

Work Permits 101: *a guide for foreigners*

A foreigner who wishes to work in Thailand is subject to the Alien Employment Act B.E. 2521 (AD 1978). The Act requires a foreigner to obtain a work permit from the Department of Employment, Ministry of Labour, prior to starting work in Thailand unless the foreigner or the work performed falls under an exception within the Act. For example, representatives of member countries and officials of the United Nations and specialised institutions and persons performing duties or missions under agreements between the Thai government and foreign governments or international organisations are not required to have work permits.

The term "work" is broadly defined under the Act as "engaging in work by exerting energy or using knowledge, whether or not in consideration of wages or other benefit". The Act prescribes 39 occupations that are reserved exclusively for Thais and strictly prohibited to foreigners. These include labour work, agriculture, animal husbandry, forestry and fishery, and professional occupations such as accountant, civil engineer, architect, and legal adviser/lawyer. The Act further provides that no one shall employ a foreigner without a work permit to work in his business or accept any foreigner to do work of a nature different from that specified in the work permit.

An applicant for a work permit must obtain a non-immigrant "B" (Business) visa from a Thai Consulate/Embassy in his country prior to arriving in Thailand. Regardless of the length of visa granted by the Thai Consulate/Embassy, when the foreigner enters Thailand, he will be allowed to stay in Thailand for up to 90 days. Prior to the expiration of the 90 days, an application for a one-year visa may be submitted in Thailand. If the applicant is a frequent traveller, he may

choose not to apply for a one-year visa but instead apply for a multiple-entry "B"-type visa from a Thai consulate or embassy. Holding a multiple-entry visa, he can leave and enter Thailand repeatedly until the expiration date of the visa.

A Thai individual or legal entity registered in Thailand must act as employer or sponsor for a work permit applicant. There are various criteria put into consideration by the authority when reviewing work permit applications, among them:

- ◆ The nature of the business of the company (employer). The registered capital of the company, which must be at least two million baht (fully paid-up) per work permit. If a foreigner is married to a Thai citizen, the registered capital requirement is reduced to at least one million baht (fully paid-up).
- ◆ The number of local employees and foreign employees (generally a ratio of four local employees to one foreign employee is required if an applicant wishes to apply for a one-year visa in Thailand).
- ◆ The qualifications (education and work experience) of the applicant, which must match the job applied for.
- ◆ The required minimum monthly salary of the applicant, which depends on his nationality. Americans, Europeans, Australians, Canadians, or Japanese must have a monthly salary of at least 50,000 baht; Hong Kong, Singapore, South Korea and Taiwan nationals at least 45,000 baht; nationals of other Asian countries, Central and South America, Eastern Europe, Mexico, Russia, South Africa and Turkey at least 35,000 baht; and nationals of Africa, Burma, Cambodia, Laos and Vietnam at least 25,000 baht.

Once the work permit application is approved, the foreigner shall appear in

person at the local labour office to pick up the work permit. Generally, a work permit application can be completed in about one to 10 working days depending on the qualifications of the applicants and employers.

Please note that if the employee wishes to leave the country, he shall apply for a re-entry permit to preserve the visa. A multiple re-entry is recommended if he is a frequent traveller. The validity period of the re-entry permit is based on the visa.

Working without a work permit or doing work other than that specified in the work permit is punishable by imprisonment not exceeding three months or a fine of up to 5,000 baht, or both. A foreigner who performs work exclusively reserved for Thais shall be punished with imprisonment of up to five years or a fine of 2,000 to 100,000 baht, or both. An employer who employs a foreigner without a valid work permit shall be punished with imprisonment of up to three years or a fine of 60,000 baht, or both.

All foreigners working in Thailand, regardless of nationality, are protected under the Thai labour law, which provides minimum protection for employees working in Thailand. Therefore, employers are required to provide to their employees, at the minimum, benefits and welfare according to the labour law. Employers who fail to comply with the provisions of the Thai labour law will be subject to punishment that includes both civil and criminal penalties.

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