



Thailand Paves the Way: Legalizing Same-Sex Marriage

Thailand has taken a monumental step to become the first Southeast Asian country to legalize same-sex marriage. On June 18, 2024, the Senate of Thailand passed a resolution approving an act amending the Civil and Commercial Code, a landmark legislation related to marriage and family law aimed at ensuring marriage equality and championing universal human rights (the “**Marriage Equality Legislation**”).

Notably, the Marriage Equality Legislation replaces gender-specific references such as “man”, “woman”, “husband”, and “wife” with gender-neutral terms such as “individual” and “spouse.” This pivotal change enables same-sex couples to get engaged and to legally register their marriage, now defined as a partnership between two individuals. This legislation also extends the rights, responsibilities, obligations, and liabilities traditionally assigned to husbands and wives to all married couples, including same-sex couples.

The Marriage Equality Legislation grants same-sex couples fundamental rights in marriage, including, for instance, the rights in the areas as follows:

- (1) **Classification of Personal and Marital Property:** The property of a spouse, other than personal property, is marital property. Both spouses must jointly act, or one spouse must obtain consent from the other spouse for certain actions, such as the selling and mortgaging of immovable property or pledging moveable property. Prenuptial agreements and wills could potentially be essential methods for planning and protecting marital property.
- (2) **Spousal Support:** A spouse may claim spousal support from the other spouse when the spouse entitled to such support has not been furnished with support or has been furnished with support insufficient to such spouse’s condition in life.
- (3) **Inheritance Rights:** The surviving spouse is a statutory heir and is entitled to the inheritance of the deceased spouse.

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In an attempt to bolster marriage equality and ensure that same-sex couples can exercise their rights equally to their heterosexual counterparts, as well as to harmonize and minimize inconsistencies between the Marriage Equality Legislation and other existing laws, the Marriage Equality Legislation proposes that other existing laws that stipulate the rights and obligations of a husband and wife are also applicable to same-sex couples, regardless of whether the terms used under those laws are gender-specific or gender-neutral.

With such law harmonization, spouses in same-sex couples may be granted certain rights and privileges and subject to certain obligations and liabilities that were previously exclusive to husband and wife. For instance:

- (1) **Criminal Offenses:** Some criminal offenses specify exemption of punishment for theft or deception by the assertion of falsehood or concealment of facts to obtain property against the other spouse (section 71 of the Criminal Code) or the discretion to not inflict the punishment on a spouse for criminal offenses committed for aiding the other spouse, such as destroying or concealing evidence or assisting in avoiding arrest or escaping lawful custody (section 193 of the Criminal Code).
- (2) **Employee Welfare Fund:** The right to receive the money to be paid by the Employee Welfare Fund in the event of the death of the spouse (section 133 of the Labor Protection Act B.E. 2541 (1998)).
- (3) **Bankruptcy Rights:** The right to receive a share of the distribution of a bankrupt person's property in the capacity of a creditor only after other creditors have received repayment of debt to their satisfaction (section 129 of the Bankruptcy Act B.E. 2483 (1940)).

Additionally, laws that currently mention the rights, privileges, obligations and liabilities of spouses may also be extended to same-sex couples. For instance:

- (1) **Inheritance of Land:** A foreign spouse married to a Thai spouse may be a statutory heir and inherit land from the Thai spouse, subject to foreign-ownership restrictions (section 93 of the Land Code).
- (2) **Digital Assets:** A holder of more than 5% of the total digital tokens in a tranche, including tokens held by their spouse, cohabiting partner, and minor children, shall be presumed to possess inside information if found trading digital tokens. They shall be prohibited from buying or selling digital tokens, subject to certain exceptions (section 44 of the Emergency Decree on Digital Asset Businesses B.E. 2561 (2018)).

The Marriage Equality Legislation will become effective 120 days after receiving the royal endorsement from the King of Thailand and being published in the Royal Gazette. This development marks a significant step towards equality and inclusivity, setting a precedent for other countries in the region.

The passage of Thailand's Marriage Equality Legislation, in addition to advancing gender equality and including rights previously reserved for heterosexual couples—such as tax deductions, medical consent, and inheritance rights—is expected to boost economic benefits through increased spending by same-sex couples looking to relocate, get married and reside in Thailand. Industries that could potentially experience growth include real estate, insurance and financial services, tourism and hospitality, hotel businesses, and wedding-related businesses such as photography studios, wedding attire rentals, and potentially elder care facilities that particularly caters to same-sex couples in the future. Additionally, Thailand's diverse tourist attractions, encompassing natural, cultural, and historical sites, are well-positioned to enhance tourism and residency revenues significantly.

Should Thailand's Marriage Equality Legislation extend to allow same-sex couples from other countries who are both non-Thais to register marriages and facilitate the marriage registration process, particularly regarding documentation, visas, and processing time, it may attract more foreigners to marry and settle in Thailand.

We anticipate that this Marriage Equality Legislation will play a crucial role in generating economic revenue for Thailand and will significantly contribute to driving Thailand's economy, especially the service sector, to reach its full potential. Thailand can leverage this opportunity to develop its service sector to target diverse audiences and enhance the competitiveness of its service industry. The enactment of this legislation will also open new opportunities for new talent from new demographics and locations.

This legislative triumph is a significant milestone in Thailand's journey towards equality, reflecting a growing environment of inclusivity. It highlights Thailand's commitment to fostering a society where all individuals are afforded equal rights and opportunities.

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