

# Cannabis and Hemp Business Guide – Thailand



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## Introduction

Until June 9, 2022, cannabis and hemp had been classified as a category 5 narcotic under Thailand's 1979 Narcotics Act and later the Narcotics Code. For many years, all activities related to the plants and their derivatives were heavily restricted until regulatory liberalization began in February 2019 with an amendment to the Narcotics Act. Restrictions on specific types and uses of cannabis and hemp were gradually loosened, and, on June 9, 2022, Thailand became the first country in Asia to permit growing, selling, and using the plant for both medical and other permitted purposes when it delisted both cannabis and hemp plants and their unprocessed parts from the Narcotics Code.

This delisting has allowed the private sector to grow, possess, sell, and use locally cultivated cannabis and hemp plants without a license. However, the Narcotics Code still regulates cannabis and hemp extracts containing tetrahydrocannabinol (THC) of more than 0.2%. Making or handling a substance with THC over this limit still requires a license, with limited exceptions.

However, subsequent developments indicate that the breadth of this liberalization will likely be tempered. A draft Cannabis and Hemp Act, an omnibus law that was under consideration by the Thai Parliament for several months, had sought to impose specific controls on cannabis and hemp, such as new restrictions and an enhanced licensing regime. Following the 2023 general election, the Ministry of Public Health has published a new draft Bill, which underwent public consultation in January 2024, which would prohibit the recreational use of cannabis and introduce licensing for personal cultivation, among other things. However, this Bill still has to be introduced to Parliament and may undergo further changes during the legislative process.

Separately, cannabis- and hemp-related products continue to be regulated by a range of product-specific legislation and overseen by various regulatory authorities.

Most of the product classifications discussed here are based upon THC content, and on the presence of cannabidiol (CBD) in the products. As THC is considered a psychoactive substance—in comparison to CBD, which is not psychotropic and has been applied in various therapeutic indications—a higher THC content may therefore be associated with a greater risk of abuse, and thus stricter regulations will likely apply in Thailand. Under the most recent legal amendments, Thai law defines cannabis as in the *Cannabis sativa* L. subsp. *indica*, and hemp as *Cannabis sativa* L. subsp. *sativa* with no more than 1.0 % THC by dry weight in its leaves and inflorescence.

The key regulatory body for cannabis and hemp-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 national policymaking committees. One of the other Thai government bodies involved in the regulation and control of cannabis and hemp is the Department of Agriculture (under the Ministry of Agriculture and Cooperatives), which administers the rules on the importation of plant seeds (e.g., cannabis and hemp seeds).

## Product Classification

No.	Product	Status	Governing Law	Definition	Remarks
1	Cannabis and hemp plants, seeds, unprocessed parts, resins, and oleoresins	Deregulated	-	Cannabis: Plants in <i>cannabis</i> genus  Hemp: <i>Cannabis sativa</i> L. subsp. <i>sativa</i> with $\leq 1.0\%$ THC in dried inflorescence or leaves.	Importation of cannabis and hemp seeds must comply with applicable laws. Importation of whole plants, unprocessed parts, resins, or oleoresins is prohibited.
2	Cannabis and hemp extracts with THC 0.2% or less by weight, and seed oils	Deregulated, subject to conditions	-	-	Extract (which must be $\leq 0.2\%$ THC by weight) and seed oil must be from domestically grown plants.
3	Modern drugs	Handling requires regulatory approval	Drug Act	-	-
4	Herbal products containing cannabis or hemp (e.g., cannabis oils, cosmeceuticals, nutraceuticals, etc.)	Handling requires regulatory approval	Herbal Products Act	-	Importation is prohibited, with a few exceptions.
5	Cosmetics containing hemp seed oil, hemp seed extract, parts of hemp, parts of cannabis or CBD extract	Handling requires regulatory approval	Cosmetics Act	Containing hemp seed oil, hemp seed extract, parts of hemp, parts of cannabis or CBD extract	Importation is prohibited.
6	Finished food, beverages and food supplements containing hemp seeds, hemp seed oil, hemp seed proteins, parts of hemp, parts of cannabis or CBD extract	Handling requires regulatory approval	Food Act	Containing hemp seeds, hemp seed oil, hemp seed proteins, parts of hemp, parts of cannabis or CBD extract	Importation is prohibited, as is use in infant formula/milk, follow-on formula/milk, complimentary food for infants and young children, and energy drinks.
7	Ready-to-eat foods (e.g., cooked and served in restaurants and cafés)	Handling requires compliance	Ministry of Public Health Notification No. 424	-	Cannabis parts are allowed as food ingredients, except inflorescence and seeds. Hemp parts are allowed as food ingredients, except inflorescence.

# Activity-Focused Regulatory Overviews

## Cultivating Cannabis/Hemp

Following their June 9, 2022, delisting, Thai nationals may freely cultivate cannabis and hemp plants and trade unprocessed plant parts and crude resins in Thailand without a license. Any person cultivating hemp must, however, record this online via the Thai FDA's PlookGanja application.

As stated earlier, the current breadth of this liberalization is expected to be temporary, with the newly introduced draft Cannabis and Hemp Act set to impose new restrictions and an enhanced licensing regime on the industry.

Companies and importation activities are subject to various regulations. For companies, agricultural activities (including growing cannabis/hemp) are still reserved for majority Thai-owned companies. Importation of cannabis/hemp plants and most unprocessed parts is still prohibited, except for cannabis/hemp seeds, which may be imported under the rules and procedures of the Plant Act (1975) and Plant Quarantine Act (1964).

## Producing or Importing Cannabis/Hemp Extracts and Seed Oils

Industrial extraction of cannabis or hemp still requires a Thai FDA license under the Narcotics Code.

After the June 9, 2022, delisting, the following products are now deregulated:

- Extracts containing 0.2% or less THC by weight produced from domestically grown plants and under license from the Thai FDA, and
- Seed oils produced from domestically grown seeds.

These deregulated products may be sold, possessed and consumed without a license under the Narcotics Code. However, handling any extract or oil that does not fall within the conditions set out above requires a license from the Thai FDA under the Narcotics Code.

Importation. Importation of any extract or oil is still prohibited.

## Producing or Importing Medical Cannabis/Hemp and Other Herbal Products

Production. Irrespective of THC content, medical cannabis/hemp (including Thai traditional medicines and cannabis oils) and other herbal products (including herbal cosmeceuticals and nutraceuticals) now fall under the purview of the Herbal Product Act (2019). The act, along with its subsequent implementing regulations, provides licensing and product registration requirements for domestic production and distribution of these products.

Importation. Importation of these products is still largely prohibited with a few exceptions: Thai government agencies importing goods for treatment of patients, public academic institutions importing for research purposes, and anyone importing for human clinical trials, subject to the licensing procedures of the Thai FDA under the Herbal Products Act.

## Producing or Importing Modern Drugs Formulated with Cannabinoids

Modern drugs formulated with cannabis, hemp extract, or other cannabinoids require regulatory review and licensing from the Thai FDA under the Drug Act. The licensing rules and procedures are already in place through existing ministerial regulations and notifications. Notably, a drug manufacturer or importer license is required for the business operator, and a drug registration certificate is required to market a particular modern drug formulation.

## Producing or Importing Cosmetics with Hemp- and Cannabis-based Ingredients

Production. Domestically produced cosmetics may contain any or combination of hemp seed oils, hemp seed extracts, parts of hemp (except inflorescence), parts of cannabis (except inflorescence and seeds), and CBD extracts, provided that the raw materials are obtained from plants grown in Thailand. The production requires a Thai FDA license under the Cosmetics Act. Additionally, the products themselves must comply with the specifications prescribed by the relevant ministerial notifications.

Cannabis seeds, cannabis seed oils, and inflorescences of cannabis and hemp, regardless of their origins, are prohibited from cosmetic product formulations.

Importation. Importation of cosmetic products containing hemp- or cannabis-based ingredients is still prohibited.

## Producing or Importing Food, Beverages, Food Supplements, or Food Supplements with Hemp- and Cannabis-based Ingredients

Production. Food products may contain hemp seeds, hemp seed oils, hemp seed proteins, parts of hemp (except inflorescence), parts of cannabis (except inflorescence and seeds), and CBD extracts, provided that these are obtained from plants grown in Thailand. For domestically produced goods, a Thai FDA license is required under the Food Act, and the product must comply with the relevant ministerial notifications.

While this allowance is applicable to many food products, there are exceptions. For example, no part of cannabis or hemp may be added to food for infants, food for young children, or energy drinks. In addition, certain foods do not allow addition of cannabis and hemp. Certain other foods allow use with conditions. Because of this variation in rules for different kinds of food, it is important to check the relevant regulations to ensure compliance.

Cannabis seeds, cannabis seed oils, and inflorescences of cannabis and hemp are not allowed as ingredients in any food product.

Importation. Importation of food products containing hemp- or cannabis-based ingredients is still prohibited—even if the cannabis- or hemp-based ingredients came from plants grown in Thailand.

## Ready-to-Eat Foods and Beverages

Thai restaurants and cafés are allowed to use cannabis parts (except inflorescence and seeds) and hemp parts (except inflorescence) in their recipes.

## Crop and Processing Infrastructure

The Cannabis and Hemp Act drafting committee is planning to organize cultivation into three classes. Small cultivators, with no more than 10 plants per household, may not have to pay fees but will have to notify the Thai FDA of their growing activities. Medium cultivators, with less than 32,000 square meters (<20 rai) under cultivation, will have to go through additional bureaucratic procedures and pay additional fees. Large cultivators, with over 32,000 square meters (>20 Rai) under cultivation, will be considered commercial cultivators and require FDA approval. Fees for large cultivators are likely to include both monthly and annual payments.

The committee has decided that modern medical practice and traditional physicians, and other healthcare professionals cultivating cannabis for medical purposes, will only be required to notify the FDA of their activities (similar to the requirements for small cultivators).

The Narcotics Division of the Thai FDA published handbooks on growing and handling cannabis crops in 2021. Cultivators can choose among outdoor, semi-outdoor, and indoor cultivation. Outdoor cultivation is described as being low-cost and suitable for Thai cannabis varieties, with the drawbacks of limited pest-control options and harvesting taking place annually. On the other hand, indoor cultivation comes with higher costs but with the advantages of better quality control and year-round harvesting. As for the import of cultivation and processing infrastructure, such as equipment for crop maintenance, testing, extraction, formulation, and packaging, relevant regulations are in place and need to be considered.

## Intellectual Property

### Patents

On January 28, 2019, the Thai government issued an 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 cannabis following its legalization, and it was terminated on February 19, 2019, when cannabis legalization took effect. Since then, patentability has once again been examined against the previously established rules of the Patents Act. This means that 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 crude extract.

### Trademarks

Generally, trademark protection for goods or services related to legalized use of cannabis or hemp is available in Thailand, as long as the trademark meets the usual requirements for registration.

# Cannabis Company Formation in Thailand

## Establishment of a Limited Company in Thailand

A limited company is generally the preferred structure for doing business in Thailand, because each shareholder's liability is limited to the remaining unpaid amount (if any) of the registered capital due on their shares. Thai law requires a limited company to maintain at least two shareholders at all times.

All limited companies in Thailand must be registered with the Department of Business Development in the Ministry of Commerce. The registration process includes the reservation of a company name, submission of the company's memorandum of association, and registration of the company itself. Incorporating a limited company requires at least two individual promoters and at least one director (either Thai or foreign). The promoters, shareholders, and directors must all sign various registration documents, and certain documents must be notarized by a notary public if they are to be signed outside Thailand.

A legal entity can be a shareholder in the company, but the individual promoters must also be shareholders and subscribe to at least one share each at the time of the establishment of the company. After the company is established, the shares held by the promoters or shareholders can be transferred to any person, but the company must always maintain at least two shareholders. It generally takes 3-4 weeks to complete the company registration.

Foreign majority-owned companies (i.e., companies where 50% or more of the total shares are held by foreign nationals) are prohibited from conducting certain businesses under the Foreign Business Act 1999—including wholesale or retail for all categories of goods, restaurants, or any kind of service activity—unless the appropriate authorities grant a foreign business license (FBL) or foreign business certificate (FBC). The FBL is not readily granted, unless the authorities are convinced that granting approval will benefit Thailand and will not affect existing Thai companies in the same line of business. The FBL application process is time-consuming, with unpredictable outcomes.

An FBC is only available for companies engaging in certain activities eligible for privileges under a treaty to which Thailand is a party (e.g., ASEAN, Australia, Japan, and US), companies promoted by the Board of Investment (BOI), or companies operating in an industrial estate area under the Industrial Estate Authority of Thailand (IEAT).

## Specific Requirements for Cannabis Businesses

Any limited company wishing to cultivate hemp in Thailand can proceed by notifying the Food and Drug Administration via their online application (PlookGanja Application). However, cultivation business is strictly off limits to foreign nationals as it is deemed an agriculture business under the FBA. Therefore, companies that wish to conduct cultivation must find genuine Thai partners to invest more than 50% of the capital in the company and hold a majority of the shares.

Cannabis companies intending to sell cannabis flowers must also obtain a license from the Department of Thai Traditional and Complementary Medicine in the Ministry of Public Health.

## Land and Properties in Thailand

The Thai Land Code prohibits foreigners (individuals and companies) from buying or holding land unless they have obtained permission from the relevant governmental authorities (e.g., the BOI, the IEAT, etc.).

For a company to be regarded as Thai, with the right to own land in Thailand, no more than 49% of the total issued shares may be held by foreign nationals, and the majority ratio of shareholders in the company must be Thai as well. Even if foreign nationals own less than 49% of the total issued shares, the source of the funds of the Thai shareholders must be disclosed, and officials may investigate the transaction to ensure there is no attempt to circumvent the prohibition against foreign land ownership (for example, that Thai shareholders are not “nominees” holding shares on behalf of foreign nationals). It is also a criminal offense for a Thai person to hold land on behalf of a foreign national.

However, there are no prohibitions on foreign nationals owning a building or leasing property. Under Thailand’s Civil and Commercial Code, the maximum duration for a lease of property is 30 years, with an option to renew for another 30 years. Renewal of a lease agreement, however, is treated as a private agreement between the parties, and may not be registrable.

## Key Dates

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<b>April 28, 1979</b>	The Narcotics Act (No. 1) took effect, declaring cannabis and hemp category 5 narcotics.
<b>January 1, 2018</b>	The Hemp Regulation RE: Application of the License and Issuing of Licenses to Manufacture, Disposal or Possession of Hemp came into effect, allowing cultivation and processing of hemp only for industrial such as textiles, paper industries, etc. or non-commercial uses, such as consumption by indigenous groups or research and development. Nonetheless during 2018 until January 29, 2021, only state agencies were able to obtain the licenses in relation to hemp.
<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> , above).
<b>February 19, 2019</b>	The Narcotics Act amendment (No. 7) came into effect, legalizing medical use of substances listed as category 5 narcotics (e.g., cannabis, hemp, and kratom).
<b>March 30, 2019</b>	A ministerial notification took effect setting out 16 cannabis-containing Thai traditional medicine formulations that may be consumed for therapeutic purposes without having to be registered with the Thai FDA, as long as manufacturers obtain a narcotic production license from the Thai FDA [overridden by the Key Event of June 9, 2022, below].
<b>May 21, 2019</b>	End of the "amnesty period," during which persons possessing cannabis for certain purposes (medical, research, etc.) could declare their possession to the Thai FDA and be exempted from criminal punishment.
<b>August 7, 2019</b>	The Government Pharmaceutical Organization launched the first batch of medical CBD oil, THC oil, and CBD: THC oil (4,500 units of 5 milliliters each) for the special access scheme (SAS) in public hospitals.
<b>February 15, 2020</b>	The Minister of Public Health updated the list of cannabis-containing Thai traditional medicine formulations that may be consumed for therapeutic purposes and/or research purposes, without having to be registered with the Thai FDA [overridden by the Key Event of June 9, 2022, below].
<b>December 14, 2020</b>	The "delisting" ministerial notification became effective, carving out domestically produced items containing certain cannabis and hemp plant parts, and CBD extract with less than 0.2% THC by weight, from the scope of Narcotics Act (see also <b>Product Classification</b> , above). Importation of these products still requires an importation license as prescribed in the Narcotics Act [overridden by the Key Event of June 9, 2022, below].

<b>January 29, 2021</b>	The Hemp Regulation RE: Application of the License and Issuing of Licenses to Manufacture, Import, Export Disposal or Possession of Hemp took effect, allowing cultivation for production of modern drugs, herbal products, cosmetics, and food products, as well as for household and certain other uses. This allowed hemp to be used in healthcare-related products. Private entities established in Thailand and groups of farmers (e.g., cooperatives or community enterprises) can obtain licenses without forming a partnership with a state agency.
<b>June 4, 2021</b>	Eight herbal formulas containing cannabis as an active ingredient are listed in the National List of Essential Drugs, which identifies both modern drugs and herbal products deemed necessary for the prevention and treatment of major health problems in Thailand. It also provides a drug reimbursement mechanism for government hospitals.
<b>August 11, 2021</b>	Cannabis and hemp seeds become controlled seeds under the Plants Act (1975). The seeds must exhibit at least 70 percent germination and 99 percent purity. Licensed traders (i.e., importers, collectors) must follow the requirements prescribed in the Plants Act and its bylaws.
<b>August 24, 2021</b>	Kratom is removed from the list of category 5 narcotics, (some parts of cannabis and hemp plants and their derivative products remain on the list—see December 14, 2020).
<b>October 25, 2021</b>	<i>Cannabis</i> L. genus is recognized as eligible for protection as a new plant variety under the Plant Variety Protection Act (1999).
<b>November 26, 2021</b>	The Cannabis Regulation RE: Application of the License and Issuing of Licenses to Manufacture, Import, Export, Dispose or Possession of Cannabis takes effect.
<b>December 9, 2021</b>	The Narcotics Code comes into effect, replacing and consolidating the previous Narcotics Act and Psychotropic Substances Act, among others. The Narcotics Code has transitional provisions that maintain the effects of regulations and licenses previously issued under the Narcotics Act.
<b>June 9, 2022</b>	Cannabis and hemp plants are delisted from the Narcotics Code. Thai nationals may grow the plant and handle unprocessed parts without a license. However, extracts and seed oils remain governed by the Narcotics Code. Finished products may contain cannabis or hemp under the regulation of their respective laws.
<b>June 16, 2022</b>	The Minister of Public Health issues an official notification under the Act on Protection and Promotion of the Knowledge on Thai Traditional Medicines (1999). The notification prohibits selling cannabis to minors (under the age of 20), use of cannabis by pregnant and breastfeeding women, and smoking cannabis in public.
<b>Forthcoming</b>	The draft Cannabis and Hemp Act, which completed public consultation in January 2024, will likely institute new restrictions and an enhanced licensing regime. The draft act has yet to be introduced in Parliament.

