



Thailand Work Permits 2018

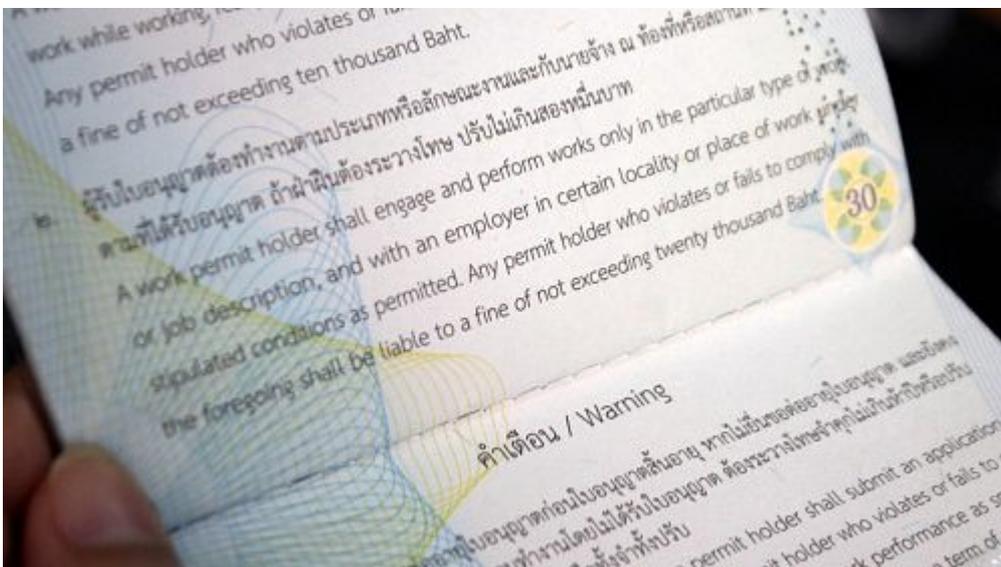
Royal Decree blows work permits wide open

PHUKET: Last month in part one on our series on Thailand's new foreign labour law we explained that the new law allows foreigners to work without a work permit in some limited but significant circumstances.

<https://www.thephuketnews.com/phuket-law-royal-decree-blows-work-permits-wide-open-68051.php#8WZuSApdjEM3gj5G.97>

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Under the old rules, foreigners who needed a work permit were prohibited from doing any work, for any employer, anywhere, under any such conditions if such were not detailed and, therefore, permitted in the work permit itself. That is no longer the case. Photo: The Phuket News

Also noted in our first report was how the very definition of work had been revised and that applications for work permits can now be made electronically from within and from outside Thailand.

What most people have failed to notice so far is that the new law is also very good news for foreigners who are still required to obtain a work permit.

Previously, foreigners who needed to obtain a work permit in order to work were prohibited from doing any work, for any employer, anywhere, and under any such conditions if such were not detailed and, therefore, permitted in the work permit itself.

That is no longer the case.

Until last year Thailand regulated foreign work permissions under the Alien Workers Act (2008) (the “Act”).

In 2017 the Emergency Decree on Non-Thais’ Working Management Emergency Decree, (2017) (“Decree No. 1”) repealed the Alien Workers Act (2008).

Decree No. 1, however, incorporated much of the repealed Act’s provisions and kept in force most of the regulations issued under it.

Then, on 27 March 2018, the Emergency Decree on Non-Thais’ Working Management (No.2) (2018) (“Decree No. 2”) was issued. Decree No. 2 amended Decree No. 1.

Section 70 of Decree No. 1 (and the Act) provided that “a person who is granted permission for working may not carry out the work of the type, with the employer, in a locality or on any working condition that is different from that specified in their work permit unless permission under Section 71 is obtained.”

Section 71 of Decree No. 1 (and the Act) provided that “a person who is granted permission for working, and who intends to change or add the following particulars, must obtain permission from the Registrar: (1) type of work (2) employer (3) location or (4) working conditions.”

And Section 73 of Decree No. 1 (and the Act) provided that “no person may allow a foreigner to work in a manner different from the requirements specified in the work permit.”

However, and very significantly, Section 37 of Decree No. 2 repealed Sections 70, 71, and 73 of Decree No. 1.

Furthermore, Section 28 of Decree No. 2 provides that a work permit holder may engage in any work that is not specifically prohibited to all foreigners on the “Official List” of work prohibited to foreigners.

The Official List outlines, the limited number of activities for which a foreigner cannot obtain work permission for in any case. (The current Official List is the same as was last issued under the Act. However, the Official List has been revised and we will detail such in part three of this series.)

As a consequence, any foreigner who has a work permit in Thailand may now, work anywhere, for anyone (including themselves), under any conditions, and do any type of work, that is not excluded by the Official List.

This is a very significant and welcome change to the Thai foreign labour law regime.

It is obviously good news for work permit holders in Thailand – and Thailand will also benefit from having made its labour market more attractive to the best foreign labour talent it needs to compete for in the ever-increasing globalised economy.

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