

## Rule of Department of Employment

Governing Rules and Conditions of Considering Alien's Work B.E. 2545 (2002)

Translation

For efficiency of exercise of considering alien's work according to Section 7, Section 8, Section 9, Section 15, and Section 21 of Working of Aliens Act, B.E. 2521, it is expedient to prescribe rules and conditions of considering alien's work. By virtue of Section 32 of Act on Regulations of Government Administration, B.E. 2534, Director-General of Department of Employment with the approval from Minister of Labor And Social Welfare, hereby issued the rules as follow.

### Clause 1

This rule shall be called "Rule of Department of Employment Governing Rules and Conditions of Considering Alien's Work B.E. 2545 (2002)"

### Clause 2

This rule shall come into force as from the day following the date of its publication in the Government Gazette.

### Clause 3

The following shall be repealed;

- (1) Rule of Department of Employment Governing Rules of Considering Alien's Work B.E. 2537 dated 30th May B.E. 2537.
- (2) Rule of Department of Employment Governing Rules of Considering Alien's Work (No. 2) B.E. 2541 dated 19th November B.E. 2541.
- (3) Rule of Department of Employment Governing Rules of Considering Alien's Work (No. 3) B.E. 2542 dated 20th October B.E. 2542.

### Clause 4

In this rule;

"Authorized person of considering" means Director-General or official entrusted by the Director-General or registrar as the case may be.

"Consideration of permit issue" means issue of working permit according to Section 7, Section 8, Section 15, and Section 21 of Working of Aliens Act, B.E. 2521.

### Clause 5

Rules of considering issue working permit, renewal of permit and issue of permission to change work or locality or place of work, the authorized person shall grant permission only activities not contrary to law and grant permission only to alien who is qualify in any of the following cases;

- (1) The alien who works in business with paid-up capital and beginning capital not less than two million baht. It is allowed to have only one working alien for every two million baht but not more than ten working aliens. Documents to consider are paid-up capital evidence and business capital evidence, bank statement, and balance sheet of the previous year.
- (2) The alien who works in business that has paid income tax to government for the pass three years total amount not less than five million baht, this is allowed to have one working alien. Documents to consider are tax paid evidence.
- (3) The alien who works in business, which operate export products and bring in foreign currency at least three million baht in recent year. It is allowed to have

one working alien for every three million baht but not more than three working aliens. Documents to consider are export entry.

- (4) The alien who works in business, which employs Thai employees, every fifty Thai employees, it is allowed to have one working alien but not more than five working aliens. Documents to consider are form of fund delivery to social security fund.
- (5) The alien who has income and has paid annual personal income tax to Thai government from 18,000 Baht upwards or has paid personal income tax on the recent year at the sum of 18,000 Baht upwards. Documents to consider are personal income tax paid evidence.

#### **Clause 6**

Without enforce by clause 5 relating to number limitation of working aliens, at appropriate reason, Director-General may consider to issue working permit, renew permit or issue of permission to change work or locality or place of work to working alien by any of the following;

- (1) The alien who is representative of international trade who enter in to Kingdom of Thailand to check product standard or product purchasing or status of goods market study.
- (2) The alien who is consulting in investment, or management or technique and technology or internal audit periodically.
- (3) The alien who is tourism business representative who bring foreigners to visit Thailand.
- (4) International finance institute, which is supported by authorized organization.
- (5) Activity, entertainment, amusement, music, religion, social welfare, culture, sports which its nature is employment periodically and non-profit or create income to nations or benefit to public society.
- (6) To bring working alien to complete project of government or state enterprise with letter showing number of working alien, name and title.
- (7) Work that causes mostly using of domestic material or reducing import overseas material.
- (8) Work that support export of Thai products.
- (9) Work that brings technology which Thai has not yet created to publicize and transfer to Thais.
- (10) Work that Thai can do but is insufficient to response need of domestic labor market.
- (11) The alien who is resident in Kingdom of Thailand with residence certificate or alien identification card.
- (12) The alien who is spouse of Thai person, legally register marriage certificate and openly cohabit as husband and wife and has a faithful occupation.

Upon permission of Director-General, it shall be reported to Minister of Labor and Social Welfare within 15th next month.

#### **Clause 7**

In case the alien from country that may be harm to nation security as determined by Ministry of Foreign Affairs applies for working permit according to Section 7 or in case any person desires to have alien in his business in the Kingdom and apply for working permit instead of the alien according to Section 8, record and profile shall be examined with National Intelligence Agency, National Securities Center or Special Security Police Office, Royal Thai Police.

During above examination, if the application is applied under Section 7, the working permit may be granted to issue at the same period of stay allow in passport with not more than 90 days.

In case result of examination under the first paragraph appears that the above alien may be harm to nation security, must consider not granting permission or revoke permit and report to Royal Thai Police.

#### **Clause 8**

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

#### **Clause 9**

In case alien applies for working permit in establishment which is juristic person, foundation, association, or work for any person or group of persons in Thailand supported by international organization which is not under control of Department of Technical and Economic Cooperation, such international organization shall be examined concerning its operation in Thailand, if it has not yet applied for operating in the Kingdom and/or setup regional office in Thailand according to rule governing international private organization operation in Thailand, such application shall be held until such international private organization shall comply with above mentioned rules.

#### **Clause 10**

In case the authorized person of considering issues an order refusing, letter informing reason of refusal to the applicant.

#### **Clause 11**

The applicant has the right to appeal to the Minister by submitting a written appeal to the Director-General or official entrusted by the Director-General or the Registrar, as the case may be, within thirty days from the date of the knowledge of the order of refusing to issue a permit or not granting permission or refusing to renew the permit or not granting permission to change the work or locality or place of work. Upon receipt of the appeal, it shall be referred to the Committee within fifteen days and the Committee shall then consider and submit its opinion to the Minister within fifteen days and the Minister shall complete his consideration of the appeal within thirty days. The decision of the Minister shall be final. In the case of an appeal against an order refusing the renewal of a permit under Section 15 as mentioned in paragraph one, the appellant has the right to continue working until the Minister decides on the appeal.

#### **Clause 12**

Any alien who has been granted a permit prior to the date this rule comes into force shall continue to engage in the work until the end of the granting period.

Announced on the 22nd Day of May B.E. 2545

Ms. Wanchai Padungsuppalai

Director-General of Department of Employment

**Standard of Considering renewal permit, change work, or change locality or change place of work according to rule of Department of Employment, B.E. 2545**  
(select only one clause)

1. Business with paid-up capital and beginning capital not less than two million baht. Every two million baht is allowed to have one working alien but not more than ten working aliens, as following documents;
  - 1.1. Company Registration Documents.
  - 1.2. List of Shareholders (Bor. Or. Jor. 5)
  - 1.3. Balance sheet of recent year after deduction of allowance (Not less than 2 million Baht in Bank).
  - 1.4. Bank statement with not less than 2 million Baht cash flow.
2. Business that has paid income tax to government for the pass three years total amount not less than five million baht is allowed to have one working alien, as following documents;
  - 2.1. Copy of Por. Ngor. Dor. 50 Tax form.
  - 2.2. Copy of receipt issued by Revenue Department.
3. Business that operate export products and bring in foreign currency at least three million Baht in recent year is allowed to have one working alien for every three million Baht but not more than three working aliens, as following documents;
  - 3.1. Copy of export entry with the same value showing to Customs Department.
4. Business, which employs Thai employees, every fifty Thai employees, it is allowed to have one working alien but not more than five working aliens, as following documents;
  - 4.1. Form of fund delivery to social security fund.
  - 4.2. Copy of receipt issued by Social Security Department.
  - 4.3. List of employees in social security program.
5. Being alien who has income and has paid annual personal income tax to Thai government from 18,000 Baht upwards or has paid personal income tax on the recent year at the sum of 18,000 Baht upwards, as following documents;
  - 5.1. Copy of personal income tax paid evidence in the recent year or letter certified tax paid of the alien issued by Provincial Revenue Department with receipt issued by Revenue Department.
6. Beyond clause 1 - 5, shall propose to Director-General for consideration.

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