



Understanding the Thai Royal Ordinance Concerning the Management of Foreign Workers' Employment (23 June 23 2017)

The new *Royal Ordinance Concerning the Management of Foreign Workers' Employment* (23 June 2017), and the subsequent Ministry of Labour *Announcement On Rule, Procedure and Conditions for Work Permit Applications and Work Permissions* (6 July 2017) is an effort by the Thai government to regularize the large number of currently undocumented foreign migrant workers in Thailand. The Royal Ordinance contains strict new penalties for Employers who are hiring workers without valid documents from Myanmar, Cambodia, and Laos. It also includes penalties for workers who are working in the country illegally. This brief provides background information on the Royal Ordinance, as well as information on the steps Thai businesses are required to take to register undocumented workers, workers with expired work permits, and workers with incorrect information listed on their work permit.

Q When did the law come into effect?

A The new law came into effect on 23 June 2017, immediately after the Royal Ordinance was issued. However, on 4 July 2017 the National Council for Peace and Order announced that the enforcement of a number of penalties would be delayed for six (6) months. Penalties that will be enforced from 1 January 2018 onwards include:

- Session 101. Penalties for illegal migrant workers
- Session 102. Penalties for employers who hire migrant workers in non-permitted categories
- Session 119. Penalties for working without proper letter(s) from authorities
- Session 122. Penalties for employers who hire unregistered migrant workers

A full list of the penalties that are currently being enforced and will be coming into effect is provided at the end of this guide.

Q As an employer, what should I do?

A Between 24 July and 7 August 2017, employers will have the opportunity to register their Myanmar, Cambodian, and Lao employees in the following categories, in order to ensure they are able to work legally in Thailand:

- ✓ Workers who do not have any documents (undocumented workers)
- ✓ Workers with an expired work permit
- ✓ Workers with incorrect information (e.g. the wrong workplace) listed on their work permit or pink card

Q When and where can I register my employees?

A Migrant Service Centers will be set up across Thailand to support employers with the process for registering and legalizing their employees. There will be eleven (11) centers in Bangkok, and at least one (1) center in every province. The Migrant Service Centers will act as a one-stop service center for a limited period of time from 24 July to 7 August. During this period, the centers will be open every day from 8:00am – 16:00pm.

Note: It is highly recommended that employers and all workers that may be impacted by this new legislation submit all documents during this time, as it is currently unclear whether it will be possible to continue registering workers after 7 August.

Q How can I register my employees?

A Below, please find a brief description of the steps that employers should take to register workers in each category. For a list of all the documents employers will be required to submit, please see the attached Appendix document: *Announcement of Ministry of Labour On Rule, Procedure and Conditions for Work Permit Applications and Work Permissions (2017)* which is included at the end of this guide.

Copies of application forms that employers will be required to submit are also included in the Appendix.

Workers with expired work permits

Some workers may have an expired work permit because they did not apply for a work permit extension within 15 days of the expiration of their former permit, as required under Thai law. Employers can obtain a new work permit for any current Burmese, Cambodian or Lao staff that are interested in continuing their work.

- ⇒ **Step 1:** Submit the application to the Migrant Service Center (documents include: one application form, and documents proving the employer's registration and legal status. For a full list of required documents, please see the Department of Employment (DOE) overview of document requirements included in the Appendix).
- ⇒ **Step 2:** Submit the visa and work permit application at the Migrant Service Center.
Costs for the application process are:
 - Application fee: 100 Baht
 - Work permit fee: 900 Baht / year
 - Health Check: 500 Baht
 - Health insurance: 500 Baht / 3 months
- ⇒ **Note:** The new work permit that is issued by the Migrant Service Center will expire on 31 March 2018. Once the work permit expires, the employer will be able to extend the employee's documents for one or two more years, with a maximum expiry date of March 2020.

Workers with incorrect information on their work permit

If the work permit of the employer's Burmese, Cambodian, or Lao employees lists the incorrect employer OR the incorrect job OR the incorrect workplace, then the employer can apply for this information to be corrected. In order to do this:

- ⇒ **Step 1:** Submit relevant application documents to the Migrant Service Center (documents include: one application form, and documents proving the registration and legal status. For a full list of required documents, please see the DOE overview of document requirements included in the Appendix).
- ⇒ **Step 2:** Verification process. Officials will check and confirm that the employees the employer is attempting to register are existing employees (and not new workers). Exact details of how this will be verified are not yet clear, however the employer may be asked to submit past photographs of the worker at the workplace, witness statements, etc. for verification.

- ⇒ **Step 3:** Submit the visa and work permit application

Costs for the applications process are:

Application fee:	100 Baht
Work permit fee:	900 Baht / year
Health Check:	500 Baht
Health insurance:	500 Baht / 3 months

Undocumented migrant workers

If the employer is currently employing undocumented migrant workers, the employer can register these workers, enabling them to work with the employer until March 31st, 2018. The requirements for registering undocumented workers differs slightly depending on the nationality of the worker. For example, all Lao workers will be required to return to their country to apply for a passport in order to be able to return and work legally. Myanmar workers can apply for a Certificate of Identity in Thailand without leaving the country, or can return to Myanmar to apply for an official passport. Cambodian workers are currently required to return to their country. The Cambodian Embassy plans to set up centers to issue Travel Documents in Thailand, but it is not yet clear when this will happen. To register undocumented workers:

- ⇒ **Step 1:** Submit application forms to the Migrant Service Center (application forms will include: Certification of Employment, Work Permit, Request for the Employee to work with the Employer, and a Travel Letter, which provides the worker with permission to travel back to their country to complete the document process, and reenter the country without going through the formal MOU process. For a full list of required documents, please see the DOE overview of document requirements included in the Appendix).
- ⇒ **Step 2:** Verification process. Officials will check and confirm that the employees the employer is attempting to register are existing employees (and not new workers). Exact details of how this will be verified are not yet clear, however the employer may be asked to submit past photographs of the worker at the workplace, witness statements, etc. for verification.
- ⇒ **Step 3:** Identity document processing: as above, this may require the worker to travel back to their country.
- ⇒ **Step 4:** Visa and work permit registration.
Costs for the applications process are:

Application fee: 100 Baht
 Work permit fee: 450 Baht
 Visa fee: 500 Baht
 Health Check: 500 Baht
 Health insurance: 500 Baht/3 months

⇒ Note: During the grace period, undocumented workers can travel home freely without fear of arrest, as long as they have a letter confirming their employer has taken the above-mentioned steps.

Incorrect information on workers' pink card

If the details on the pink card of the workers are incorrect, for example, listing the wrong employer, then the employer can apply to change the employer name on their employee's pink card. The expiration date listed on the new pink card that will be issued will be the same as it was on the old pink card (i.e. it will be valid until 31 March 2018 at the latest).

Step 1: Submit the application form at your local DOE office. For a full list of required documents, please see the DOE overview of document requirements included in the Appendix.

Costs for the application process are:

Application fee: 100 Baht
 Employer changing fee: 900 Baht / year

Note: You will not be asked to submit a cancellation letter from the worker's previous employer to complete this process, however you will be asked to submit an official form confirming that you accept responsibility for covering any debts the worker may have to their previous employer. A copy of this form is included in the Appendix.

Important: Each Employer should check with their local Department of Employment Office what the exact process will be in their province. Some DOE offices are currently not proceeding to the second step of the application process until 7 August, given the high volume of applications that are coming in. Other DOE offices are already processing documents fully at this time.

Q What impact could violation of the law have on my business?

A The following penalties, including imprisonment and fines, will be enforced under the new Royal Ordinance:

1. Anyone who accepts a foreign worker who works in a prohibited type of work, does not have a work permit, or does not obtain a work permit that specifies that

he or she is the employer shall be liable to pay a fine between 40,000 – 800,000 Baht per 1 foreign worker.

2. Anyone who allows a foreign worker to work in a manner that is not in accordance with the details documented in their work permit shall be liable to a fine of 400,000 Baht per 1 foreign worker.
3. Foreign workers who engage in work without having a work permit, or engage in a type of work that is prohibited, shall be liable to imprisonment not exceeding 5 years, a fine between 2,000 and 100,000 Baht, or both.
4. Employers who fail to notify the Department of Employment in cases where employees are required to perform urgent work shall be liable to pay a fine between 20,000 – 100,000 Baht.
5. Foreign workers who conduct work that is different to the work permitted in their work permit shall be liable to a fine not exceeding 100,000 Baht.
6. Anyone who seizes or holds the work permit or other personal documents of a foreign workers shall be liable to imprisonment not exceeding 6 months or paying a fine not exceeding 100,000 Baht, or both.
7. Anyone who deceives foreign workers regarding their opportunities for work with an employer in Thailand shall be liable to imprisonment between 3 to 10 years, or fine between 600,000 – 1,000,000 Baht per 1 foreign worker, or both.
8. Anyone who operates a business which employs foreign workers without receiving permission from the Director-General of the Department of Employment shall be liable to imprisonment between 1 to 3 years, a fine between 200,000 – 600,000 Baht, or both.

According to an announcement from Thailand's National Council of Peace and Order on 4 July 2017, all penalties are currently being enforced with the exception of the following, which will be enforced from 1 January 2018:

- Session 101. Penalties for illegal migrant workers
- Session 102. Penalties for employers who hire migrant workers in non-permitted categories
- Session 119. Penalties for working without proper letter(s) from authorities
- Session 122. Penalties for employers who hire unregistered migrant workers

Q Where can I find additional documents and information?

A Attached to this guide, you can find the original Royal Ordinance, subsequent amendments, application forms which you will need to complete the processes outlined in this brief, and other process flows and infographics which provide further details. The documents included are:

1. Royal Ordinance Concerning the Management of Foreign Workers' Employment (23 June 2017)
2. Application forms for Employers:
 - ✓ Certification of Employment application
 - ✓ Work permit application
 - ✓ Request for the Employee to work with the Employer application
 - ✓ Travel letter template, providing the worker with permission to travel back to their country to complete the document process, and return to Thailand legally
3. Flow chart: Documents required for each Category of Worker (Source: Department of Employment)
4. Announcement of Ministry of Labour On Rule, Procedure and Conditions of Work Permit Applications and Work Permissions according to the Royal Ordinance on Management of Foreign Workers' Employment (6 July 2017)
5. Announcement on Changing Employer for Pink Card Workers (5 July 2017)
6. Template letter confirming that the new employer accepts responsibility for covering any remaining debts the worker owes to his/her previous employer.

Q I want more information. Who can I contact?

A If you have any questions about this new regulation, or questions regarding the process, you can contact the Thai Government Department of Employment hotline (1694) or call Issara's Thai-speaking Business & Human Rights team at +66-2-105-4391 # 1004.

Note: This publication has been written to support Thai businesses collaborating with Issara through the Issara Strategic Partners Program. It was developed in response to a number of queries received regarding the Royal Ordinance Concerning the Management of Foreign Workers' Employment. Issara will be providing ongoing support to Thai businesses through guides and briefs, as well as technical support on the ground.

While we have made our best efforts to ensure the accuracy and reliability of the information collected and contained in this brief, laws and policies are changing at a rapid pace. It is therefore recommended that Employers confirm details with their local Department of Employment office regarding all processes outlined in this brief. Given the rapidly changing laws and regulations, any guidance set out in this report is for information purposes only, and does not purport to be a definitive interpretation of any law. Issara Institute is not responsible for any errors or omissions, or for the results obtained from the use of this information.