

WORK PERMITS RESTRICTIONS ON WORKING IN THAILAND

Foreigners who intend to work in Thailand are subject to the Working of Alien Act B.E. 2551 (A.D. 2008). Under the provisions of this Act, a foreigner cannot perform any act of work or service unless a work permit has been issued by the Department of Employment, Ministry of Labor, or unless the individual, or the work performed, falls within an exception to the Act.

The term "work" is defined very broadly, i.e. "working by exerting one's physical energy or employing one's knowledge, whether or not for wages or other benefits". Even volunteer or charity work requires a work permit. Although they receive no remuneration for the work performed, volunteer teachers are required to obtain work permits.

An applicant for a work permit must have either a non-immigrant visa or a residence permit. Generally, a non-immigrant visa must be obtained before entering Thailand. A residence permit is usually granted only after a foreigner has resided in Thailand for at least 3 consecutive years under a non-immigrant visa. A work permit is issued for the individual expatriate. The spouse of the expatriate is not allowed to work unless he/she has obtained a work permit individually.

An employer or potential employer may file an application for advance permission for an employee to work before the foreigner enters the country. However, the work permit itself will not be issued until the individual enters Thailand on a valid non-immigrant visa.

Certain nationalities (e.g., from South Asia, Middle East, South Africa and Socialist countries) need to file an application for advance permission so that they can use that advance permission to apply for a non-immigrant visa from a Thai Consulate abroad. This list of countries is amended from time to time, therefore, confirmation with a Thai Consulate is recommended.

Regardless of the length of time approved in the work permit, it is valid only as long as the foreigner's duration of stay permits him to remain in Thailand. Also, a work permit is good only for the particular job for which it was issued and within the geographic limitations specified in the work permit. Foreigners may hold more than one position with one or more employers but must obtain permission for each position and for each employer. Permission for each position or each employer is entered in the original work permit record.

Exceptions to the Act permit foreigners to perform work deemed necessary and urgent which can be completed within 15 days. However, the Department of Employment must be informed before work begins. Foreigners need not obtain a non-immigrant visa from a Thai Consulate in case of necessary and urgent work.

Foreigners working in companies promoted by the Board of Investment or under other special laws (such as the Industrial Estate Authority of Thailand Act 1979 and the Petroleum Act of 1971) can be rapidly issued work permits which are valid for the duration prescribed by such laws. Such foreigners may commence work immediately after the position has been approved by the authority concerned but should apply for a work permit within 30 days from the date of entry into the Kingdom with a valid non-immigrant "B" visa.

Certain foreigners are exempt from work permit requirements. There are seven categories:

1. Members of the diplomatic corps.
2. Members of a consular mission.
3. Representatives and officials of the United Nations and its specialized agencies.
4. Personal servants from abroad employed by any of the above.
5. Persons who perform duties or missions under an agreement between the government of Thailand and another foreign government or international organization.
6. Persons who perform duties or missions for the benefit of education, culture, arts, sports or other activities as may be sanctioned by royal decree.
7. Persons with special permission from the government of Thailand to enter and perform duties or missions in the Kingdom.

According to the Royal Decree Stipulating Work in Occupations and Professions Prohibited to Aliens B.E. 2522 (A.D. 1979), there are 39 occupations reserved for Thais which are closed to foreigners. These include labor work; agriculture, animal husbandry, forestry or fishery; carpentry; shop attendance; accountancy; haircutting and hairdressing; civil engineering; architectural work; dressmaking; clerical or secretarial work; and legal service, among others.

Penalties for working without a work permit or doing work not specified in one's permit include imprisonment not exceeding 5 years or a fine of up to Baht 100,000, or both. A company or employer that hires a foreigner without a valid work permit is subject to a fine of up to Baht 100,000.

WARNING

Please note that this information is not inclusive of all the answers to questions involving work permits and related matters but is intended to address general issues. Whenever appropriate, please consult a lawyer versed in labor matters or the nearest Department of Employment official. Policies and procedures may change rapidly and without notice.

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