

Translation

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FOREIGN EMPLOYMENT ACT B.E.

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Whereas it is expedient to revise the law on employment of foreigners.

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1. This Act is called the “Foreign Employment Act, B.E.”
2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.
3. The following are repealed:
 - (1) Foreign Employment Act, B.E. 2521
 - (2) Foreign Employment Act (Second Issue), B.E. 2544
4. This Act does not apply to performance of specific duties by foreigners in Thailand in the following capacities:
 - (1) as members of a diplomatic mission;
 - (2) as members of a consular mission;
 - (3) as representatives of member countries and officials of the United Nations and specialized institutions;
 - (4) as personal servants coming from foreign countries to work regularly for persons in (1) (2) or (3);
 - (5) as persons who perform duty or mission under an agreement concluded between the Government of Thailand and foreign Government or international organizations;
 - (6) as persons who perform duty or mission for the benefit of education, culture, art, sport or other activities as may be prescribed by the Royal Decree;
 - (7) as persons permitted by the Government of Thailand to enter and perform any duty or mission.
5. In this Act,

“*foreigner*” means a natural person who is not of Thai nationality;

“*work*” means engaging in work by exerting energy or using knowledge, whether or not in consideration of wages or other benefit;

“*permit*” means a work permit;

“*holder of a permit*” means a foreigner who has been granted a permit;

“*Committee*” means the Committee considering employment of foreigners;

“*Appeal Committee*” means the Committee considering appeals regarding employment of foreigners;

“*Competent official*” means a person appointed by the Minister for the execution of this Act;

“*Registrar*” means a person appointed by the Minister as Registrar of Foreign Employment;

“*Director-General*” means the Director-General of the Department of Employment;

“*Minister*” means the Minister having charge and control of the execution of this Act.

6. The Minister has charge and control of the execution of this Act and is authorized to appoint the Registrar and officials, issue Ministerial Regulations to stipulate the Rate of Fees which shall not be higher than the Rate attached to this Act, fee exemption and other activities for the execution of this Act.

Ministerial Regulations shall come into force after their publication in the Government Gazette.

Chapter 1 **Employment of Foreigners**

Part 1 Employment Specification and Foreign allocation

7. A foreigner is prohibited from engaging in any employment, except as specified under Section 8, 14 and 16.

8. Under Sections 14 and 16, the Minister shall specify any employment which can be engaged in by a foreigner, in any place, at any time, by publication in the Government Gazette.

9. In the enforcement of Section 14, the Minister shall announce, with Cabinet approval, any employment which may have foreigners allocated. In such announcement, the Minister may prescribe any condition as he may deem appropriate.

10. Any person who wishing to employ a foreigner under Section 9 shall submit an application on behalf of the foreigner to the Director-General or official entrusted by the Director-General within a duration specified by the Director-General.

Part 2

Work Permit Issuance

11. Under Section 14 the employment specified by the Minister pursuant to Section 8, a foreigner can work only after a permit from the Director-General or entrusted by the Director-General has been granted, except for a foreigner who temporarily enters Thailand pursuant to the Immigration Act to engage in necessary and urgent work with a duration of not more than 15 days. But such foreigner can work only after filing a written notification to the Director-General or Official entrusted by the Director-General, in the specified format.

12. Subject to the Immigration Act, any person wishing to employ a foreigner in his business in Thailand may submit a Work Permit request on behalf of such foreigner to the Director-General or official entrusted by the Director-General.

The Director-General or official entrusted by the Director-General may issue a permit to a foreigner under paragraph one, only after the entry into Thailand of such foreigner.

13. In granting a permit to a foreigner under Section 1 and 12, the Director-General or Official entrusted by the Director-General may prescribe any condition therein for the foreigner to comply therewith. In such case, the foreigner is required to give assurances that he will comply with such conditions.

14. A foreigner who has been permitted entry to work in Thailand under the Investment Promotion Act or other laws, shall apply for a permit with the Director-General or official entrusted by the Director-General within 30 days from the date of acknowledgement of permission to work under the Investment Promotion Act or other laws. While waiting for the grant of a permit, a foreigner may proceed to work.

After the Director-General or official entrusted by the Director-General has received the application, the permit shall be issued without delay.

15. A foreigner who may apply for a permit under Section 11 shall possess the following qualifications:

- (1) having a place of residence in Thailand, or having been permitted to temporarily enter into Thailand under the Immigration Act, but not as a tourist or in transit.
- (2) not being disqualified or prohibited under conditions prescribed by the Minister, as published in the Government Gazette.

16. The following foreigners may engage in only such work which has been prescribed by the Minister as published in the Government Gazette. In such Notification, the Minister may prescribe any condition as he may deem appropriate:

- (1) foreigners under a deportation order under the law on deportation who have been permitted to engage in profession at a place in lieu of deportation or while awaiting deportation;
- (2) a foreigner whose entry into Thailand has not been permitted under the law on immigration and is awaiting deportation;
- (3) a foreigner born in Thailand but has not acquired Thai nationality under the Announcement of the National Executive Council No. 337, dated 13 December B.E. 2515 or under other laws;

(4) a foreigner whose Thai nationality has been revoked under the Announcement of the National Executive Council No. 337, dated 13th December B.E. 2515 or under other laws.

A foreigner may engage in such work as is prescribed by the Minister under paragraph one, only upon receipt of a permit from the Director-General or official entrusted by the Director-General.

17. A permit issued under Section 11, 12 and 16 is only for the work prescribed in Ministerial Regulations, a person who employs a foreigner in his business shall deposit a guarantee concerning the expenses for a return trip out of Thailand to the Director-General or official entrusted by the Director-General, in accordance with the criteria, methods, conditions and guarantee rate specified by the Director-General, but not more than the rate prescribed in Ministerial Regulations.

Guarantee securing, spending it and returning it, shall be in accordance with regulations prescribed by the Minister.

If a person who has employed a foreigner does not reclaim the guarantee under paragraph one within five years from the date of the foreigner's departure from Thailand, or of being independent from any responsibility, such guarantee shall belong to the Government.

18. A permit issued under this Act shall be valid for two years from the date of issue, except for a permit issued to a foreigner under Section 14 which may have the same validity period as the permitted duration to work according to such relevant laws.

19. Where a holder of a permit is issued under Section 14 has received an extension of the employment period under such laws, the holder thereof shall notify the Registrar within 30 days from the date of receiving the extension and the Registrar shall record such extension in the permit.

20. Before a permit has expired and if the holder of permit wishes to continue working, he shall apply for a renewal of the permit with the Registrar. In such case, the applicant for renewal of the permit may continue working, until the Registrar issues an order refusing the renewal of the permit.

Each renewal of permit shall be valid for two years.

Where a holder of a permit does not apply for renewal within the specified duration under paragraph one and wishes to continue working, he shall submit a request for renewal within 30 days from the expiry date and pay a daily fee from the expiry date until the submission date, according to the rate prescribed by the Minister. In such case, the applicant for renewal of the permit may continue working until the Registrar issues an order refusing renewal of the permit.

21. The Minister has authority to issue Ministerial Regulations prescribing the forms, rules and procedures in the following cases:

- (1) application for and issue of a permit to employ a foreigner under Section 10;
- (2) application for receiving and issue of a permit under Section 11, 12, 14 and 16;
- (3) application for renewal and renewal of permit under Section 20;
- (4) application for and issue of a replacement permit under Section 24;
- (5) application for and permission to engage in other work or in another locality or place under Section 25;

(6) issue of identity cards under Section 37.

22. In the case of refusing to issue a permit or not granting permission under Section 11, 12, 14 and 16 or refusing to renew a permit under Section 20 or not granting permission to engage in other work or in other locality or place under Section 25, the applicant has the right to submit an appeal to the Appeal Committee, by submitting a written notification to the Director-General or Official entrusted by the Director-General or Registrar, as the case may be, within 30 days from the acknowledgement of refusal. After receiving the appeal, the receiver of the appeal shall forward it to the Appeal Committee within 15 days. The Appeal Committee shall consider the appeal within 30 days. The judgment of the Appeal Committee shall be final.

Where the appeal decision refuses to renew a permit under Section 20 as mentioned in paragraph one, the Appellant has the right to continue working until there is a judgment of the Appeal Committee.

23. A permit holder shall keep the permit on his person or at the place of work during work, in order that it may be readily shown to an official or the Registrar.

24. If a permit is materially damaged or lost, the permit holder shall apply for a substitute with the Registrar within 15 days from the date of knowledge of such damage or loss.

25. A permit holder shall not engage in other work, or work in other locality or place other than that which is specified in the permit, unless permission is obtained from the Registrar.

Permission under paragraph one shall be for working with the same employer only.

26. No person shall employ a foreigner who has no permit, nor employ him in work which is of a different description or condition, from that specified in the permit.

27. Any person who employs a foreigner or transfers a foreigner to work in a locality other than specified in the permit, or has a foreigner resigning from his employment, shall notify the Registrar within 15 days from the date of employment, transfer or resignation.

A notice under paragraph one shall be in the form prescribed by the Director-General.

Chapter 2

The Committee Considering Employment of Foreigners

28. There shall be a committee called the Committee Considering Employment of Foreigners consisting of the Permanent-Secretary of the Ministry of Labour or person entrusted by the Permanent-Secretary of Ministry of Labour as Chairman, the Permanent-Secretary of the Ministry of Defence or his representative, the Permanent-Secretary of the Ministry of Foreign Affairs or his representative, the Permanent-Secretary of the Ministry of Agriculture and Cooperatives or his representative, the Permanent-Secretary of the Ministry of Industry or his representative, the Permanent-Secretary of the Ministry of Interior or his representative, the Permanent-Secretary of the Ministry of Public Health or his representative, the Secretary of the National Security Council or his representative, the Secretary of the National Economic and Social Development Board or his representative, the Director of the National Intelligence Agency or his representative, representatives of employers and employees being not more than three persons from each party who have been

appointed by the Minister as Committee members, the Director-General of the Labour Department is a Committee member and Secretary, the Director of Foreign Labour Administration Office shall be a Committee member and Assistant to the Secretary.

29. Members appointed by the Minister shall hold office for a term of two years and may be re-appointed but cannot be re-appointed for more than two consecutive terms.

30. Members appointed by the Minister shall vacate office prior to the end of their term upon:

- (1) death;
- (2) resignation;
- (3) removal by the Minister.

Where a member is appointed during the term of members already appointed, notwithstanding that this is a new or additional appointment, the appointee shall hold office only for the remaining term of the member already appointed.

31. The Committee has the duty to consider, and give recommendations to the Minister as follows:

- (1) the issue of Royal Decrees under Section 4 (6);
- (2) the issue of Ministerial Regulations under Sections 6 and 21;
- (3) prescription of work which the Minister may announce under Section 8;
- (4) the issue of an announcement under Section 9;
- (5) prescription of work which the Minister may announce under Section 16;
- (6) grant of permission under Section 39;
- (7) other matters, as delegated by the Minister.

32. At a meeting, the presence of not less than one half of all the members shall constitute a quorum. If the Chairman does not attend or is unable to perform his duties, the members present shall elect one from amongst themselves to preside over the meeting.

A decision at the meeting shall be made by a majority of votes. Each member shall have one vote, and in the case of equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

33. The Committee has power to appoint a sub-committee to carry out any activity or consider any matter within the scope of the duties of the Committee.

The provisions of Section 32 shall apply to meetings of a sub-committee in the same manner.

Chapter 3

The Appeal Committee Considering Employment of Foreigners

34. There shall be a committee called the Appeal Committee Considering Employment of Foreigners, consisting of the Permanent-Secretary of the Ministry of Labour or person entrusted by the Permanent-Secretary of Ministry of Labour as the Chairman, a representative from the Ministry of Foreign Affairs, a representative from Royal Thai Police Department, a representative from Business Development Department, a representative from the Board of Investment, a representative from the National Economic and Social Development Board and not more than three qualified persons appointed by the Minister as committee members and a representative from the Department of Employment as a committee member and secretary.

35. The provisions of Sections 29, 30, 32 and 33 shall apply to the Appeal Committee in the same manner.

Chapter 4 Supervision

36. In performing duties under this Act, the Director-General or official entrusted by the Director-General, Registrar or competent official is empowered to:

- (1) issue a written inquiry or summon any person to provide facts as well as to require him to produce any document or evidence;
- (2) enter any premises which is believed to be a working period with a reasonable belief that a foreigner is working there, in order to ensure compliance with this Act. For this purpose, he is empowered to inquire into facts or request production of any document or evidence from the person who is responsible for or connected with such place.

In performing duties under (2) the owner or occupant of such premises or person who is responsible for or connected with the said premises, shall render appropriate facilities.

37. The Registrar and competent official must have identity cards.

In the performance of duties, the Registrar and competent officials must show their identity cards on the request of the person concerned.

38. In performing duties under this Act, the Director-General or official entrusted by the Director-General, Registrar or competent official shall be officials under the Criminal Code.

For the benefit of arresting and suppression of offenders under this Act, an official has the same powers and duties as an administrative official or police officer under the Criminal Code.

39. In specific cases, the Minister with Cabinet approval may grant a permit to a foreigner to work in Thailand with any conditions or may grant an exemption not following this Act in such case.

Chapter 5 Penalties

40. Any foreigner who works in violation of Section 7 or the announcements of the Minister issued under Section 8, shall be liable to imprisonment for a term not exceeding five years or to a fine from two thousand to one hundred thousand Baht or to both.

41. Any foreigner who works in violation of Section 11 or in violation of conditions prescribed under Section 13 or works without a permit or in violation of conditions prescribed by the Minister under Section 16, or works in violation of Section 20, shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht or both.

42. Any foreigner who violates or offends under Sections 14, 19, 23, 24 or 27 shall be liable to a fine not exceeding one thousand Baht.

43. Any permit holder who violates Section 25 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand Baht or both.

44. Any person who employs a foreigner in violation of Section 26 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand Baht or to both.

45. Any person who employs a foreigner in violation of Section 20 shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht or both.

46. Any person who fails to comply with a written inquiry or summons or refuses to provide facts or furnish documents or evidence, or obstructs or fails to render facilities to the Director-General or officials entrusted by the Director-General, or the Registrar or competent officials in the performance of their duties under Section 36, shall be liable to a fine not exceeding three thousand Baht.

47. In all cases under this Act except cases under Sections 40, 41 and 44, the Director-General or official entrusted by the Director-General is authorized to fine.

In the case of investigation, if an inquiry official finds that any person who is guilty under this Act and can be fined and such person agrees to be fined, the inquiry official shall submit this matter to the Director-General or official entrusted by the Director-General within seven days from the date of agreement to be fined.

After the offender has paid the fine in the full amount within the specified date, but not later than 15 days, this case shall be settled in accordance with the Criminal Code.

If the offender does not agree to be fined or after agreement, does not pay the fine within the specified date under paragraph three, a criminal case shall be conducted.

Chapter 6

Transitional Provisions

48. Within three years after announcement date of this Act, the Minister shall issue an announcement to prescribe the employment which can be engaged in by a foreigner under Section 8.

While there has been no announcement under paragraph one, the Royal Decree issued under the provisions of Section 6 of the Foreign Employment Act B.E. 2521 can be enforced.

49. All Royal Decrees, Ministerial Regulations, Announcements or the Minister's or Director-General's Orders or permits issued or ordered by virtue of the Foreign Employment Act B.E. 2521 can be enforced, as long as there is no conflict with the provisions of this Act, and shall be considered as Royal Decrees, Ministerial Regulations, Announcements or the Minister's or Director-General's Orders or permits issued or ordered by virtue of this Act.

A permit issued under the Announcement of the National Executive Council Regulation No. 337, dated 13th December B.E. 2515 can be used as long as such permit has not expired and the Permit Holder is still working in such permitted employment.

Countersigned by:

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Prime Minister

Fee Rates

(1) Work Permit	20,000	Baht/issue
(2) Work Permit extension or work duration extension	20,000	Baht/time
(3) Replacement for Work Permit	3,000	Baht/issue
(4) Permit for any other employment	5,000	Baht/ time
(5) Permit for working in any other locality or place	5,000	Baht/time
(6) License to employ a foreigner	10,000	Baht/person
(7) Application fee	1,000	Baht/issue

For the issue of Ministerial Regulations to fix fee rates, these may be fixed at different rates taking into account the occupation of the foreigner.