



## SUMMARY OF CASE LAW ON WASTE PRODUCER LIABILITY

### THAILAND

We were not able to locate specific court cases in Malaysia on waste producer liability. The national provisions that affect waste producer liability are set out below.

#### Summary of the National Law

Thailand had a general rule under "[The Factory Act](#)" of 1992 that creates a duty of a factory operator to not damage his surroundings:

*"In case where the authority finds out that any person engaging in a factory business violates or fails to comply with this Act or engages in a factory business in such a manner as to cause harms, injuries or troubles to the persons or property in the factory or its vicinity, the authority shall have the power to order such person to stop such violating act or to correct or improve or conform correctly or properly within the specified period."* Section 37 of the Factory Act (emphasis added).

Under the authority of that law, the Thai Government issued a regulation that requires prior approval of the disposal and shipment of hazardous waste from a facility. [Ministry of Industry No. 6 \[B.E. 2540 \(1997\)\]](#)

The [Hazardous Substances Act](#) was substantially rewritten in 2019 and also has significant relevant provisions. It requires persons who deal with hazardous substances *"to control, prevent, alleviate or extinguish any danger which may happen to people, animals, plants, property or environment with due regard to international conventions and obligations"*. Section 10, amending Section 20. This echoes an earlier regulation that disposal "hazardous substance including its residues ...[must] apply a method that is suitable for that particular hazardous substance and that such disposal operation shall not be carried out in the area that may potentially pose a danger to human, animals, plants, properties or the environment." [Ministerial Regulation B.E. 2537 \(1994\)](#) Issued pursuant to the Hazardous Substance Act B.E.2535 (1992).

The 2019 amendment (linked above) also added a provision on liability to third-parties:

*"Section 63 Producers, importers, exporters, transit operators, re-importers, re-exporters or persons having hazardous substance in possession shall be liable*

*for damages arising from hazardous substance in their possession, except where they can prove that such damage caused by force majeure or by fault of the injured person.”*

See [this service](#) for a full list and links to the act as well as various administrative regulations and notifications.

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