

FOREIGNERS' WORKING MANAGEMENT EMERGENCY DECREE,
(NO. 2),
B.E. 2561 (2018)

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN

Enacted on the 24th Day of March B.E. 2561;

Being the 3rd Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on Foreigners' Working Management Emergency Decree;

This Emergency Decree contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which Section 26 in conjunction with Section 33, Section 34, Section 38 and Section 40 of the Constitution of the Kingdom of Thailand so permit by the virtue of the provision law;

The rationale and necessity in restricting the rights and liberties of persons under this Foreigners' Working Management Emergency Decree to be systematic and having the efficiency which will benefit the maintenance of state security and the enactment of this Emergency Decree is consistent to the conditions as prescribed in Section 26 of the Constitution of the Kingdom of Thailand.

By virtue of Section 172 of the Constitution of the Kingdom of Thailand, the King hereby enacts the Emergency Decree as follows:

Section 1. This Emergency Decree is called the "Foreigners' Working Management Emergency Decree, (No. 2), B.E. 2561 (2018)".

Section 2. This Emergency Decree shall be enforced as from the day following the date of its publication in the Government Gazette.

Section 3. The provisions in (6) and (7) of Section 4 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

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“(6) persons entering into the Kingdom irregularly for the arrangement or attendance of meeting, expression of view, lecture or presentation in a meeting, training, visit or seminar or performance of arts, culture, sports competition or other activities as prescribed by the Council of Ministers and the Council of Minister may specify the time period and conditions as deemed appropriate”;

(7) person entering into the Kingdom to operate or invest in business or is a knowledgeable person with capacity or skills which will benefit the country development as prescribed”.

Section 4. The following shall be added as (8) of Section 4 of the Foreigners’ Working Management Emergency Decree, B.E. 2560:

“(8) representatives of foreign juristic persons obtaining a license to operate business under the law on foreign business operation”

Section 5. The definition of “bringing foreigners to work” and “work” under Section 5 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the following shall be replaced:

“bringing foreigners to work” means any proceeding to bring in foreigners into the Kingdom to work;

“work” means any profession regardless of whether there is an employer but shall not include business operation of a licensee under the law on foreign business operation”.

Section 6. The definition of “license to bring foreigners to work” and “licensee to bring foreigners to work” under Section 5 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the following shall be replaced:

“license to bring foreigners to work” means license to operate the business of bringing foreigners to work with employers in the country;

“licensee to bring foreigners to work” means a person operating business of bringing foreigners to work with employers in the country who has obtained a license to bring foreigners to work”.

Section 7. The followings shall be added as Section 5/1 of the Foreigners’ Working Management Emergency Decree, B.E. 2560:

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“Section 5/1. any matter provided under this Emergency Decree to be in accordance with the criteria, procedures and conditions prescribed in the Ministerial Regulation or as specified by the Minister or Director-General, the issuance of such Ministerial Regulation or specification shall not contain the characteristics as to establish unnecessary steps or burden to the public and shall prescribe the time period for the performance of duties of officials in each step.

In the case where the Emergency Decree provides any person to have the duties to inform the Director-General, registrar, or competent officials, the Director-General shall prescribe the means to inform the person to undertake the means conveniently and promptly and this may be made in writing or via electronics means or other means which the public are able to proceed without necessary burden and shall prescribe the time period by which the Director-General, registrar, or competent officials shall respond to such informing”.

Section 8. The provisions of Section 7, Section 8, and Section 9 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 7. The Minister upon the approval of the Committee may prescribe in a notification stating work which shall be prohibited for foreigners and this may be an absolute or conditional prohibition.

The prescription under paragraph one shall take into account national security, opportunity in profession and profession of Thai people, promotion of Thai wisdom and uniqueness and demand for foreign worker which is necessary for country development, including the relationship and obligation which Thailand is a Party to and in the manner of reciprocity.

Section 8. No foreigner shall work without work permit or work outside of the work which he or she has the right to do violating this Emergency Decree.

Section 9. No person shall accept a foreigner to work by which such foreigner has no work permit or assigning the foreigner to work outside of the work which he or she has the right to do violating this Emergency Decree”.

Section 9. Section 10 of the Foreigners’ Working Management Emergency Decree shall be repealed.

Section 10. The provision of Section 11 of the Foreigners' Working Management Emergency Decree shall be repealed and the followings shall be replaced:

"Section 11. For the purpose of maintaining the opportunity in conducting profession and professions of Thai people, the Department of Employment shall make announcement of employment of Thai nationality and register applicants and shall disseminate the latest information to ensure that it is easy to access and is regularly updated every day.

Any person who wishes to employ a foreigner to work in the type of work whereby Thai jobseekers have registered, with the Department of Employment, to work in the same type and region, in the case where there are more than five workers, such person may employ foreigners for no less than twenty percent. In this regard, except if the special fee has been paid otherwise.

The fee under paragraph two shall be as prescribed in a Ministerial Regulation and may prescribe the fee per head if the number of foreigners are not in accordance with paragraph two.

The counting of numbers of foreigners under paragraph two shall not include foreigners who have been permitted to work under Section 63/1.

Any person who fails to comply with the provisions in paragraph two shall pay twice the fee which is supposed to be paid.

For the provision under this Section to be enforced with any work, it shall be issued in the Royal Decree".

Section 11. Section 12 of the Foreigners' Working Management Emergency Decree shall be repealed.

Section 12. Section 13 and Section 14 of the Foreigners' Working Management Emergency Decree shall be repealed and the followings shall be replaced:

"Section 13. Any person who employs a foreigner shall inform the Registrar the name and nationality of such foreigner and the characteristics of the work within fifteen days as from the day of employment and when such foreigner resigns from work, the Registrar shall be informed within fifteen days as from the day such foreigner has resigned including specifying the reasons for such resignation of the foreigner.

The provisions of paragraph one shall not apply to foreigners for the type as prescribed in a notification by the Director-General.

Section 14. In a special case for necessary matter for the purpose of maintaining national security or country's economy, or prevention of public disaster, the Minister, upon the approval of the Council of Ministers, may permit a foreigner to enter into the Kingdom to work under any conditions or may exempt without complying with this Emergency Decree in any case".

Section 13. Section 15 of the Foreigners' Working Management Emergency Decree shall be repealed.

Section 14. Section 24 of the Foreigners' Working Management Emergency Decree shall be repealed.

Section 15. The provisions of paragraph three Section 28 of the Foreigners' Working Management Emergency Decree shall be repealed and the followings shall be replaced:

"placement of guarantee bond, storage of guarantee bond, deduction of guarantee bond, change of guarantee bond, increase of guarantee bond and return of guarantee bond shall be in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation".

Section 16. Section 29 of the Foreigners' Working Management Emergency Decree shall be repealed.

Section 17. Section 30 of the Foreigners' Working Management Emergency Decree shall be repealed and the followings shall be replaced:

"Section 30. License to bring foreigners to work under Section 26 shall be valid for five years as from the date of issuance of license to bring foreigners to work but a licensee to bring foreigners to work shall pay annual fee under the rate as prescribed in a Ministerial Regulation.

It shall be the duties of competent officials to inspect the compliance under this Royal Decree at least once a year.

A licensee to bring foreigners to work who wishes to renew a license to bring foreigners to work shall submit an application for such renewal no less than thirty days before the license expires and upon the submission of the application, the business shall

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continue to operate until it receives the notification of refusal to renew the license by the Director-General.

The application for renewal of license to bring foreigners to work and permission shall be in accordance with the criteria and procedures as prescribed in the Ministerial Regulation. In this regard, the Director-General shall complete the consideration within fifteen days as from the date of receipt of such application.

The licensee to bring foreigners to work shall pay an annual fee within sixty days as from the beginning of the second year of the license to bring foreigners to work and of the following year by which the fee may be paid via the electronic system and upon the payment of annual fee, the Registrar shall be notified with the evidence of annual fee payment.

In the case where the licensee to bring foreigners to work fails to pay the annual fee within the prescribed time period under paragraph five, the Director-General may order the license to bring foreigners to be suspended under Section 86.”.

Section 18. The provisions of Section 33, Section 34 and Section 35 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 33. A licensee to bring foreigners to work who wishes to move an office or to establish a temporary office which is not the place as specified in the license to bring foreigners to work shall notify the Registrar in advance for no less than fifteen days.

Section 34. A licensee to bring foreigners to work who wishes to change the manager who has the authority to act on behalf of the juristic person shall notify the Registrar in advance for no less than fifteen days.

Section 35. A licensee to bring foreigners to work shall notify the amount and list of names of employees whose duties are related to bring foreigners to work to the Registrar under the criteria and procedure prescribed in a notification by the Director-General.

The manager who has the authority to act on behalf of the juristic person and employees whose duties are related to bring foreigners to work shall have an identification card including a copy of license to bring foreigners to work and shall always be able to illustrate the existence of the identification card and such license to the competent official.

The identification card shall be as prescribed in a notification by the Director-General”.

Section 19. Section 36 and Section 37 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 20. The provision of paragraph two of Section 38 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"subject to Section 55, in the case where a licensee to bring foreigners to work terminates the business operation of bringing foreigners to work and has no liability under this Emergency Decree, the licensee to bring foreigners to work shall submit, to the Director-General, an application for the return of guarantee bond. Upon an inspection of such application and the Director-General finds that the licensee to bring foreigners to work has no liability under this Emergency Decree, the licensee to bring foreigners to work shall be notified in writing to receive the guarantee bond".

Section 21. Section 39 and Section 40 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 22. The provisions of Section 41, Section 42 and Section 43 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"Section 41. A licensee to bring foreigners to work may specifically bring foreigners in when there is a contract to bring foreigners to work with a person who will be an employer of the foreigner including the list of names, nationalities and passport numbers and such employer shall not be a business operator in labour or wage contracting and may bring foreigners for the numbers and under the name list.

The contract to bring foreigners to work under paragraph one shall, at least, contain the details as prescribed by the Director-General.

Upon bringing foreigners to work, the licensee to bring foreigners to work shall submit a copy of contract made with the person who will be the employer of the foreigners under paragraph one to the Registrar and in the necessary case, the licensee may request the Registrar to certify the contract and the existence of employer and work of the employer. In such case, upon an inspection, if the Registrar sees that it is correct, he or she shall issue the certification and upon receiving the name list and passport numbers of foreigners

who will work, the licensee to bring foreigners to work shall notify the information under paragraph one and the Registrar shall notify the Immigration Bureau or relevant agencies.

When the information has been notified under paragraph three, the licensee to bring foreigners to work may submit an application for work permit on behalf of the foreigner who will enter into the Kingdom as notified under paragraph three.

Section 42. In bringing foreigners to work with employers in the country, a licensee to bring foreigners to work or employees whose duties are related to bring foreigners to work shall not call for money or accept money or other assets from employers or foreigners except for service fee and expenses collected from the employer under the list and rate as prescribed in a notification by the Director-General.

Section 43. when a licensee to bring foreigners to work has delivered the foreigners to an employer, he or she shall notify the Registrar within fifteen days as from the date of delivering the foreigners. In this regard, it shall be in accordance with the list as prescribed in a notification by the Director-General”.

Section 23. The provisions of Section 46 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 46. An employer who is not a business operator in labour or wage contracting wishes to bring a foreigner from a foreign country to work in the country under the agreement or Memorandum of Understanding made between the Thai government and foreign government shall notify the Registrar the number of countries which the foreigners have domiciles, work wishing for the foreigner to work in and other lists as prescribed by the Director-General. In the case of payment of fee under Section 11, the employer may continue to proceed upon the payment of such fee.

In the case where no fee to be paid or the fee has been paid under paragraph one, the employer shall proceed in order to know the names and passport numbers of the foreigners who will enter into the country to work and notify such information to the Registrar and the Registrar shall notify the Immigration Bureau or relevant agencies. In this regard, the Director-General may prescribe that employers who bring foreigners to work in a particular type shall place the guarantee bond to insure the compliance under this Emergency Decree. In this regard, the placement of guarantee bond, rate of guarantee bond, maintenance of guarantee bond, deduction of guarantee bond, change of guarantee bond, increase of guarantee bond, placement of more guarantee bond and return of guarantee bond shall be in accordance with the criteria, procedures and conditions as prescribed in a Ministerial Regulation.

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Before a foreigner start working with an employer, the employer shall prepare a written contract with, at least, the detail as prescribed by the Director-General and store the employment contract at a business place of the employer for the Registrar or competent official to inspect and copy of such employment contract for the employee to keep. In this regard, when the foreigner resigns for whatever reason, the employer shall notify the Registrar within fifteen days as from the day of resignation including specify the reason for resignation of such foreigner.

The provision in this Section shall not apply to employers who are not contracting labour or wage who wish to bring foreigners from other countries whereby Thailand does not conclude an agreement or Memorandum of Understanding with foreign countries under paragraph one”.

Section 24. The provision of Section 49 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 49. An employer who brings a foreigner to work with him or her in the country shall not request or accept money or other assets relating to bring a foreigner to work except if it is for the expenses paid by the employer beforehand, such as, passport fee, health checkup fee, work permit fee, or other fees in the same manner as prescribed in a notification by the Director-General. The employer shall deduct from the wage, overtime, wage for working during day off or overtime during day off, and the employer shall deduct from the money the foreigner has the right to receive under the actual paid expense but shall not deduct more than ten percent of the money the foreigner has the right to receive each month.

In the case where there is no agreement that the employer will be paying for the travelling expense of the employee and the employer has paid for such travelling expense beforehand, the employer may deduct from the money the employee has the right to receive under paragraph one”.

Section 25. The provisions of Section 50, Section 51, Section 52 and Section 53 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 50. When the licensee to bring a foreigner to work has delivered to the employer under Section 43 and the following cases occur, the employer shall notify

the licensee to bring a foreigner to work and the Registrar within seven days as from the date of such event, as the case may be:

- (1) an employer refuses to take a foreigner;
- (2) a foreigner refuses to work with the employer;
- (3) a foreigner resigns from the work regardless of the reason

In the case where the event under (1) or (3) for the part which is not the fault of the employee and such foreigner wishes to work with other employers, the licensee to bring a foreigner to work may arrange for such foreigner to work with other employers within thirty days as from the date the employer refuses to accept the foreigner to work but the time period for working with a new employer shall not exceed the time period under the contract to bring foreigners to work.

In the case under (2) for the part which is the fault of the employer, Section 51 and Section 52 shall apply *mutatis mutandis*.

The result of when the licensee to bring foreigner to work proceeds under paragraph two or paragraph three shall be notified to the Registrar under the form as prescribed by the Director-General.

In the case of an even under (1) or (2) and the foreigner does not begin to work with a new employer within the prescribed time limit, it shall be deemed that the permission to stay in the Kingdom of such foreigner shall be terminated under the law on immigration and the licensee to bring foreigners to work shall repatriate such foreigner to the origin country within seven days from the prescribed time period to work with the new employer has lapsed and the evidence of repatriation shall be submitted to the Registrar within seven days as from the date of repatriation. In the case where the process may not be undertaken, the Registrar shall be notified within three days as from the date the prescribed time period to work with the new employer has lapsed and the Registrar shall notify the competent official under the law on immigration or the police officer to proceed with the repatriation expeditiously. In such case, the licensee to bring foreigners to work shall be the person responsible for the expenses for the process of the competent official under the law on immigration or police officer for the rate not exceeding the rate as prescribed by the Director-General.

In the case where the licensee to bring foreigners to work fails to submit the evidence of repatriation within the prescribed time period under paragraph five, the administrative fee shall be paid, to the Registrar, one thousand Baht per day per one foreigner until the correct compliance but shall not exceed twenty thousand Baht per one foreigner.

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Section 51. For a foreigner who works with an employee under Section 43 or Section 46 who resigns before the expiration of the employment contract, he or she cannot work for other employers except otherwise proves to the Registrar that the resignation is the employer's fault or has paid the damages to the previous employer. In such case, the Registrar shall issue a new work permit or specify at the back of the work permit to illustrate the right to change the employer.

The damages under paragraph one means all the expenses related to bring foreigners to work and such expenses shall be calculated in accordance with the proportion of time period such foreigner has worked for.

Section 52. Foreigners who have the right to change employers under Section 51 shall work for a new employer within thirty days as from the date of resignation of the previous employer and in the case of such foreigner to work in the type the employer must place the guarantee bond under Section 46, a new employer shall place the guarantee bond to the Director-General under Section 46 within fifteen days as from the date of employment of such foreigner.

Section 53. Foreigners who have no right to change employers under Section 51 or foreigners who have the right to change an employer but do not work with other employers within the prescribed time period under Section 52, the work permit of such foreigner shall be terminated as from the date such foreigner has resigned or the prescribed time period has lapsed under Section 52, as the case may be, and it shall be deemed that the permission to stay in the Kingdom of such foreigner shall be terminated under the law on immigration.

The licensee to bring foreigners to work or the last employer who places the guarantee bond under Section 46 or Section 52 shall be responsible for the expenses in the proceeding of repatriation of the foreigner under paragraph one to the origin country, as the case may be".

Section 26. Section 54 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 27. The provisions of Section 55, Section 56, Section 57 and Section 58 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"Section 55. When the foreigner who works with the employer under Section 43 or Section 46 has worked until the expiration of the contract to bring foreigners to work with

employers in the country or employment contract, the licensee to bring foreigners to work or the last employer who places the guarantee bond under Section 46 or Section 52 shall repatriate such foreigner to the original country except in the case of renewal of employment contract or in the case where such foreigner will begin to work with a new employer within the prescribed time period under Section 52.

The provisions of Section 50 paragraph five and paragraph six shall apply to the repatriation of foreigners to the origin country under paragraph one *mutatis mutandis*.

In the case where the licensee to bring foreigners to work terminates the business operation to bring foreigners to work, the Registrar shall return the guarantee bond to the licensee to bring foreigners to work upon being illustrated with the evidence that the licensee has repatriated the foreigners to the origin country which shall not be more than two years as from the date of termination of business operation. When the prescribed time period has lapsed and the licensee to bring foreigners to work cannot illustrate the evidence of repatriation to the Registrar, the guarantee bond shall be vested on the fund for the expense to repatriate foreigners out of the Kingdom. In the case where the licensee to bring foreigners to work can only illustrate part of the evidence of repatriation within the prescribed time period, the Director-General shall return the guarantee bond in accordance with the proportion and means as prescribed in a Ministerial Regulation.

Section 56. Foreigners who enter to work under the provisions of this Chapter and have been repatriated to the origin country under the law on immigration or other laws, the agency proceeding with the repatriation of foreigners to the origin country shall collect the expenses occurring from the management of repatriation from the licensee to bring foreigners to work or employer who placed the guarantee bond.

In the case where the licensee to bring foreigners to work or employer who fail to reimburse the money within the time as prescribed by the agency under paragraph one, the Director-General shall deduct such money from the placed guarantee bond to return it to the agency proceeding the repatriation of foreigner to the original country.

Section 57. A foreigner who has been injured by a licensee to bring foreigners to work or employer failing to comply with Section 50 may present himself to the Director-General or the person entrusted by the Director-General to request for repatriation of foreigners to the original country and the Director-General or the person entrusted by the Director-General shall proceed to repatriate such foreigner expeditiously and the provisions of Section 58 paragraph two shall apply *mutatis mutandis*.

Section 58. In the case where a licensee to bring foreigners to work or the last employer who placed the guarantee bond under Section 46 or Section 52 fails to repatriate foreigners to the original country under the provisions of this Section, the Registrar or competent official who sees such foreigner shall repatriate such foreigner to the origin country.

In repatriating foreigners to the origin country under paragraph one, the Registrar or competent official shall disburse the money from the Fund and shall notify, in writing, to the licensee to bring foreigners to work or employer under paragraph one to pay for the expenses occurring from the management of repatriation of foreigners and other expenses as necessary within the prescribed time period. If such person fails to reimburse the payment within the prescribed time period, the Director-General shall deduct such money from the guarantee bond placed by the licensee to bring foreigners to work or employer, as the case may be.

When the guarantee bond has been deducted under paragraph two, the Director-General shall notify the licensee to bring foreigners to work or employer without delay”.

Section 28. The provisions of Section 59, Section 60, Section 61, Section 62 and Section 63 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 59. A foreigner who has the domicile in the Kingdom or is permitted to enter into the Kingdom temporarily under the law on immigration which is not for tourism or transit through the Kingdom may work in the work which is not prohibited for foreigners from working under Section 7 paragraph one and shall obtain a work permit.

Subject to Section 60, a foreigner who wishes to obtain the work permit under paragraph one shall submit an application to the Registrar and in the case where there is an employer, the name of employer shall be specified.

The application and permission under paragraph one and paragraph two shall be in accordance with the rules, procedures and conditions as prescribed in a Ministerial Regulation. The means via electronic system may be prescribed and work permit shall be valid for the period as applied for but shall not exceed two years as from the date of issuance the work permit.

In the Ministerial Regulation under paragraph three, it shall prescribe the complete time period as from the date of receiving the application for work permit until the date of issuance of the work permit which shall not exceed fifteen working days. In the case where

the Registrar is unable to issue the work permit within the prescribed time period, the Minister or the Director-General shall take action against the relevant officials, as deemed appropriate and as the case may be. In the case of not issuing the work permit without any reasonable ground, it shall be deemed to violate the disciplinary rules and shall undertake the disciplinary procedure.

Subject to the law, the person being permitted to work under paragraph one shall have the right to work in any kind of work whereby there is no prohibition announcement under Section 7 paragraph one.

Section 60. Any foreigner who has the domicile outside of the Kingdom and wishes to apply for work in the Kingdom may submit an application and pay the fee via the electronic system.

Any employer who wishes to employ a foreigner to work in his or her business in the Kingdom may submit an application for work on behalf of the foreigner to the Registrar including paying for fee on behalf of the foreigner.

The application and issuance of work permit and fee under paragraph one and paragraph two shall be in accordance with the rules, criteria and conditions as prescribed in a Ministerial Regulation.

Section 61. A foreigner who enters into the Kingdom temporarily under the law on immigration to conduct necessary or urgent work or an ad-hoc work which is to be completed within fifteen days shall only conduct such work upon notifying the Registrar in writing.

The work which has the characteristics as necessary or urgent or ad hoc under paragraph one shall be as prescribed in a Notification by the Director-General.

The foreigner who works under paragraph one and does not complete the work within such prescribed time period may request for extension but shall not exceed fifteen days and shall notify the Registrar before the time has lapsed.

The notification under paragraph one and paragraph three and the issuance of notification shall be in accordance with the rules and procedures as prescribed in a Ministerial Regulation.

Section 62. In the case where a foreigner has been permitted to enter and work in the Kingdom under the law on investment promotion, the law on petroleum or other laws, the responsible agencies under such laws shall notify the Registrar without delay.

The Registrar shall issue the work permit to the foreigner under paragraph one within seven days as from the date of being notified and during the process, the foreigner under paragraph one may work pro tempore and is exempted from complying with Section 68.

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The issuance of work permit under paragraph two shall be in accordance with the criteria and procedure as prescribed in a Ministerial Regulation without being subject to a notification under Section 7 and the work permit shall be valid for a period of being permitted to enter to conduct work under such law.

In the case where the times for working for such person obtaining work permit has been extended under such law, the agency responsible under such law shall notify the extension to the Registrar expeditiously in accordance with the form as prescribed in a notification by the Director-General and the Registrar shall record such time extension in the work permit.

Section 63. Foreigners under the following characteristics may apply for permission to the Registrar to work under the certain type as prescribed by the Council of Ministers and published in the Government Gazette in accordance with the recommendation of the Committee by considering the national security, social impact and humanity:

(1) being deported under the law on deportation and being granted with the exemption to conduct a profession at any place instead of deportation or during the time of deportation;

(2) entering into or being in the Kingdom without being permitted under the law on immigration but shall be permitted to stay in the Kingdom to be repatriated out of the Kingdom under the law on immigration which is not the case under Section 63/2.

Application for work and issuance of work permit under paragraph one shall be in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation and the work permit shall be valid for the same period of exemption but shall not exceed one year as from the date of issuance of work permit and the work permit shall be extended as necessary but shall not exceed one year each time.

When the Registrar has issued the work permit to any foreigner, he or she shall notify a competent official under the law on immigration.

By the end of January of each year, the competent officials under the law on immigration shall notify the Registrar in regard to the result of deportation or repatriation in the case where the Registrar has been notified that no deportation or repatriation has occurred or has not been notified by the competent official under the law on immigration, the Registrar shall have the power to extend the work permit under paragraph one as requested by the foreigner and upon extending the work, the competent official under the law on immigration shall be notified”.

Section 29. The followings shall be added as Section 63/1 and Section 63/2 of the Foreigners' Working Management Emergency Decree, B.E. 2560:

"Section 63/1. Foreigners with the following characteristics may apply, to the Registrar, for work:

(1) having the nationality withdrawn under the Announcement of the Revolutionary Council No. 337 dated the 13th of December B.E. 2515 or other laws;

(2) being born in the Kingdom but has not been granted with the nationality under the Announcement of the Revolutionary Council No. 337 dated the 13th of December B.E. 2515 or the law on nationality;

(3) being a foreigner who has been granted with the status of legal migrant under the notification of the Ministry of Interior issued under the law on immigration;

(4) being a foreigner who has no status under the registration and has been given the identification card under the Rule of Central Registration Bureau issued under the law on people's registration.

The foreigner under paragraph one shall not be subject to a Notification under Section 7 and Section 11 but the Council of Ministers may prescribe prohibition for such foreigners not to work in a particular type of work or attach conditions to the work by considering national security, social impact and humanity.

Application for work permit and issuance of work permit under paragraph one shall be in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation and the work permit shall be valid for a period of five years as from the date of its issuance and shall be extended for five years each time. In this regard, persons under (1), (3) and (4) shall be exempted from work permit fee or work permit extension fee. For persons under (2), the extent to which he or she is exempted shall be in accordance with a Ministerial Regulation issued under Section 6.

Section 63/2. In the case where the Minister under the law on immigration permits a foreigner or type of foreigner to enter into the Kingdom under the law on immigration or exempt a foreigner or type of foreigner from complying with the law on immigration, the Council of Ministers may prescribe that such foreigner or type of foreigner who is not a foreigner under Section 63/1 can apply for work by which the Council of Ministers may prescribe the type of work which a foreigner may be able to work for the benefit of economic and social development.

Application for permission to work under paragraph one shall be in accordance with the criteria and procedure as prescribed in a Ministerial Regulation and such Ministerial

Regulation may prescribe criteria for the Director-General to have power to specify in the work permit. In this regard, work permit shall be valid for the period as requested by the applicant but shall not be valid for more than two years as from the date of issuance of such work permit.

Section 30. The provisions of paragraph one of Section 64 of the Emergency Decree on Administration and Management of Working of Foreigners B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 64. For a foreigner who is a national of a country sharing the border with Thailand and if such foreigner enters into the Kingdom with a border pass or other pass in the same manner as prescribed by the Director-General, he or she may be permitted by the Registrar to work in the Kingdom temporarily during the time period or season and in a specific area”.

Section 31. Paragraph four of Section 64 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 32. The followings shall be added as Section 64/1 and Section 64/2 of the Foreigners’ Working Management Emergency Decree, B.E. 2560:

“Section 64/1. A foreigner who wishes to apply for work permit shall have the qualifications and is not under any prohibition as prescribed in a Ministerial Regulation and has never been punished under Section 101 except in the case of being out of punishment for no less than two years before applying for the work permit or being a foreigner under Section 63 which the Registrar permits him or her to work in a special case.

In the case of issuance of work permit, it is necessary for a foreigner to have a health check up beforehand. The foreigner or employer of such foreigner shall bring the foreigner to have a health check up at a medical institute obtaining the license to operate the business as a medical institute.

The provisions in paragraph one shall not apply to foreigners under Section 63/1.

Section 64/2. A person obtaining the work permit shall have the duties to notify the Registrar in regard to his or her employer, the work place of the employer and characteristics of the work within fifteen days as from the date of being employed and shall notify each time he or she changes the employer”.

Section 33. Section 65 and Section 66 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 34. Paragraph three Section 67 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"subject to Section 63 and Section 63/1, work permit shall be extended for the time period as requested by an applicant but shall not exceed two years each time and shall be made as necessary only".

Section 35. The provisions of Section 68 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"Section 68. A person obtaining the work permit shall be able to always show the work permit to the competent official or the Registrar within the period as deemed reasonable".

Section 36. The provisions of paragraph two of Section 69 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and replaced:

"application for substitute of work permit and issuance of the substitute of work permit shall be in accordance with the criteria and procedures as prescribed by the Director-General".

Section 37. Section 70, Section 71, Section 72, Section 73 and Section 74 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 38. The provisions of (2) of Section 76 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"(2) additional money under Section 11 paragraph five and Section 47 paragraph two and administrative fine under this Emergency Decree".

Section 39. The provisions of Section 92 and Section 93 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

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"Section 92. In the case where the Director-General refuses to grant permission under Section 26, to grant permission to renew the license to bring foreigners to work under Section 30 or the guarantee bond has been deducted or the guarantee bond has been requested to increase under this Emergency Decree, the applicant or licensee to bring foreigners to work shall have the right to appeal to the Minister within thirty days as from the date of being notified.

The decision of the Minister is final.

Section 93. In the case where the Director-General has deducted the guarantee bond or called for an increase of guarantee bond under this Emergency Decree, an employer has the right to appeal to the Minister within thirty days as from the date of being notified of such order.

The decision of the Minister is final".

Section 40. The provisions of Section 95 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"Section 95. In the case where the Registrar does not grant permission under Section 59, Section 60, Section 63, Section 63/1, Section 63/2, or Section 64 or does not renew the work permit under Section 67 or revoke the work permit under Section 90, the applicant for work permit, the person applying for work permit on behalf of the foreigner or the person holding the work permit, as the case may be, has the right to appeal to the Minister within thirty days as from the date of being notified of such order.

Decision of the Minister is final".

Section 41. The provisions of (3) of Section 98 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"(3) enter into the business operation place which accepts a foreigner to work during the operational hours to inspect the compliance with this Emergency Decree".

Section 42. The followings shall be added as paragraph four of Section 98 of the Foreigners' Working Management Emergency Decree, B.E. 2560:

"the use of power under (1), (2) or (3) shall not be made in the manner which force foreigners to stop working for an unreasonable period or interrupt the business operation of the employer or work during a night time unnecessarily".

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Section 43. The provisions of paragraph three of Section 100 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"in the case where an competent official finds a foreigners who works without work permit or work outside of the right to do so which violates this Emergency Decree and the competent official orders such foreigner to report to a police station with the competent official but such foreigner fails to comply with the order or escapes, the competent official shall have the power to arrest such foreigner without a warrant and shall promptly bring him or her to the office of an investigator".

Section 44. The followings shall be added as Section 100/1 of Chapter 8 Penalties of the Foreigners' Working Management Emergency Decree, B.E. 2560:

"Section 100/1. The Director-General, Registrar or any competent official who fails to respond within the prescribed time period under Section 5/1 paragraph two without any reasonable ground shall be liable to a fine not exceeding five thousand Baht".

Section 45. The provisions of Section 101, Section 102 and Section 103 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be added:

"Section 101. Any foreigner who violates Section 8 shall be liable to a fine of five thousand Baht to fifty thousand Baht and upon paying such fine; such foreigner shall be repatriated out of the Kingdom expeditiously except in the case of being a foreigner under Section 63 or Section 63/1.

The provisions in paragraph one shall not apply to foreigners who are victims or witnesses in a human trafficking case under the law on anti-human trafficking.

In the case where a foreigner being accused of committing an offence under paragraph one accepts to get out of the Kingdom, a competent official shall settle by fine in accordance with the criteria, procedure and conditions prescribed by the joint committee and shall notify the Department of Employment. Upon proceeding with the repatriation of such foreigner, the case shall be deemed terminated under the Penal Procedural Code.

The joint committee under paragraph three shall consist of a representative from the Office of the Attorney-General as the chairperson, representative from the Royal Thai Police and representative from the Department of Employment as member of the committee and secretary.

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Criteria, procedures and conditions in the settlement by fine prescribed by the joint committee under paragraph three shall take into account the severity of an offence, repeatability, and prevention of repeated offence and shall be published in the Government Gazette.

Section 102. Any person employs a foreigner by violating Section 9 shall be liable to a fine of ten thousand Baht to one hundred thousand Baht per one foreigner employed.

If the offender under paragraph one commits a repeated offence, he or she shall be liable to imprisonment for a term not exceeding one year or to a fine of fifty thousand Baht to two hundred thousand Baht per one foreigner employed or to both. Such person shall be prohibited from employing a foreigner for three years as from the date of final Court judgment.

Section 103. Any person fails to comply with Section 13 shall be liable to a fine not exceeding twenty thousand Baht”.

Section 46. The provisions of Section 106 and Section 107 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 106. Any competent official who fails to perform duties under Section 30 paragraph two shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding ten thousand Baht or to both.

Section 107. Any licensee to bring foreigners to work who fails to comply with Section 31 paragraph one, Section 32, Section 33, Section 34, Section 35 paragraph one, Section 41 paragraph two, Section 43 or Section 44 shall be liable to a fine not exceeding twenty thousand Baht”.

Section 47. Section 108 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 48. The provisions of Section 109 and Section 110 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 109. Any manager who has the power to act on behalf of a juristic person or employee under Section 35 who fails to comply with Section 35 paragraph two shall be liable to a fine not exceeding five thousand Baht.

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Section 110. Any person who is not an employee whose duties is related to brining foreigners to work under Section 35 but has undertaken the work relating to bringing foreigners to work with an employer in the Kingdom shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both”.

Section 49. The followings shall be added as Section 110/1 of the Foreigners’ Working Management Emergency Decree, B.E. 2560:

“Section 110/1. Any licensee to bring foreigners to work brings a foreigner to be an employee of an employer contracting labour or wage or brings a foreigner to work for himself by which he is a labour or wage contractor shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding two hundred thousand Baht or to both.

Any licensee to bring foreigners to work who brings a foreigner to work with an employer without notifying the Registrar under Section 41 paragraph three shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand Baht or to both”.

Section 50. The provisions of Section 111 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 111. Any licensee to bring foreigners to work or employee whose duties is related to bringing foreigners to work violates Section 42 shall be liable to imprisonment for a term not exceeding one year and a fine of two times the money or other assets value requested or accepted from an employer or foreigner or service fee or expenses which is more than the rate prescribed in a notification by the Director-General and the Court shall order the licensee to bring foreigners who has committed an offence to return the money or assets illegitimately collected to the employer or foreigner, as the case may be.

In case the licensee to bring foreigners to work does not return the money or assets in accordance with the Court order within thirty days, upon a request by the employer or such foreigner, the Director-General may deduct the guarantee bond of the licensee to bring foreigners to work to comply with the Court order”.

Section 51. The provisions of Section 113 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 113. Any employer who brings foreigners from other countries to work for him in the country by which he is a labour or wage contractor shall be liable to a fine not exceeding two hundred thousand Baht.

Any employer under Section 46 paragraph one who brings foreigners from other countries to work for him in the country without notifying under Section 46 paragraph one or paragraph two shall be liable to a fine not exceeding one hundred thousand Baht.

Any employer who cannot illustrate an employment contract upon being requested by a competent official for inspection under Section 46 paragraph three shall be liable to a fine not exceeding five thousand Baht”.

Section 52. The followings shall be added as Section 113/1 of the Foreigners’ Working Management Emergency Decree, B.E. 2560:

“Section 113/1. Any employer or a licensee to bring foreigners to work who fails to notify the Registrar when a foreigner resigns under Section 46 paragraph three or when an event under Section 50 paragraph one occurs, as the case may be, shall be liable to a fine not exceeding five thousand Baht”.

Section 53. The provisions of Section 114 and Section 115 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 114. Any employer who violates Section 49 shall be liable for imprisonment for a term not exceeding six months and a fine of twice the money or asset value requested or accepted from a foreigner or deducted over the rate as prescribed and the Court shall order such employer to return the money or assets illegitimately collected to the foreigner.

In the case where an employer does not return the money or asset under the Court order within thirty days, upon being requested by such foreigner, the Director-General may deduct the guarantee bond of such employer to comply with the Court order.

Section 115. Any licensee to bring foreigners to work who fails to comply with Section 50 paragraph four shall be liable to a fine not exceeding twenty thousand Baht”.

Section 54. The followings shall be added as Section 115/1 of the Foreigners’ Working Management Emergency Decree, B.E. 2560:

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“Section 115/1. Any licensee to bring foreigners to work who fails to repatriate a foreigner to the origin country under Section 50 paragraph five or Section 55 shall be liable to a fine not exceeding one hundred thousand Baht per one foreigner”.

Section 55. The provisions of Section 116 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 116. Any employer who fails to proceed with the repatriation of foreigners to the origin country under Section 50 paragraph five or Section 55 shall be liable to a fine not exceeding one hundred thousand Baht per one foreigner”.

Section 56. Section 117 and Section 118 of the Emergency Decree on Administration and Management of Working of Foreigners B.E. 2560 shall be repealed.

Section 57. The provisions of Section 119 of the Emergency Decree on Administration and Management of Working of Foreigners B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 119. Any foreigner who works without notifying the Registrar under Section 61 shall be liable to a fine not exceeding fifty thousand Baht”.

Section 58. The followings shall be added as Section 119/1 of the Emergency Decree on Administration and Management of Working of Foreigners B.E. 2560:

“Section 119/1. Any licensee to bring foreigners to work who fails to comply with Section 64/2 shall be liable to a fine not exceeding twenty thousand Baht”.

Section 59. The provisions of Section 120 of the Emergency Decree on Administration and Management of Working of Foreigners B.E. 2560 shall be repealed and the followings shall be replaced:

“Section 120. Any holder of work permit who fails to comply with Section 68 shall be liable to a fine not exceeding five thousand Baht”.

Section 60. Section 121, Section 122, Section 123 and Section 124 of the Foreigners’ Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 61. The followings shall be added as Section 127/1 of the Foreigners' Working Management Emergency Decree, B.E. 2560:

"Section 127/1. Any Registrar or competent official who fails to comply with Section 98 paragraph four shall be liable to a fine not exceeding ten thousand Baht".

Section 62. The provisions of Section 131 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"Section 131. Any person who confiscates a work permit or identification card of a foreigner shall be liable to imprisonment for a term not exceeding six months or a fine of ten thousand Baht to one hundred thousand Baht or to both.

In the case where a foreigner agrees to have any person kept the work permit or document under paragraph one, such person must agree and facilitate the foreigner to access such document at all times as requested by the foreigner and in the case of violation, he or she shall be liable to the same penalty as the offence under paragraph one".

Section 63. The provisions of paragraph one of Section 133 of the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed and the followings shall be replaced:

"Section 133. All the offences under this Emergency Decree by which the penalty is a fine, except for the offence under Section 101, the Director-General or Provincial Governor shall have the power to settle a case by fine as follows:

- (1) the Director-General for an offence occurring in Bangkok;
- (2) Provincial Governor for an offence occurring in such province".

Section 64. The followings shall be added as (1/1) of the rate of fee annexed to the Foreigners' Working Management Emergency Decree, B.E. 2560:

"(1/1) annual fee under Section 30 each 10,000 Baht"

Section 65. (4), (5), (6) and (7) of the rate of fee annexed to the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 66. (11) of the rate of fee annexed to the Foreigners' Working Management Emergency Decree, B.E. 2560 shall be repealed.

Section 67. Any person employs a foreigner before the date this Emergency Decree has come into force by which such foreigner has the work permit shall notify, the Registrar, information under Section 13 of the Foreigners' Working Management Emergency Decree, B.E. 2560 as amended by this Emergency Decree within sixty days as from the date this Emergency Decree comes into force. The Director-General shall prescribe the procedure for such notification via an electronic means or other means to facilitate employers.

The provisions in paragraph one shall not apply to foreigners under the type as prescribed in a notification by the Director-General.

A foreigner whom an employer has submitted an application for employment of foreigner and has obtained the travel certificate to prove his or her nationality in the Kingdom or the travel certificate to travel out of the Kingdom under the Notification of the Ministry of Labour on Criteria, Procedure and Condition in application for work and permission to work under the Foreigners' Working Management Emergency Decree, B.E. 2560 before this Emergency Decree has come into force shall continue to be in the Kingdom and work with the previous employer until the Registrar orders otherwise not to issue the work permit.

In the case of necessity, the Minister may prescribe the time period by which the Registrar and competent official shall complete the proceeding to prove the nationality or other proceeding as necessary in granting permission to foreigners to work. In the case where the Registrar or competent official fails to complete within the prescribed time period, the Minister shall promptly undertake the disciplinary procedure against the Registrar and competent official.

Section 68. All the Notifications of the Minister under Section 7 and the prescription of the Council of Ministers under Section 63 or Section 63/1 of the Foreigners' Working Management Emergency Decree, B.E. 2560 amended by this Emergency Decree which are issued after the date this Emergency Decree has come into force shall not have an impact on foreigners who have been permitted to work before the date this Emergency Decree has come into force and such foreigners shall continue to work until the expiration of the work permit. If he or she wishes to apply to work, he or she shall undertake the process under the Foreigners' Working Management Emergency Decree, B.E. 2560 amended by this Emergency Decree.

Section 69. All the foreigners under Section 63/1 of the Foreigners' Working Management Emergency Decree, B.E. 2560 amended by this Emergency Decree who have not been permitted to work shall continue to work under a Ministerial Regulation under

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Section 63/1 paragraph three of the Foreigners' Working Management Emergency Decree, B.E. 2560 amended by this Emergency Decree has been issued and upon coming into force of such Ministerial Regulation, such foreigner shall apply for permission to work within sixty days as from the date the Ministerial Regulation has come into force. Upon submitting an application for permission to work, foreigner shall continue to work until the Registrar orders not to issue the work permit otherwise.

For the time period of sixty days under paragraph one, the Minister may provide for extension as deemed appropriate.

Section 70. Section 30 paragraph one, paragraph five and paragraph six of the Foreigners' Working Management Emergency Decree, B.E. 2560 amended by this Emergency Decree shall not apply to licensees to bring foreigners to work under the Foreigners' Working Management Emergency Decree, B.E. 2560 before this Emergency Decree has come into force and the licensees to bring foreigners to work shall continue to operate the business to bring foreigners to work until the expiration of such licenses.

Section 71. The Minister of Labour shall have charge and control of the execution of this Emergency Decree.

Countersigned by

General Prayut Chan-O-Cha

Prime Minister