

EMPLOYMENT ARRANGEMENT AND JOBSEEKER PROTECTION ACT,
B.E. 2528 (1985)

BHUMIBOL ADULYADEJ, REX;
Given on the 17th Day of August B.E. 2528;
Being the 40th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to revise the law on employment arrangement and the protection of jobseeker;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act is called the “Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985)”.

Section 2.¹ This Act shall come into force from the day following the date of its publication in the Government Gazette.

Section 3. The Employment Arrangement and Jobseeker Protection Act, B.E. 2511 (1968) shall be repealed.

Section 4. In this Act:

“employment arrangement”² means a business that finds a job for a jobseeker and finds a worker for an employer whether or not service charge is requested or

* Translated by Ms. Mattanee Kaewpanya and reviewed by Prof. Phijaisakdi Horayangkura under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Initial Version – pending review and approval by the Office of the Council of State.

¹ Published in the Government Gazette, Vo. 102, Part 116, Special Issue, Page 1, dated 1st September B.E. 2528 (1985).

² Section 4 defines the word “employment” as amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

received, and shall include the request for money, property or other benefits in order to find work for a worker;

“service charge” means money or other benefits given as consideration in return for employment arrangement;

“expense” means expense incurred in arranging an employment;

“licensee” means a person who is licensed to arrange employment under this Act;

“employment agent” means a person who is registered by the licensee as an employment agent under this Act;

“office” means the employment arrangement office of the licensee;

“jobseeker” means a person who wishes to work and requests or receives wages in the forms of money or other benefits;

“skill testing”³ means any act which is conducted to obtain information on a jobseeker’s working skills in order to issue a certificate on the test results to the jobseeker, irrespective of whether a testing fee has been requested or received;

“training”⁴ means where an employer sends an employee to accumulate further working knowledge, skills, language, attitude or work proficiency in order to enhance their working efficiency;

“Fund” means the Fund for the Assistance of Jobseekers to Work Abroad, established under this Act;

“Committee of the Fund” means the Committee of the Fund for the Assistance of Jobseekers to Work Abroad;

“registrar” means the Central Employment Registrar and the *Changwat’s* Employment Registrar, as the case may be;

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

“Director-General”⁵ means the Director-General of the Department of Employment;

³ Section 4 defines the word “skill testing” as added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

⁴ Section 4 defines the word “training” as added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

⁵ Section 4 defines the word “Director-General” as added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

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

Section 5.⁶ The Minister of Labour* shall have charge and control of the execution of this Act, and shall have the power to appoint the registrar and competent official, and to issue the Ministerial Regulations prescribing fees not exceeding the rates hereto attached, to grant exemption from fees and to prescribe other acts or to issue rules for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Royal Gazette.

CHAPTER I
OFFICE OF CENTRAL EMPLOYMENT REGISTRATION,
OFFICE OF *CHANGWAT* EMPLOYMENT REGISTRATION AND EMPLOYMENT OFFICE

Section 6.⁷ The Office of Central Employment Registration shall be established in the Department of Employment, Ministry of Labour*, with the Central Employment Registrar as the person having the powers and duties under this Act.

In a *Changwat* other than Bangkok Metropolis, the Office of the *Changwat* Employment Registration may be established under the direct control of the Office of Central Employment Registration, with the *Changwat* Employment Registrar as the person having the powers and duties under this Act.

The establishment of the Office of *Changwat* Employment Registration shall be published in the Royal Gazette.

Section 7.⁸ An Employment Office shall be established in the Department of Employment, the Ministry of Labour*, to be called the “Employment Office, the Department

⁶ Section 5 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

⁷ Section 6 paragraph one was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

⁸ Section 7 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

of Employment” and shall have the duty to help, with no service charge, finding work for people.

The branches of the Employment Office, the Department of Employment, may be established as the Director-General deems appropriate.

CHAPTER II

DOMESTIC EMPLOYMENT ARRANGEMENT

Section 8. No person shall undertake to arrange employment for a jobseeker to work domestically, except where the license is granted by the registrar.

The application for, and the issuance of, a license shall be in accordance with the criteria, procedure and conditions as prescribed by the Ministerial Regulations.

The registrar shall grant a license or notify in writing a refusal order with reasons thereof to the applicant within sixty days from the date of receipt of the application with correct and complete details as prescribed by the Ministerial Regulations.

In a case where there is a necessity that the registrar is unable to issue the license or the refusal order within the period prescribed in paragraph three, such period may be extended no more than twice, not exceeding thirty days each time. However, there must be a written notification of each extension and the reasons thereof to the applicant before the expiration of the period under paragraph three or the already extended period, as the case may be.

Section 9. The applicant for a domestic employment arrangement license shall have the qualifications and shall not be under the prohibitions as follows:

- (1) having Thai nationality;
- (2) being no less than twenty years of age;
- (3) not being a licensee of the employment arrangement license;
- (4) not being under a suspension period of an employment arrangement license;
- (5) not being a licensee whose employment arrangement license has been revoked;
- (6) not being an incompetent or quasi-incompetent person;
- (7) not being, or not having been, a person of disgrace behaviour or defective moral;

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(8) not being a director, partner or manager of a legal person who is a licensee of an employment arrangement license;

(9) not being a director, partner or manager of a legal person whose employment arrangement license has been revoked or is under appeal against an order revoking employment arrangement license ;

(10) not having been sentenced by a final judgment of the Court or by a legitimate order to a term of imprisonment for any offence prescribed by law where dishonesty is an element or any offence under this Act;

(11) having submitted money, in the amount prescribed by the Ministerial Regulations, as security to the registrar for the execution of this Act, which shall be no less than one hundred thousand baht.

In a case where the applicant is a legal person, such legal person must have Thai nationality, and its manager shall have the qualifications and not being under the prohibitions under paragraph one.

Section 10. A license shall be valid within the area of the *Changwat* specified therein for a period of two years from the date of its issuance.

If a domestic employment arrangement licensee desires to renew the license, he or she shall submit the renewal application no less than thirty days prior to the expiry date of the license. Upon such submission, the applicant may continue his or her undertaking until the registrar issues a refusal order on the renewal application.

The granting of a license and its renewal of the license shall be in accordance with the criteria, procedure and condition as prescribed by the Ministerial Regulations.

The granting of permission or the refusal order on the application shall be made within thirty days from the date of receipt of the application with correct and complete details as prescribed by the Ministerial Regulations.

Section 11. A domestic employment arrangement licensee must display his or her license at an open and easily visible place, at his or her office as specified therein.

No domestic employment arrangement licensee shall establish his or her office at a hotel, dormitory, entertainment place, pawn shop, a place where gambling has been organized on a regular basis or other places as prescribed by the Minister.

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Section 12. In a case where a domestic employment arrangement licensee desires to relocate his or her office or establish a temporarily office outside of the licensed locality, the licensee shall submit an application to the registrar.

The application for and the granting of permission shall be in accordance with the rules prescribed by the Minister; and the provisions of section 10 paragraph four shall apply *mutatis mutandis*.

Section 13. In a case where a domestic employment arrangement licensee desires to change his or her manager, the licensee shall submit an application to the registrar.

The application for and the granting of permission shall be in accordance with the rules prescribed by the Minister; and the provisions of section 10 paragraph four shall apply *mutatis mutandis*.

Section 14. In a case where the registrar refuses to grant a licence, refuses to renew a license, refuses to grant permission for the relocation of office, refuses to grant permission for the establishment of temporarily office or refuses to grant permission to change the manager, the applicant or the domestic employment arrangement licensee shall have the right to appeal to the Minister within thirty days from the date of receipt of the letter notifying such refusal or the expiration of the period under section 8 paragraph four or section 10 paragraph four, as the case may be.

The decision of the Minister shall be final.

Section 15. A domestic employment arrangement licensee shall register its employees and employment agents with the registrar in accordance with the criteria, procedure and conditions as prescribed by the Ministerial Regulations, and shall keep the register thereof in accordance with the form prescribed by the Director-General at the office in order for the jobseekers to be able to examine it during the working hours.

The employee and employment agent must not be an employee or employment agent of another domestic employment agency simultaneously, and shall have qualifications and not being under the prohibitions under section 9, except for the qualification under section 9 (1) and (2) which shall not apply to the employee.

A license granted to any domestic employment arrangement licensee shall also cover the registered employees or agents in the country of such licensee.

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An act relating to employment arrangement done by the registered employees or employment agents of the domestic employment arrangement licensee shall be deemed an act of the licensee.

Section 16. In the submission of a request for an employment agent registration under section 15, the domestic employment arrangement licensee shall submit a security to the registrar for each employment agent requesting to be registered at an amount prescribed by the Ministerial Regulations, but no less than fifty thousand baht each. The security may be cash, a Thai government bond or a letter of guarantee of a bank.

In a case where the employment agent violates the provisions of this Act and causes damage to a jobseeker, if the registrar is of the opinion that there is a reasonable ground to belief that such violation is made by the agent, the registrar shall notify, in writing, such incident to the domestic employment arrangement licensee. If the domestic employment arrangement licensee fails to refute such incident within thirty days from the date of receipt of the notification, the registrar shall have the power to pay compensation to the jobseeker for damage that the registrar considers to be actual, from the security given under paragraph one.

Section 17. In a case where the security submitted by the domestic employment arrangement licensee under section 9 (11) and section 16 paragraph one has decreased on account of the payment under this Act, the registrar shall, in writing, order the licensee to give additional security to meet the prescribed amount within thirty days from the date of receipt of the order.

Section 18. The security given by the domestic employment arrangement licensee under section 9 (11) and section 16 paragraph one shall be non-leviable as long as the domestic employment arrangement licensee does not terminated the employment arrangement business or the licensee has terminated the employment arrangement business but he or she has not been discharged from liability under this Act.

In a case where the employment arrangement business has been terminated, the domestic employment arrangement licensee may request for the return of the given security under section 9 (11) when the debt incurred under this Act has been performed completely. However, if the remaining debt is less than the given security, the registrar shall

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have the power to reduce the security to an amount equal to the outstanding debt accountable.⁹

The domestic employment arrangement licensee may request for the return of the given security under section 16 paragraph one when the employment agent ceases being an employment agent with no debt to be performed under section 16 paragraph two.

In a case where the domestic employment arrangement licensee does not request for the return of the given security within five years from the date of termination of the employment arrangement business, such given security shall be vested in the State.

Section 19. In a case where a domestic employment arrangement licensee desires to employ jobseekers from a *Changwat* other than the licensed *Changwat*, the licensee shall submit a request to the registrar.

The application for and the granting of permission under paragraph one shall be in accordance with the rules prescribed by the Minister.

Section 20. In carrying out their duties outside the office, the domestic employment arrangement licensee, manager, employee or employment agent shall present the identification card to the relevant persons.

The identification card of the domestic employment arrangement licensee, manager, employee or employment agent shall be in accordance with the form of prescribed by the Director-General.

The identification card under paragraph two shall be valid for one year from the date of issuance.

The request for, and the issuance of the identification card shall be in accordance with the rules prescribed by the Minister.

Section 21. A manager, employee or employment agent who ceases being manager, employee or employment agent must return the identification card to the registrar or the domestic employment arrangement licensee within seven days from the date he or she ceases being manager, employee or employment agent.

A licensee who receives the returned identification card under paragraph one must send such identification card to the registrar within seven days from the date of receipt of such identification card from the manager, employee or employment agent.

⁹ Section 18 paragraph two was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

Section 22. In a case where the license or identification card is lost or damaged, the domestic employment arrangement licensee shall submit a request for a substitution of the license or identification card, as the case may be, within fifteen days from the date such loss or damage is known.

The request for, and the issuance of, a substitution of the license or identification card shall be in accordance with the rules prescribed by the Minister.

Section 23. In arranging an employment, the domestic employment arrangement licensee must make an employment arrangement contract with jobseekers.

The employment arrangement contract under paragraph one shall be in the form prescribed by the Director-General.

Section 24. An employment agent is prohibited from making an employment arrangement contract with jobseekers on behalf of the domestic employment arrangement licensee, except where written authorization of such licensee has been made in accordance with the form prescribed by the Director-General and such licensee has notified, in writing, to the registrar of such authorization.

Right of the jobseeker or third person who acts in good faith shall not be prejudiced on account of the employment agent not having been authorized by the licensee or the authorisation has not been made in accordance with the form prescribed by the Director-General.

Section 25. A domestic employment arrangement licensee must act in compliance with the followings:

(1) arranging for the registration book, account and documents relating to business of the licensee in accordance with the form with particulars prescribed by the Director-General;

(2) preparing and submitting the monthly employment arrangement report, in accordance with the form prescribed by the Director-General, to the registrar within the tenth day of the following month.

If there is an incident to be recorded in the registration book, account or documents relating to business of the licensee, such licensee must record such incident therein within seven days from the date of occurrence of such to be recorded incident.

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Section 26. A domestic employment arrangement licensee is prohibited from demanding or receiving any money or property from a jobseeker other than service charge or expense.

Service charge or expense under paragraph one shall be demanded or received at a rate not exceeding the rate prescribed by the Minister.

Section 27. A domestic employment arrangement licensee is prohibited from demanding or receiving service charge or expense before the employer accepts the jobseeker to work and makes the first payment of wage to such employee.

Upon receiving service charge or expense, a domestic employment arrangement licensee shall issue a receipt to the jobseeker in accordance with the form prescribed by the Director-General.

Section 28. In a case where a jobseeker does not get a job as stipulated in the employment arrangement contract or earns less wage than the amount stipulated in the employment arrangement contract or gets a job in a position which is not as stipulated in the employment arrangement contract, a domestic employment licensee shall arrange for such a jobseeker to travel back to the office or temporarily office where the licensee made the employment arrangement contract with such jobseeker. In this regards, the licensee shall be responsible for the travel expense, accommodation and meals of a jobseeker, including the return of the service charge and expense received under section 27 to such jobseeker, as well as notifying, in writing, to the registrar in accordance with section 25 (2) within fifteen days from the date that such arrangements are to be made.

In a case where a jobseeker refuses to travel back or agrees to work and earn less wage than the amount stipulated in the employment arrangement contract or to keep a job in a position which is not as stipulated in the employment arrangement contract, a domestic employment arrangement licensee is not responsible for arranging for the jobseeker to travel back. However, the registrar must be notified in accordance with paragraph one.

Section 29. Where the registrar knows that there is a ground for a domestic employment arrangement licensee to arrange for a jobseeker to travel back under section 28 paragraph one, but the domestic employment arrangement licensee fails to do so within fifteen days from the date that such ground occurs, the registrar shall arrange for the jobseeker to travel back by using the security money deposited under section 9 (11).

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CHAPTER III
OVERSEAS EMPLOYMENT ARRANGEMENT

Section 30. No person shall undertake to arrange overseas employment for a jobseeker, except where a license is granted by the Central Employment Registrar.

The application for and the issuance of a license shall be in accordance with the criteria, procedure and conditions as prescribed by the Ministerial Regulations.

Section 31. The applicant for the overseas employment arrangement license must be a company limited or public company limited and shall have the qualifications and not being under the prohibitions as follows:

(1) having its registered and paid up capital as prescribed by the Ministerial Regulations, but no less than one million baht;

(2) having its capital belonging to shareholders of Thai nationality for no less than three-fourth of the total capital, and the number of shareholders of Thai nationality being no less than three-fourth of the total number of the shareholders;

(3) not being a licensee of an employment arrangement license;

(4) not being under a suspension period of an employment arrangement license;

(5) not having had an employment arrangement license revoked;

(6) having its manager with the qualifications and without being under the prohibitions as prescribed under section 9;

(7) having submitted money to the registrar as security for the execution of this Act in an amount prescribed by the Ministerial Regulations, but no less than five hundred thousand baht.

Section 32. Apart from the employment business, the overseas employment arrangement licensee shall not run a business as prescribed by the Ministerial Regulations.

Section 33. The security to be deposited by the overseas employment arrangement licensee under section 31 (7) must be cash, a Thai government bond or a letter of guarantee of a bank.

Such licensee may request to change the security.

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In a case where the security submitted by such licensee has decreased on account of the payment under this Act, the registrar shall, in writing, order the licensee to give additional security to meet the prescribed amount within thirty days from the date of receipt of the order.

Section 34.¹⁰ The security given by the overseas employment arrangement licensee under section 31 (7) and section 16 paragraph one which is applied *mutatis mutandis* under section 47 shall be non-leviable as long as the licensee does not terminated the employment arrangement business or the licensee has terminated the employment arrangement business but the licensee has not been discharged from liability under this Act.

In a case where the employment arrangement business has been terminated, the overseas employment arrangement licensee may request for the return of the given security under section 31 (7) when total debt incurred under this Act has been performed. However, if the remaining debt is less than the given security, the registrar shall have the power to reduce the security to an amount equal to the outstanding debt accountable.

In a case where the overseas employment arrangement licensee does not request for the return of the given security within five years from the date of termination of the employment arrangement business, such given security shall be vested in the Fund.

Section 35. In a case where the overseas employment arrangement licensee desires to take application or announce the taking of application from jobseekers in advance, the licensee shall submit a request to the registrar.

The application for and the granting of permission shall be in accordance with the rules prescribed by the Minister, and the provision of section 10 paragraph four shall apply *mutatis mutandis*.

Section 36.¹¹ In sending a jobseeker to work abroad, the overseas employment arrangement licensee shall act as follows:

(1) submitting, prior to sending a jobseeker to work abroad, the employment arrangement contract which is made between the overseas employment arrangement licensee or its employment agent and a jobseeker, together with conditions for such

¹⁰ Section 34 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

¹¹ Section 36 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

employment of labour which are made between the overseas employer or the authorized agent of such employer and the jobseeker as well as other evidences as prescribed by the Director-General, to the Director-General for his or her consideration;

(2) sending a jobseeker to have a medical examination in accordance with the criteria and procedure, and at an infirmary prescribed by the Director-General;

(3) sending a jobseeker to receive a skill testing in accordance with the criteria prescribed by the Director-General of the Department of Skill Development;

(4) sending the selected jobseeker who passes a skill testing to get training on laws, custom and tradition of the country in which the jobseeker is to work, including training on working conditions, at the Central Employment Registration Office, *Changwat* Employment Registration Office or any other institutions as prescribed by the Director-General;

(5) submitting a list specifying the name and workplace abroad of a jobseeker, together with a copy of the employment contract to the Central Employment Registrar within seven days from the departure date of a jobseeker;

(6) notifying, in writing and together with a list specifying the name and workplace of a jobseeker in accordance with (5), the Thai Labour Office in the country where a jobseeker is working within fifteen days from the arrival date of a jobseeker. In a case where there is no Thai Labour Office in such country, such notification shall be made, within the aforesaid period, to the Royal Thai Embassy or the Royal Thai Consulate in such country or the Royal Thai Embassy or the Royal Thai Consulate or other persons having a duty to take care of Thai nationals in such country.

(7) report, monthly, to the Central Employment Registrar within the tenth day of the following month in a case where there is a jobseeker who is still yet to go to work abroad under the employment arrangement contract.

The provisions of (3) shall not apply to a jobseeker who already has the skill testing certificate in the field to be employed.

The report under (7) shall be made in the form prescribed by the Director-General.

Section 37. The overseas employment arrangement licensee shall organize for the overseas employer who makes an employment contract with a jobseeker to remit money to the Fund established under section 52 for each jobseeker. If such organization for the money to be remitted by the overseas employer is not possible, the licensee shall have the duty to remit money to the Fund.

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In a case where the Employment Office, the Department of Employment is a person who undertake to arrange the overseas employment for a jobseeker, the Director-General shall organize the overseas employer to remit money to the Fund under paragraph one. If such organization for the money to be remitted by the overseas employer is not possible and a jobseeker expresses his or her desire to work abroad by agreeing to remit money to the Fund by himself or herself, the Director-General shall have the power to collect money from such jobseeker in order to remit to the Fund.¹²

The remittance of money to the Fund shall be in accordance with the criteria, procedure, time limit and rates as prescribed by the Ministerial Regulations. Such rates may be varied upon the country or region that a jobseeker is to be sent abroad to.

Section 38. An overseas employment arrangement licensee is prohibited from demanding or accepting service charge from a jobseeker in advance for more than thirty days before the departure date. In case where it is necessary, the overseas employment arrangement licensee may request the Central Employment Registrar to extend such period. If the Central Employment Registrar deems it appropriate, such period may be extended. However, the extension of such period may be made only once for no more than thirty days.

The demand or acceptance of money under paragraph one shall be made only to the employment under the contract permitted by the Director-General under section 36.

Section 39. In a case where a jobseeker reaches the country of employment but has not got a job as stipulated in the employment arrangement contract, the overseas employment arrangement licensee shall act as follows:

(1) arrange for such jobseeker to travel back to Thailand and the licensee shall be responsible for expenses for travelling, accommodation, meals and other necessary expenses to such jobseeker until he or she arrives in Thailand;

(2) notify, in writing, the Thai Labour Office in such country for information within fifteen days. In a case where there is no Thai Labour Office in such country, the notification shall be made to the Royal Thai Embassy or the Royal Thai Consulate in such country or the Royal Thai Embassy or the Royal Thai Consulate having a duty to take care of Thai nationals in that country. A copy of such notification shall also be sent to the Central Employment Registration Office.

¹² Section 37 paragraph two was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

Section 40.¹³ In a case where a jobseeker reaches the country of employment but the jobseeker does not get a job as stipulated in the employment arrangement contract or earns less wage than the amount stipulated in the employment arrangement contract or gets a job in a position which is not as stipulated in the employment arrangement contract, such jobseeker may request the overseas employment arrangement licensee to organise for him or her to travel back to Thailand or may agree to work for the lower wage, position or other benefits which are not as stipulated in the employment arrangement contract. However, if a jobseeker requests the overseas employment arrangement licensee to organise for him or her to travel back to Thailand, such jobseeker shall notify his or her desires, in writing, to the licensee or agent of the licensee in such country for information within ninety days from the date he or she has known that he or she has got the lower wage or position or other benefits which are not as stipulated in the employment arrangement contract. In a case where the notification to the licensee or agent of the licensee in such country is not possible, such notification shall be made to the Royal Thai Embassy or the Royal Thai Consulate in such country or the Royal Thai Embassy or the Royal Thai Consulate or other persons having a duty to take care of Thai nationals in such country so as to further inform the licensee.

In a case where a notification under paragraph one has been made by a jobseeker, the provisions of section 39 shall apply *mutatis mutandis*.

In a case where a jobseeker agrees to work for the lower wage, position or other benefits which are not as stipulated in the employment arrangement contract, the licensee shall not be responsible for the arrangement for the jobseeker to travel back to Thailand, but must still act in accordance with section 39 (2).

Section 41.¹⁴ In a case where the overseas employment arrangement licensee, who has the duty to organise for a jobseeker to travel back to Thailand in accordance with section 39 or section 40, has already arranged for the jobseeker to travel back to and arrive in Thailand, such overseas employment arrangement licensee may submit a request to the Director-General to receive a compensation from the Fund in an amount equal to one-half of all expenses which he or she must pay under section 39 (1). If the Director-General is of the opinion that the circumstance in which a jobseeker does not get a

¹³ Section 40 paragraph two was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

¹⁴ Section 41 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

job or receives a lower wage, position or other benefits which are not as stipulated in the employment arrangement contract is not caused by any fault made by the licensee; and the licensee has tried his or her best to make a jobseeker to get a job or receive a wage, position or other benefits as stipulated in the employment contract; or the licensee has tried his or her best to organise for a jobseeker to travel back to Thailand as soon as possible, the Director-General may give approval for the compensation to be paid to the licensee from the Fund.

Section 42. In a case where the overseas employment arrangement licensee has notified a jobseeker of his or her readiness to organise for the jobseeker to travel back to Thailand under section 39 (1) or section 40, but the jobseeker refuses to travel back to Thailand within sixty days from the date of being notified, the licensee must act in accordance with section 39 (2) and deposits money at the Central Employment Registration Office in an amount prescribed by the Central Employment Registrar to pay for travel expense, accommodation, meals and other necessary expenses for the trip back to Thailand of such jobseeker.

The amount of money which has been paid from the Fund by the official in organising for such jobseeker to travel back to Thailand shall be deducted from the money deposited by the licensee under paragraph one. If there is any remaining money, it shall be returned to the licensee without delay. If the deposited money is insufficient, the Central Employment Registrar shall deduct the deposited security under section 31 (7).

In a case where a jobseeker does not travel back to Thailand within ninety days as from the date the licensee has deposited money under paragraph one, without reasonable ground, the licensee shall not be responsible for the organisation for such jobseeker to travel back to Thailand and may ask for the return of such money.

When the jobseeker under paragraph one arrives back in Thailand, the licensee who acts in accordance with this section shall have the right to submit a request to the Director-General for the licensee to receive compensation from the Fund for all expenses paid by him. In this case, the provisions of section 41 shall apply *mutatis mutandis*.

Section 43. When the Central Employment Registrar knows that there is a ground in which the overseas employment arrangement licensee must organise for a jobseeker to travel back to Thailand under section 39 (1) or section 40 but the licensee has not yet done so within fifteen days from the date which such ground has occurred, the Central Employment Registrar shall organise for such jobseeker to travel back to Thailand.

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In organising for the jobseeker to travel back to Thailand under paragraph one, the Central Employment Registrar shall advance the money from the Fund and shall notify the licensee, in writing, to refund such money within the prescribed period. If the licensee does not refund the money within the prescribed period, the Central Employment Registrar shall deduct such amount of money from the deposited security under section 31 (7).

Section 44.¹⁵ In a case where a jobseeker has got wage, position or other benefits as stipulated in the employment arrangement contract, but he or she does not perform the obligations under such contract, the overseas employment arrangement licensee shall not be responsible for organising for such jobseeker to travel back to Thailand, but must act in accordance with section 39 (2).

Section 45.¹⁶ In a case where a jobseeker has got wage, position or other benefits as stipulated in the employment arrangement contract and he or she has worked until the employment arrangement contract has expired, but he or she does not travel back to Thailand without reasonable ground within thirty days from the date that the employment arrangement contract has expired or for a longer determined period as stipulated in the employment arrangement contract, or he or she has got a new job within such period, the overseas employment arrangement licensee shall not be responsible for organising for such jobseeker to travel back to Thailand, but must act in accordance with section 39 (2).

Section 46.¹⁷ In a case where the overseas employment arrangement licensee is unable to arrange for a jobseeker to depart within the period under section 38, or where a jobseeker does not get a job, or receives a lower wage, position or other benefits as stipulated in the provisions of the employment arrangement contract and the jobseeker does not desire to do such job, the overseas employment arrangement licensee shall return the collected service charge and expenses to a jobseeker within thirty day from the

¹⁵ Section 44 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

¹⁶ Section 45 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

¹⁷ Section 46 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

expiration date of the period under section 38 or from the date the jobseeker arrives back in Thailand, as the case may be.

In a case where a jobseeker is unable to work until the expiration of the period stipulated in the employment arrangement contract on account of the termination of employment which is not caused by the jobseeker, the licensee shall return the collected service charge and expenses to the jobseeker in proportion to the period which the jobseeker has worked within thirty days from the date that the jobseeker has requested for such return.

In a case where a jobseeker receives less wage than that stipulated in the employment arrangement contract but he or she still desires to do such job, the licensee shall return the collected service charge and expenses to the jobseeker in proportion to the actual wage which the jobseeker has received within thirty days from the date that the jobseeker has requested for such return.

In a case where the licensee does not comply with paragraph one, paragraph two or paragraph three, the Central Employment Registrar shall deduct such service charge and expenses from the security deposited under section 31 (7) and return such money to the jobseeker.

When the registrar has acted in accordance with paragraph four, he or she shall promptly notify the licensee for information.

Section 47.¹⁸ The provisions of section 8 paragraph three and paragraph four, section 10, section 11, section 12, section 13, section 14, section 15, section 16, section 17, section 18 paragraph three, section 19, section 20, section 21, section 22, section 23, section 24, section 25, section 26 and section 27 paragraph two of Chapter II on domestic employment arrangement shall apply to the overseas employment arrangement *mutatis mutandis*.

CHAPTER III *BIS* SKILL TESTING PLACE¹⁹

Section 47 bis. No person shall undertake skill testing of a jobseeker, except where a license has been granted by the Director-General of the Department of Skill Development.

¹⁸ Section 47 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

¹⁹ Chapter III *BIS*, Skill Testing Place, section 47 *bis*, section 47 *ter*, section 47 *quarter*, section 47 *quinque*, section 47 *sex*, section 47 *septem*, section 47 *octo* and section 47 *novem* were added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

The application for, and the issuance of, a license for skill testing of each occupation shall be in accordance with the criteria, procedure and conditions as prescribed by the Ministerial Regulations.

The provisions of paragraph one shall not apply to skill testing organized by a State agency as prescribed by the Ministerial Regulations. Such Ministerial Regulations may prescribe the criteria, procedure and conditions for such State agency to comply with.

Section 47 *ter*. A skill testing licensee must display his or her license at an open and easily visible place, at the skill testing place as specified therein.

Section 47 *quar*ter. In the skill testing of a jobseeker, a skill testing licensee shall have a test supervisor and shall act in accordance with the criteria and procedure as prescribed by the Director-General of the Department of Skill Development.

Section 47 *quinque*. A skill testing licensee is prohibited from demanding or accepting any money or property or other benefits from a jobseeker other than the skill testing fee.

The skill testing fee under paragraph one shall be demanded or accepted at a rate not exceeding the rate which has been prescribed by the Director-General of the Department of Skill Development with the approval of the Committee on the Development of Employment Arrangement and Jobseekers Protection.

Section 47 *sex*. A skill testing licensee shall ensure that there are registration accounting books and documents relating to his or her business in accordance with the criteria and procedure as prescribed by the Director-General, which shall be ready for inspection by the competent official.

Section 47 *septem*. A license shall be valid for two years from its issuance date.

If a skill testing licensee desires to renew a license, a request for such renewal shall be submitted no less than thirty days before the expiration date of the license. Upon the submission of such request, a skill testing licensee may undertake its business until the Director-General of the Department of Skill Development issues an order to refuse such request for extension.

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The application for the renewal of a license and the permission thereof shall be in accordance with the criteria, procedure and conditions as prescribed by the Ministerial Regulations.

Section 47 octo. In a case where the Director-General of the Department of Skill Development refuses to grant a license or to renew a license, the applicant or the skill testing licensee shall have the right to appeal to the Minister within thirty days from the date of receipt of such refusal notification.

The decision of the Minister shall be final.

During an appeal against an order refusing to renew a license, the Minister may or may not issue an order for the appellant to continue its business.

Section 47 novem. In a case where a license is lost, destroyed or materially damaged, the skill testing licensee shall submit a request for its substitution, in accordance with the rules prescribed by the Director-General of the Department of Skill Development, to the Director-General of the Department of Skill Development within fifteen days as from the date that such lost, destruction or material damage has been known to the licensee.

CHAPTER IV WORKING ABROAD

Section 48.²⁰ A jobseeker who desires to travel to work abroad by himself or herself without making an employment arrangement contract with the overseas employment arrangement licensee under the provisions in Chapter III shall notify the Director-General or a person entrusted by the Director-General no less than fifteen days before the trip.

The notification shall be made in the form prescribed by the Director-General.

Section 48/1.²¹ A jobseeker himself or herself or an employer or an overseas employment arrangement licensee whose money is remitted to the Fund under section 37,

²⁰ Section 48 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

²¹ Section 48/1 was amended by the Employment and Jobseeker Protection Act (No.3) B.E. 2544 (2001).

or a jobseeker travelling to work abroad by himself or herself under section 48 who voluntarily remits money to the Fund at the rate prescribed by the Ministerial Regulations under section 37 before leaving the Kingdom shall be entitled to the benefits from the Fund in accordance with the rules prescribed by the Minister under section 53 for the period under the employment contract that such jobseeker has.

A jobseeker who is still staying or working abroad shall be entitled to the benefits from the Fund under section 53 for a period of five years from the expiration date of the employment contract or from the date such contract is terminated.

If a jobseeker who is entitled to the benefits of the Fund under paragraph two makes an employment contract with a new or former employer and desires to continue to be entitled to the benefits from the Fund under paragraph two, such jobseeker or employer shall remit money to the Fund within sixty days from the expiration date under paragraph two.

Section 49. An employer in Thailand is prohibited from taking an employee to work abroad, except where a permission of the Director-General is granted.

The application for, and the granting of permission shall be in accordance with the rules prescribed by the Minister.

Section 49 bis.²² The sending of an employee, who works in an enterprise under the objectives of the employer, to get training abroad shall be carried out as follows:

(1) for a training period of less than forty-five days, the Director-General or a person entrusted by the Director-General shall be notified, before the employee leaves the Kingdom, in accordance with the form prescribed by the Director-General;

(2) in a case under (1), if an employee receives money or vested benefits abroad which are less than the rate and criteria prescribed by the Director-General, prior permission of the Director-General or a person entrusted by the Director-General must be obtained;

(3) for a training period of more than forty-five days, prior permission of the Director-General or a person entrusted by the Director-General must be obtained;

The application for, and the granting of, a permission under paragraph one (2) or (3) shall be as prescribed by the Ministerial Regulations.

²² Section 49 bis was added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

No money or any other benefit shall be collected in the sending of an employee to get training.

The employer who sends an employee to get training abroad shall be responsible for the return to the Kingdom of such employee in accordance with the criteria and procedure prescribed by the Director-General.

Section 50.²³ An employer abroad or its agent is prohibited from recruiting an employee in Thailand to work abroad himself or herself, except where he or she contacts the Employment Arrangement Office or the Department of Employment to arrange for the recruitment for him or her.

Section 51. When a jobseeker reaches the country of employment, he or she shall notify, in writing, the Thai Labour Office in such country within fifteen days from the arrival date. Such notification shall specify the name, domicile in Thailand, dwelling place and work place abroad. In a case where there is no Thai Labour Office in such country, the written notification shall be made to the Royal Thai Embassy or the Royal Thai Consulate in such country or the Royal Thai Embassy or the Royal Thai Consulate or other persons having a duty to take care of Thai nationals in that country within the aforesaid period.

CHAPTER VI

FUND FOR THE ASSISTANCE OF JOBSEEKERS TO WORK ABROAD

Section 52.²⁴ A fund shall be established in the Department of Employment, which shall be called the Fund for the Assistance of Jobseekers to Work Abroad, to be used for the undertakings under section 53 consisting of money and other properties as follows:

- (1) government subsidy;
- (2) money remitted to the Fund by the overseas employment arrangement licensees, employers or jobseekers under this Act;
- (3) interest of the Fund;
- (4) money or other properties donated by others;

²³ Section 50 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

²⁴ Section 52 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

(5) security vested in the Fund under section 34.

Money and other properties under paragraph one shall be remitted to the Fund without remitting to the Ministry of Finance as public revenue.

The administration and control of the Fund's spending shall be in accordance with the rules prescribed by the Minister with the approval of the Minister of Finance.

Section 53. The undertakings which may receive the Fund's spending are the following undertakings:

- (1) organising for jobseekers abandoned abroad to return to Thailand;
 - (2) ²⁵ assisting jobseekers who work or are going to work abroad or their statutory heirs;
 - (3) selecting and skill testing and training of jobseekers prior to working aboard.
- In this regards, it shall be in accordance with the rules prescribed by the Minister.

Section 54.²⁶ There shall be the Committee of the Fund for the Assistance of Jobseekers to Work Abroad, consisting of the Director-General as Chairperson and no more than six other persons appointed by the Minister as members. The Director of the Office of Overseas Employment Administration shall be a member and a secretary.

Section 55. A member appointed by the Minister shall hold office for a term of three years.

In a case where there is an appointment of a new member during the existing term of office of the appointed members, irrespective of whether it is an additional or replacement appointment, the newly appointed member shall remain in office for the remaining term of the appointed members.

A member who vacates office may be reappointed, but for no more than two consecutive terms.

Section 56. In addition to vacating the office at the end of the term under section 55, a member appointed by the Minister vacates office upon:

²⁵ Section 53 (2) was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

²⁶ Section 54 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

(1) death;
 (2) resignation;
 (3) being dismissed by the Minister;
 (4) being a bankrupt;
 (5) being an incompetent or quasi-incompetent person;
 (6) having been sentenced by a final judgment of the Court or legitimate order to a term of imprisonment, except for an offence committed through negligence or a petty offence.

Section 57. At a meeting of the Committee of the Fund the presence of no less than one-half of the total number of the members is required to constitute a quorum. If the Chairperson is not present or is unable to perform his or her duty, the members present shall select one amongst themselves to preside over the meeting.

A decision in a meeting shall be made by a majority of votes.

In casting the votes, each member shall have one vote. In case of an equality of votes, the person who presiding member shall have an additional vote as the casting vote.

Section 58. The Committee of the Fund shall have the powers and duties as follows:

(1) to give recommendations to the Minister in the issuance of the rules under section 52 and section 53;

(2) to give advice to the Director-General, registrar and competent official in the operations relating to the Fund under this Act.

Section 59. The Minister shall have the power to earn interest from money of the Fund under section 52 (2) (3) (4) and (5), by depositing such money with the bank which is a State enterprise in a saving or times account, or by purchasing government securities.

Section 60. The Director-General or a person entrusted by the Director-General shall have the power and duty to order payment of money of the Fund for the undertakings under section 53.

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Section 61. Within ninety days from the end of the fiscal year, The Central Employment Registrar shall prepare a balance sheet of the Fund for the elapsed fiscal year and publish it in the Royal Gazette.

CHAPTER V *BIS*

COMMITTEE ON THE DEVELOPMENT OF EMPLOYMENT ARRANGEMENT AND JOBESEEKER PROTECTION²⁷

Section 61 bis. There shall be a committee called the “Committee on the Development of Employment Arrangement and Jobseekers Protection,” consisting of the Permanent Secretary of the Ministry of Labour* as the Chairperson, a representative of the Ministry of Foreign Affairs, a representative of the Office of the National Economic and Social Development Board, a representative of the Royal Thai Police, a representative of the Department of Skill Development, a representative of the Department of Employment Arrangement as members and no more than eight other persons appointed by the Minister as members; of which at least three shall be persons having knowledge in employment and jobseekers protection, one shall be appointed from the employee and one shall be appointed from the employer. The Director of the Office of Overseas Employment Administration shall be a member and a secretary.

The Committee may appoint any person to be assistant secretary of the Committee.

Section 61 ter. The Committee shall have the powers and duties as follows:

- (1) to give recommendation to the Minister relating to policy and measure in employment arrangement and jobseekers protection;
- (2) to give recommendation to the Minister relating to measures for solving problems in an employment arrangement and jobseekers protection;
- (3) to give recommendation to the Minister relating to measures for the prevention and suppression of deceit against jobseekers;
- (4) to give counsel and advice on overseas employment standard to all related agencies;

²⁷ Chapter V *bis*, the Committee on the Development of Employment and Jobseeker Protection, Sections 61*bis*, 61*ter*, 61*quater* and 61*quinque* were added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

(5) to give counsel, guideline and practice to enhance being in employment and developing skill of Thai labour to all related agencies;

(6) to give counsel and advice related to the determination of testing standard and procedure in skill testing to all related agencies;

(7) to perform other acts as assigned by the Council of Ministers or the Minister.

Section 61 quarter. The provisions of section 55, section 56 and section 57 shall apply *mutatis mutandis* to the Employment Arrangement Development and Jobseekers Protection Committee.

Section 61 quinque. The Committee on the Development of Employment Arrangement and Jobseekers Protection may appoint a sub-committee to consider or perform any act as assigned by such Committee.

CHAPTER VI CONTROL

Section 62.²⁸ A jobseeker who leaves the Kingdom must travel through a jobseekers' checkpoint and shall submit a form as prescribed by the Director-General to the competent official at such checkpoint.

The jobseekers' checkpoint under paragraph one shall be established by the notification of the Minister by its publication in the Royal Gazette.

Section 63. In a case where the competent official finds that any person has no evidence relating to work or training abroad as prescribed by this Act, the competent official shall have the power to suspend such person from traveling out of the Kingdom as necessary according to the circumstance of the case. In this regards, the competent official shall clearly note the reasons for such suspension in the record.²⁹

²⁸ Section 62 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

²⁹ Section 63 paragraph one was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

The overseas employment arrangement licensee shall be responsible for all damages incurred from the suspension of travel order of the jobseeker under paragraph one. In a case where a jobseeker is not travelling through the organisation of the overseas employment arrangement licensee's organisation, the jobseeker shall be responsible for such damages.

Section 64. The licensee who is a natural person shall use the words "Employment Agency" in its business name, and the licensee who is a legal person shall use the words "Employment Partnership" or "Employment Company" in front of its business name.

Section 65. No person other than the licensee shall use its business name, words indicating its name or any other words in its business with the term "Employment Agency", "Employment Partnership", or "Employment Company" or foreign letters having the same meaning, except for the purpose of applying for an employment arrangement license.

Section 66. The employment arrangement advertisement shall be in accordance with the rules prescribed by the Minister.

Section 67.³⁰ In the execution of duties, the registrar or competent official shall have the power as follows:

(1) to enter the office or other places related to the employment arrangement, training or skill testing during the day or working hours so as to examine and control the execution of this Act;

(2) to confiscate or freeze registration book, accounts, documents or other evidences relating to the employment arrangement, training or skill testing in a case where there is a reasonable ground to believe that an offence under this Act has been committed;

(3) to summon or order an employment arrangement licensee, manager, employment agent, employee, jobseeker, sender of trainee, trainee, skill testing licensee or other related person to give statement or fact or to submit documents or other evidences to be a part of his or her consideration.

³⁰ Section 67 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

In the execution of duties under (1) or (2), the registrar or competent official shall present his or her identification card to the related person and such person shall facilitate him or her as appropriate.

The identification card of the registrar or competent official shall be in the form prescribed by the Minister.

Section 68. In the execution of duties under this Act, the registrar and competent official shall be the officer under the Penal Code.

Section 69. In a case where a licensee;

(1) is disqualified or having prohibited qualification under section 9 or section 31;

(2) fails to comply with, or does not act in accordance with, the provisions of this Act or Ministerial Regulations or rules issued under this Act;

the registrar shall have the power to order such licensee to act or to correct such act within the prescribed period or to suspend the license for no more than one hundred and twenty days each time.

Section 70. In a case where:

(1) a licensee fails to comply with, or correct any act according to, the order of the registrar under section 69 paragraph two within the prescribed period;

(2) a license of the licensee has been suspended for a period not yet exceeding one year or a license has been suspended twice and there is a reasonable ground to suspend such license again;

(3) the registrar is of the opinion that the licensee is unable to continue acting in compliance with this Act or Ministerial Regulations or rules issued under this Act;

(4) the registrar is of the opinion that the failure of the licensee who does not comply or act in accordance with this Act or Ministerial Regulations or rules issued under this Act is a serious matter or a fraud against the public;

the registrar shall have the power to revoke the license.

Section 71. The suspension or revocation order shall be made in writing and shall be notified to the licensee. In a case where a licensee is not found or refuses to receive the order, such order shall be posted at an open, easily visible place at the office of the licensee and deemed to be known by the licensee on the posting date.

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During the suspension period, the licensee is prohibited from performing any act relating to the employment arrangement, except the sending of jobseekers to work abroad as permitted by the Director-General under section 36 (1) before the suspension date.³¹

A licensee whose license is suspended or revoked shall be responsible for the sending of jobseekers under his or her responsibility back to their domicile or Thailand, as the case may be, until being discharged from liability under this Act, and shall have a duty to report to the registrar regarding the jobseekers who are still under his or her responsibility.

Section 72. The licensees whose license is suspended or revoked shall have the right to appeal to the Minister within thirty days from the date of receipt of the order.

The decision of the Minister shall be final.

An appeal against the order to the Minister under paragraph one does not stay the execution of the order to suspend or revoke the license.

Section 72 bis.³² In a case where the skill testing licensee fails to comply with, or does not act in accordance with, the provisions of this Act or Ministerial Regulations or rules issued under this Act, the Director-General of the Department of Skill Development shall have the power to order such licensee to act or to correct such act within the prescribed period or to suspend the license for the specified occupation or to revoke the license, as the case may be.

The suspension or revocation order shall be made in writing and shall be notified to the licensee. In a case where a licensee is not found or refuses to receive the order, such order shall be posted at an open, easily visible place in the skill testing place of the licensee and deemed to be known by the licensee on the posting date. In this regards, such order may also be published in a newspaper widely circulated in such locality.

During the suspension period, no licensee shall perform any act relating to skill testing as specified in the suspension order.

The provisions of section 72 shall apply *mutatis mutandis* to the appeal against the suspension or revocation order of the skill testing license.

³¹ Section 71 paragraph two was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

³² Section 72bis was added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

CHAPTER VII
PENALTY PROVISIONS

Section 73.³³ Any person who violates section 8 paragraph one, section 47 *bis* or section 47 *quinque* shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht, or to both.

Section 74.³⁴ Any person who fails to comply with section 11, section 12 paragraph one, section 13 paragraph one, section 20 paragraph one, section 21, section 23 paragraph one, section 24 paragraph one or those sections which are applied *mutatis mutandis* by section 47, or fails to comply with section 35 paragraph one, section 36 (3) or (7) or section 47 *quarter*, shall be liable to a fine not exceeding twenty thousand baht.

Section 75.³⁵ Any person who fails to comply with section 15 paragraph one, section 19 paragraph one, section 22 paragraph one or those sections which are applied *mutatis mutandis* by section 47, or fails to comply with section 36 (2), (4), (5) or (6), section 47 *ter*, section 47 *novem*, section 48, section 64 or section 65, shall be liable to a fine not exceeding five thousand baht.

Section 76. Any person who fails to comply with the order of the registrar under section 17 or section 33 paragraph three shall be liable to imprisonment for a term not exceeding six months and to a fine twice the amount of money to be given as additional security.

Section 77. Any person who falsely represents himself or herself as employee or employment agent of a licensee shall be liable to imprisonment for a term of one year to three years or to a fine of twenty thousand baht to sixty thousand baht, or to both.

³³ Section 73 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

³⁴ Section 74 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

³⁵ Section 75 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

Section 78.³⁶ Any person who fails to comply with section 25 or section 25 which is applied *mutatis mutandis* by section 47, section 36 (1) or section 47 *sex* shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand baht, or to both.

Section 78 bis.³⁷ Any person who falsely makes a record or report under section 25 or section 25 which is applied *mutatis mutandis* by section 47, or section 47 *sex* shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand baht, or to both.

Section 79. Any person who violates section 26, section 27 which is applied *mutatis mutandis* by section 47, or section 38 shall be liable to imprisonment for a term not exceeding one year and to a fine of five times the amount of service charge and expenses collected excessively or in advance or three times of the money or other properties accepted as security for such service charge or expenses.

Section 80. Any licensee who fails to comply with section 28 paragraph one or section 39 (1) shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding forty thousand baht, or to both.

Section 81. Any licensee who fails to give written notice under section 28, section 39 (2), section 40 paragraph three, section 42 paragraph one, section 44 or section 45 shall be liable to a fine not exceeding five thousand baht.

Section 82.³⁸ Any person who violates or fails to comply with section 30 paragraph one, section 49, section 49 *bis* paragraph one or paragraph three or section 50 shall be liable to imprisonment for a term of three years to ten years or to a fine of sixty thousand baht to two hundred thousand baht, or to both.

³⁶ Section 78 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

³⁷ Section 78*bis* was added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

³⁸ Section 82 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

Section 83. Any person who violates section 32 shall be liable to a fine of ten thousand baht to fifty thousand baht.

Section 84. Any overseas employment arrangement licensee who fails to remit money to the Fund under section 37 shall be liable to a fine of twenty thousand baht or three times the amount of money to be remitted to the Fund, whichever is greater.

Section 85. Any overseas employment arrangement licensee who has received service charge or expenses from a jobseeker but fails to send the jobseeker to work abroad without reasonable ground shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht, or to both.

Section 86. Any licensee who violates section 40 paragraph two shall be liable to penalty as provided in section 80 or section 81, as the case may be.

Section 87.³⁹ Any person who fails to comply with section 62 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand baht, or to both.

Section 88. Any person who advertises an employment arrangement which is in violation of, or not compliance with, rules prescribed by the Minister under section 66 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht, or to both.

Section 89. Any person who obstructs the registrar or competent official in the execution of his or her duties under section 67 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand baht, or to both.

Section 90. Any person who fails to facilitate the registrar or competent official in the execution of his or her duties under section 67 shall be liable to a fine not exceeding five thousand baht.

³⁹ Section 87 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

Section 90 bis.⁴⁰ Any person who violates the order of the registrar or competent official under section 67 (3) shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand baht, or to both.

Section 90 ter.⁴¹ Any domestic arrangement employment licensee who violates or fails to comply with section 71 paragraph two shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht, or to both.

Any overseas employment arrangement licensee who violates or fails to comply with section 71 paragraph two shall be liable to imprisonment for a term of three years to ten years or to a fine of sixty thousand baht to two hundred thousand baht, or to both.

Section 91. Any person who fails to comply with section 71 paragraph three shall be liable to penalty as provided in section 80 or section 81, as the case may be.

Section 91 bis.⁴² Any person who fails to comply with section 72 *bis* paragraph three shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht, or to both.

Section 91 ter.⁴³ Any person who deceives another person that he or she is capable of providing a job or sending another person to get training abroad and he or she obtains, by such deception, money, properties or other benefits from the deceived person shall be liable to imprisonment for a term of three years to ten years or to a fine of sixty thousand baht to two hundred thousand baht, or to both.

Section 92. In a case where an offender who must be liable to penalty under this Act is a legal person, the manager or the representative of such legal person shall also

⁴⁰ Section 90*bis* was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

⁴¹ Section 90*ter* was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

⁴² Section 91*bis* was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

⁴³ Section 91*ter* was added by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

be liable to penalty as prescribed by law for such offence, except where such person can prove that he or she takes no part in committing the offence of such legal person.

Section 93.⁴⁴ All offences under this Act which is punishable by a fine only or by a fine or imprisonment not exceeding six months, the following person shall have the power to settle them:

(1) Director-General, for the offence under this Act, except for the case under (2);

(2) Director-General of the Department of Skill Development, for the offence relating to skill testing under this Act.

The Director-General or the Director-General of the Department of Skill Development may assign the power of settlement under paragraph one to *Changwat* Governor for the offences committed in such *Changwat*.

In a case where there is an inquiry, if the inquiry official finds that any person commits an offence under this Act which may be settled and such person agrees to conclude the settlement, the inquiry official shall submit the case to the Director-General, Director-General of the Department of Skill Development or *Changwat* Governor who has been authorized from such persons, as the case may be, within seven days from the date such person agrees to conclude the settlement.

When an offender pays the full amount of settlement fine within the prescribed period but not exceeding thirty days, such case is deemed to be settled under the Criminal Procedure Code.

If an offender does not agree to conclude the settlement or agrees to a settlement but fails to pay the full amount of settlement fine within the period as prescribed in paragraph four, the case shall be continued.

TRANSITORY PROVISIONS

Section 94. All Ministerial Regulations and notifications issued under the Employment Arrangement and Jobseeker Protection Act, B.E. 2511 (1968) and are still in force prior to the date this Act comes into force shall remain in force in so far as they are

⁴⁴ Section 93 was amended by the Employment and Jobseeker Protection Act (No.2) B.E. 2537 (1994).

not contrary to, or in consistent with, this Act until the Ministerial Regulations, rules and notifications issued under this Act come into force.

Section 95. The employment license granted under the Employment and Jobseekers Protection Act, B.E. 2511 (1968) prior to the date this Act comes into force shall be valid until its expiration date. However, such licensee must act in compliance with section 64 within one hundred and twenty days from the date this Act comes into force and, during such period, section 74 shall not apply.

In a case where the licensee whose license has been granted prior to the date this Act comes into force desires to engage in overseas employment arrangement after the date this Act comes into force, he or she must act in compliance with this Act before engaging the overseas employment arrangement.

Section 96. For the purpose of requesting protection from the Fund for Jobseekers Working Abroad under this Act, a jobseeker who has been sent to work abroad by an overseas employment arrangement licensee under the Employment and Jobseekers Protection Act, B.E. 2511 (1968) may request the rights and benefits from the Fund by remitting money to the Fund at the rate as prescribed by the Ministerial Regulations under section 37 and submits documents and evidences as prescribed by the Director- General through the Central Employment Registration Office within one hundred and twenty days from the date such Ministerial Regulations come into force.

When the Central Employment Registration Office finds that all requirements has been fulfilled, it shall notify the jobseeker and such jobseeker shall be entitled to the rights and benefits from the date the Central Employment Registration Office has received money and documentary evidences under paragraph one.

Countersigned by
General Prem Tinsulananda
Prime Minister

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