

## Legal Updates

### C&I Solar Rooftop Installations are now Exempted from Building Modification Permit (Aor.1)

As Thailand seeks to streamline its processes related to the installation and adoption of renewable energy, the Thai government has announced Interior Ministerial Regulation No. 72, B. E. 2568 (2025), issued under the Building Control Act B.E. 2522 (1979). This regulation exempts the installation of solar rooftop panels weighing less than 20 kilograms per square meter from being classified as a “building modification”, thereby exempting the need to apply for a building modification permit for such installation.

#### What is the new regulation exactly?

Before this new regulation, a building modification permit was exempted for the installation of solar rooftops only on residential buildings and under certain conditions, as further detailed below.

The new regulation significantly broadens the scope of exemption for solar rooftop installations as follows:

- **Building Type:** The exemption now applies to any type of building, whereas previously it was limited to just residential buildings and not commercial and industrial buildings.
- **Conditions:** All previous conditions, such as area limit, structural safety certification, and prior notification, have been removed. The only remaining requirement is that the installation must not exceed 20 kilograms per square meter in weight.

| Criteria                             | Old Exemption<br>(Before November 19, 2025)                                              | New Exemption<br>(Effective November 19, 2025)               |
|--------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| <b>Building Type</b>                 | Only residential buildings                                                               | Any type of building                                         |
| <b>Area Limit</b>                    | Installation area not exceeding 160 sq.m.                                                | No area limit specified                                      |
| <b>Weight Limit</b>                  | Total weight not exceeding 20 kg per sq.m.                                               | Total weight not exceeding 20 kg per sq.m. (unchanged)       |
| <b>Structural Safety Check</b>       | Must have structural stability inspection and certification by a licensed civil engineer | No requirement for structural safety certification mentioned |
| <b>Notification to Local Officer</b> | Must notify local authority before installation                                          | No notification requirement mentioned                        |

The exemption does not apply to ground-mounted or floating solar projects.

## What effect will this have on solar C&I development in Thailand?

Based on (i) similar regulatory relaxations, such as the recent easing of factory licensing for solar rooftops and (ii) our discussion with officers from relevant governmental agencies, if the proposed solar rooftop projects meet the weight requirement, we anticipate the following:

- **Projects without submitted applications:** Developers may proceed with installation and will not be required to submit a modification permit application.
- **Projects with pending applications:** Applications that have already been submitted but not yet approved may be discontinued, with no further action required. The installation can commence regardless of the application status.
- **Area Coverage:** This relaxation applies to projects both inside and outside industrial estate areas without further implementing regulations to be issued by the Industrial Estate Authority of Thailand.

It is essential to ensure that all projects remain fully compliant with all applicable energy-related laws, regulations, and standards throughout the development process. In addition, where required by law, developers must secure the appropriate licenses and permits from the Energy Regulatory Commission prior to commencing any construction activities. Failure to obtain these approvals may result in legal penalties, project delays, or suspension of operations.

## Are there potential challenges for this regulation?

While the regulation has only been recently introduced, we have identified two practical concerns with the new regulation as follows:

- **Self-Assessment and Structural Assurance:** The exemption removes permit and certification requirements entirely, introducing a self-assessment model similar to tax compliance. No authority or independent engineer is required to verify compliance with the 20 kg/sq.m. threshold. This raises a critical question for building owners: How can they ensure contractors have calculated weight correctly? Without oversight, errors or poor workmanship could lead to structural issues and legal liability.

To reduce risk, parties should consider:

- Engaging reputable contractors or power producers with a track record of compliance and technical competence.
  - Addressing compliance obligations in contracts, including warranties and indemnities related to structural safety and weight limits.
  - Opting for a high-level technical review by an independent engineer, even though not legally required, to confirm that the installation meets the 20 kg/sq.m. threshold.
- **Aor. 5 Complications:** Projects that previously required a building modification certificate (Aor. 5) because an Aor. 1 was issued under the old regulation may now face uncertainty. For example, if a solar rooftop project is installed on a mall or a large factory and the local authority required Aor. 5 under the old regime, the exemption of Aor. 1 under the new regulation logically suggests that Aor. 5 should also be exempted. However, local authorities may hesitate to forego Aor. 5 requirements for such projects, given their linkage to permits issued under the old regulation.

Until any further clarification/guideline from a governmental authority is issued, developers of existing projects should consult with the responsible local authority to confirm whether Aor. 5 is still required or can be exempted under the new regulation.

The Energy and Infrastructure team at Hunton will continue to closely monitor progress and provide updates as the latest information becomes available.

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