory approval (i.e., licensing) from the Thai FDA is required under the Narcotics Act. Currently, a license for import has only been granted to the Government Pharmaceutical Organization. For production, licenses have been granted to the Government Pharmaceutical Organization, government research institutions, public hospitals, and qualified practitioners of modern or Thai traditional medicine. Alternatively, medical marijuana may be produced through a special access scheme.

The pending ministerial regulation expected to be issued in 2020 will set out the licensing rules and procedures for private companies. In any case, an exclusivity period applies until February 19, 2024, during which only the Thai government or its partner has standing for a commercial license, but a non-commercial license (e.g., for research and development) may be issued for other applicants.

### **Importing or Producing Modern Drugs Formulated with Marijuana or Hemp Extract, or Other Cannabinoids**

These products are considered modern drugs (see **Product Classification**). Regulatory approval (i.e., licensing) from the Thai FDA is required under the Drugs Act. Because the legal definitions of these products apply to domestically produced goods only until August 31, 2024, these products may be imported into Thailand from September 1, 2024, onwards.

For production, licensing rules and procedures are already in place per the existing ministerial regulations and notifications. Notably, a drug manufacturer license is required for the business operator, and a drug registration certificate is required to market a particular modern drug formulation.

### **Importing or Producing CBD-Infused Traditional Drugs, Cosmeceuticals, or Nutraceuticals**

These products are considered herbal products (see **Product Classification**). Regulatory approval (i.e., licensing) from the Thai FDA is required under the Herbal Products Act. Because the legal definitions of these products apply to domestically produced goods only until August 31, 2024, these products may be imported into Thailand from September 1, 2024, onwards. Licensing rules and procedures, and product specifications, will be implemented by the now-pending ministerial notifications expected to be issued in early 2020.

### **Importing or Producing Cosmetics Formulated with Hemp Seed Oil or Extract**

These products are considered cosmetics (see **Product Classification**). Regulatory approval (i.e., licensing) from the Thai FDA is required under the Cosmetics Act. Because the legal definitions of these products apply to domestically-produced goods only until August 31, 2024, these products may be imported into Thailand from September 1, 2024, onwards. Licensing rules and procedures, and product specifications, will be implemented by the pending ministerial notifications expected to be issued in 2020.

### **Importing or Producing Food, Beverages, or Food Additives Formulated with Hemp Seeds or Hemp Seed Oil**

These products are considered food (see **Product Classification**), and they require regulatory approval (i.e., licensing) from the Thai FDA under the Food Act. Licensing rules and procedures, and product specifications, will be implemented by the now-pending Ministerial Notifications, expected to be issued in early 2020. Because the legal definitions of these products apply to domestically produced goods only until August 31, 2024, these products may be imported into Thailand from September 1, 2024, onwards.

## Intellectual Property

### Patents

On January 28, 2019, the Thai government issued a quasi-emergency ordinance to reject a number of Thai patent applications filed by foreign applicants, all of which related to medical formulation or use of cannabis-derived active ingredients. The ordinance was issued to annul any private exclusive rights that could block access to medical marijuana following the legalization, and it was terminated on February 19, 2019, when the cannabis legalization took effect. Since then, patentability has been once again examined against the previously established rules of the Patents Act. Generally, an application related to cannabis is eligible for a patent if it is not for recreational purposes; not a diagnostic or therapeutic method; and not the plant itself, its part, or mere crude extract.

### Trademark

Generally, marks for use with goods or services related to a legalized use of marijuana or hemp are registrable as Thai trademarks. On the other hand, marks related to marijuana itself (e.g., images of a marijuana leaf) are not registrable, irrespective of the goods or services.