

UnOfficial Translation)

**ACT ON CONFLICT OF LAWS,
B.E. 2481 (1938)**

In the Name of His Majesty King Ananda Mahidol:
The Council of Regency
(By the Notification of the President of the House of Representatives
Dated 4th August B.E. 2480),
Aditya Dibabha;
General Chao Phya Bijayendra Yodhin;
Given on the 10th Day of March B.E. 2481;
Being the 5th Year of the Present Reign.

Whereas the House of Representatives has passed a resolution that it is deemed expedient to enact an Act on Conflict of Laws;

Be it, therefore, enacted by the king, by and with the advice and consent of the House of Representatives, as follows:

Section 1. This Act is called the “Act on Conflict of Laws, B.E. 2481.”

Section 2. This Act shall come into force on and from the date of its publication in the Government Gazette.¹

DIVISION I

General Provisions

Section 3. Whenever there is no provision in this Act or in any other laws of Thailand to govern a case of conflict of laws, the general principles of private international law shall apply.

Section 4. Whenever the law of a foreign country is to govern and under that law it is the law of Thailand which shall be applied, the internal law of Thailand governs, and not the Thai rules on conflict of laws.

¹ Published in the Government Gazette, Vol. 55, page 1021, dated 20th March B.E. 2481 (1938)

Section 5. Whenever a law of a foreign country is to govern, it shall apply in so far as it is not contrary to the public order or good morals of Thailand.

Section 6. Whenever the law of nationality is to govern, and a person has two or more nationalities acquired successively, the law of the nationality last acquired shall govern.

Whenever the law of nationality is to govern and a person has two or more nationalities acquired simultaneously, the law of nationality of the country where such person has his domicile shall govern; if such person has his domicile in a country other than any such country, the law of his domicile at the time of institution of action shall govern; if the domicile of such person is unknown, the law of the country where he has his residence shall govern.

In any case of conflict as to the nationality of a person, when any of the nationalities in conflict is the Thai one, the law of nationality to govern is the law of Thailand.

As to a person who has no nationality, the law of his domicile shall govern;

if his domicile is unknown, the law of the country where he has his residence shall govern.

Whenever by application of the law of nationality, the local law, the communal law or the religious law, as the case may be, is to apply, such law shall govern.

Section 7. In case of conflict as to the nationality of a juristic person, the nationality of such person is that of the country where it has its principal office or establishment.

Section 8. Whenever the law of a foreign country which is to govern is not proved to the satisfaction of the Court, the internal law of Thailand shall apply.

Section 9. Unless otherwise provided by this Act or other laws of Thailand, the formal validity of a juristic act shall be governed by the law of the country where the act is made.

However, the law of the country where a property is situated governs the form required for the validity of a contract, document or other juristic acts relating to immovable property.

DIVISION II
Status and Capacity of Persons

Section 10. The capacity or incapacity of a person is governed by the law of nationality of such person.

But if an alien does a juristic act in Thailand for which he would have no capacity or a limited capacity under the law of his nationality, he is deemed to have capacity for it in so far as he would be capable under Thai law. This provision does not apply to juristic act under the family law and the law of succession.

In case of juristic act relating to immovable property, the capacity of a person to enter into such juristic act is governed by the law of the place where the immovable property is situated.

Section 11. If an alien in Thailand has left his domicile or residence in the conditions specified in sections 53 and section 54 of the Civil and Commercial Code, such provisional measures as the Thai Court may think necessary to take shall be governed by the Thai law.

The adjudication of disappearance of such alien and the effects of the adjudication, except as far as immovable property situated in Thailand is concerned, shall be governed by the law of nationality of such alien.

Section 12. The causes for which an alien who has his domicile or residence in Thailand may be placed by a Thai Court under custodianship or curatorship are governed by the law of nationality of such person; however, the Thai Court shall not place such person under custodianship or curatorship for a cause not admitted by the Thai law.

The effects of such custodianship or curatorship are governed by the law of the country to which the Country which has adjudged such person incompetent or quasi incompetent belongs.

DIVISION V

Family

Section 18. The capacity for affecting a betrothal or for putting an end to the same is governed by the law of nationality of each party. The effects of the betrothal are governed by the law of the country to which the court trying and adjudication the case belong.

Section 19. The conditions of marriage are governed by the law of nationality of each party.

Section 20. A marriage shall be valid when made in accordance with the form provided by the law of the country where such marriage takes place.

However, a marriage between Thai subjects or between a Thai subject and a foreigner affected in foreign territory according to the form prescribed by Thai law shall be valid.

Section 21. As regards relationship between husband and wife, the law common to both spouses when they are of the same nationality or when the wife has acquired by marriage the nationality of her husband shall govern.

In case where the wife has not acquired by marriage the nationality of her husband, the law of nationality of the husband shall govern.

Section 22. As regards property of husband and wife, if there is no antenuptial agreement, the law of nationality shall govern.

If the husband and the wife are of different nationalities, the law of nationality of the husband shall govern.

However, in respect of immovable property, the law of the place where it is situated shall govern.

Section 23. The effects of marriage as governed by the two foregoing Sections shall not be affected if, after marriage, either or both spouses acquire nationality different from the nationality possessed or acquired at the time of marriage.

Section 24. As regards property of husband and wife, if an ante-nuptial agreement is made, the capacity for making such agreement is governed by the law of nationality of each party.

Section 25. The essential elements and effects of an ante-nuptial agreement are governed by the law common to the parties when they are of the same nationality. If they are not of the same nationality such essential elements and effects are governed by the law to which the parties intended or may be presumed to have intended to submit themselves; in the absence of such intention, the law of the first matrimonial domicile shall govern.

However, in respect of immovable property, the law of the place where it is situated shall govern.

Section 26. Divorce by mutual consent shall be valid if it is permitted by the respective law of nationality of both the husband and the wife.

Section 27. Divorce cannot be granted by a Thai Court unless it is permitted by the respective law of nationality of each spouse.

The grounds for divorce are governed by the law of the place where the action is instituted.

Section 28. Cancellation of marriage shall be governed by the law which governs the conditions of marriage.

However, mistake, fraud and duress as cause for cancellation of marriage are governed by the law of the place where the marriage has taken place.

Section 29. The legitimacy of a child is governed by the law of nationality of the husband of the mother at the time of birth of the child.

If at such time the husband happens to be dead, the legitimacy is governed by the law which was the law of nationality of the husband at the time of his death.

The same law governs action to repudiate a child.

Section 30. Rights and duties between parents and legitimate child are governed by the law of nationality of the father.

If a child is born of a woman who is not married, the rights and duties between the mother and the child are governed by the law of nationality of the mother.

Section 31. Legitimizing of a child is governed by the law of nationality of the father at the time of legitimating; if at such time, the father happens to be dead, the law of nationality of the father at the time of his death shall govern.

Section 32. The cases in which the minor, having no parent exercising parental power, may be placed under guardianship, the duties and the powers of the guardian and the cases where guardianship is terminated are governed by the law of the nationality of such minor.

However, as far as immovable properties are concerned, the powers of the guardian to deal with such properties are governed by the law of the place where such properties are situated.

As to a minor of foreign nationality having his domicile or residence in Thailand, he may be placed under guardianship according to the Thai law if it appears that, under the circumstances of the case, the interests of such minor cannot be efficiently protected by the organization and management of guardianship under the foreign law.

Section 33. Deprivation of parental power is governed by the law of the country to which the Court ordering such deprivation belongs.

Section 34. The right to enter an action, either civil or criminal, against ascendants is governed by the law of nationality of the descendant.

Section 35. If the adopter and the adopted are of the same nationality, adoption is governed by their law of nationality.

If the adopter and the adopted are of different nationalities, the capacity and conditions for adopting or being adopted are governed by the respective law of nationality of each party. But as regards the effects of adoption between the adopter and the adopted, the law of nationality of the adopter shall govern.

As regards the rights and duties between the adopted and the family to which he belongs by birth, the law of nationality of the adopted shall govern.

Section 36. The obligation to maintenance is governed by the law of nationality of the person from whom such maintenance is claimed.

However, the person entitled to maintenance cannot make claim in excess of what is permitted by the Thai law.

DIVISION VI

Succession

Section 37. As far as succession concerns immovable property, the law of the place where such property is situated shall govern.

Section 38. As far as movable property is concerned, succession by statutory right or by will is governed by the law of domicile of the deceased at the time of his death.

Section 39. The capacity of a person to make a will is governed by the law of nationality at the time when the will is made.

Section 40. A person may make a will according to the form prescribed by his law of nationality as well as according to the form prescribed by the law of the country where the will is made.

Section 41. Effects and interpretation of wills, as well as nullity of a will or of a clause in a will, are governed by the law of domicile of the testator at the time of his death.

Section 42. Revocation of a will or of a clause in a will is governed by the law of domicile of the testator at the time when the revocation is made.

The law of domicile of the testator at the time of his death shall govern lapse of a will or of a clause in a will.

Countersigned by:

Pibulsongkram

Prime Minister

This legislation was the unofficial authorized translation by Pakorn Nilrapunt, Office of the Council of State.

Thailand Law Forum