

WORKING IN THAILAND

FOREIGN/ALIEN EMPLOYMENT

A foreigner may work in Thailand if he/she has a valid visa and a work permit and is able to perform work that does not violate the Alien Employment Act. Most foreigners who intend to work in Thailand are subject to the Alien Employment Act B.E. 2551 (A.D. 2008), which was recently enacted to repeal and replace the previous Alien Employment Act B.E. 2521 (A.D. 1978). The new Act was an important step forward because the previous Act was no longer in line with present global labor migration trends and alien labor is still an important factor that helps drive Thailand's economy. Under the provisions of the new Act, a foreigner cannot perform any act of work or service unless a work permit has been issued by the Department of Employment, Ministry of Labor, or unless the individual or the work performed falls within an exception to the Act. The term "work" is defined very broadly, covering both physical and mental activities, whether or not for wages or other remuneration. Theoretically, even volunteer or charity work requires a work permit. Although they receive no remuneration for the work performed, volunteer teachers have been required to obtain work permits.

Under the Act, any work that an alien may perform, in any locality and at any time, shall be prescribed in the Ministerial Regulations, taking into account the national security, the opportunity for Thai nationals to do the work, as well as the need for alien labor for the development of the country. At present, the Ministerial Regulations prescribing such work have not yet been issued, but they shall be issued before February 23, 2010 (two years from the date of enforcement of the Act). Without these Ministerial Regulations under the Act, all Royal Decrees, Ministerial Regulations, Notifications, resolutions, and orders issued under the previous Act shall continue to be enforceable insofar as they do not contradict the new Act. Therefore, the following Schedule Annexed to the Royal Decree Stipulating Work in Occupations and Professions Prohibited to Aliens B.E. 2522 (A.D. 1979) issued under the old Act, which closes 39 occupations to foreigners and reserves them for Thais, is still enforceable until the Ministerial Regulations under the Act are issued:

- Labor work except labor work in fishing boats under the next category below. The said work which is forbidden to aliens shall not apply to aliens who have entered into Thailand under an agreement on hire of labor concluded between the Government of Thailand and other nations, and also aliens whose status has been prescribed as legal immigrant and who possess a residence certificate under the law governing immigration.
- Agriculture, animal husbandry, forestry or fishery, except work requiring specialized knowledge, farm supervision, or labor work in fishing boats, particularly marine fishery.
- Bricklaying, carpentry, or other construction work.
- Wood carving.
- Driving motor vehicles or vehicles which do not use machinery or mechanical devices, except piloting aircraft internationally.
- Front shop sale.
- Auction sale work.
- Supervising, auditing, or giving service in accountancy, except occasional internal auditing.
- Cutting or polishing precious or semiprecious stones.

- Haircutting, hairdressing, or beautification.
- Cloth weaving by hand.
- Mat weaving or making utensils from reed, rattan, jute, hay, or bamboo.
- Making rice paper by hand.
- Lacquer work.
- Making Thai musical instruments.
- Niello work.
- Goldsmith, silversmith, or gold-and-copper alloy smith work.
- Stone work.
- Making Thai dolls.
- Making mattresses or quilts.
- Making alms bowls.
- Making silk products by hand.
- Making Buddha images.
- Knife making.
- Making paper or cloth umbrellas.
- Making shoes.
- Making hats.
- Brokerage or agency except in international trading.
- Professional civil engineering concerning design and calculation, systemization, analysis, planning, testing, construction supervision, or consulting services, excluding work requiring specialized techniques.
- Professional architectural work concerning design, drawing-making, cost estimation, or consulting services.
 - Dressmaking.
 - Pottery.
 - Cigarette rolling by hand.
 - Tour guiding or conducting.
 - Hawking of goods.
 - Thai typesetting by hand.
 - Unwinding and twisting silk by hand.
 - Clerical or secretarial work.
- Providing legal services or engaging in legal work, except arbitration work; and work relating to defense of cases at arbitration level, provided the law governing the dispute under consideration

by the arbitrators is not Thai law, or it is a case where there is no need to apply for the enforcement of such arbitration award in Thailand.

IMMIGRATION REQUIREMENTS

To work in or visit Thailand, immigration requirements must be met. Immigration into the Kingdom is governed by the Immigration Act B.E. 2522 (A.D. 1979), as amended by the Immigration Act (No. 2) B.E. 2523 (A.D. 1980) and (No. 3) B.E. 2542 (A.D. 1999), and is administered by the Immigration Bureau of the Royal Thai Police.

The major immigration requirements are that:

- Any alien wishing to enter Thailand, unless otherwise exempted, must obtain a proper visa from a Royal Thai Embassy or Royal Thai Consulate prior to arrival in Thailand.
- Aliens in transit and tourists from the countries listed below are permitted to obtain an entry visa on their arrival at designated entry points in Thailand. An entry visa allows a stay of 15 days.

Bhutan, China (including Taiwan), Cyprus, Czech Republic, Estonia, Hungary, India, Kazakhstan, Latvia, Liechtenstein, Lithuania, Maldives, Mauritius, Poland, Saudi Arabia, Slovakia, Slovenia, Ukraine.

- Aliens in transit and tourists from the countries listed below are exempted from visa requirements. They are permitted to enter and stay in Thailand for 30 days without an entry visa. However, these individuals must obtain an entry stamp on their passports at the immigration checkpoint of entry.

Australia, Austria, Bahrain, Belgium, Brunei, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Indonesia, Ireland, Israel, Italy, Japan, Kuwait, Luxembourg, Laos, Macao, Malaysia, Monaco, Netherlands, New Zealand, Norway, Oman, Philippines, Portugal, Qatar, Russia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Vietnam.

Effective November 25, 2008, if such nationals enter Thailand at an immigration checkpoint of a bordering country by any means except airplane, they will only be allowed to stay for 15 days each time, except for Malaysian nationals who arrive from Malaysia, who will be allowed to stay 30 days each time.

For a stay longer than 30 days, all aliens must have a valid visa which can be obtained from a Royal Thai Embassy or Consulate prior to entry into Thailand. The exceptions are nationals of Argentina, Brazil, Chile, the Republic of Korea, and Peru who are currently allowed to stay up to 90 days after obtaining an entry stamp at the Immigration checkpoint of entry.

These lists of countries change periodically. The Immigration Bureau adds and removes countries as circumstances dictate. Therefore, checking with a Royal Thai Embassy or Consulate is recommended before traveling. Aliens from all other countries who do not have agreements with Thailand must obtain visas before coming to Thailand.

In an intriguing development due to the revision of some immigration laws, Thailand has emerged as a prime spot for retirees from Japan. The immigration laws and other obstacles to foreign retirees moving to and living in Thailand have been removed. While subject to yearly extension, foreigners over age 50 who wish to retire to the Kingdom are now free to do so. The Thai

retirement services industry is growing due to these developments. Hospitals, healthcare, and resorts for the elderly in Thailand have been targeted by Japanese investors. The prolonged recession in Japan has prompted investors to move into the region, many eyeing small and medium-sized hotels in scenic locations.

VISAS

Visa Definition

A visa authorizes entry into Thailand for a specific length of time depending upon the type of visa. The passport or travel document will show the date of authorized entry and the permissible duration of stay.

Visa Categories

In Thailand there are numerous visa categories, with eight major types issued under the Immigration Act. Each category is restricted to the purpose for which the visa has been issued, and aliens are advised to strictly adhere to the rules governing each visa category. Change of address or status should be relayed to local police within 24 hours.

- Transit Visa “TS”. Applicable to aliens entering Thailand with an intention to travel on to another country.
- Tourist Visa “TR”. Applicable to aliens visiting Thailand for sightseeing purposes only.
- Non-Immigrant Visa. Applicable to aliens entering Thailand on a temporary basis for a particular purpose including:
 - “B” for business purposes.
 - “B-A” for business or investment.
 - “IB” for investment purposes or other affairs connected with an investment under the law governing investment promotion. This is a category of visa with issuance controlled by the Board of Investment.
 - “IM” for investment purposes, as approved by the appropriate ministries or departments concerned.
 - “ED” for purposes of study or observation.
 - “RS” for purposes of scientific research or teaching in a research or educational institution in Thailand with approval from the ministry or department concerned.
 - “M” for performance of duties connected with the mass media.
 - “R” for missionary work with approval from the ministry or department concerned.
 - “EX” for performance of skilled or expert work.
 - “O” for other purposes as prescribed in the ministerial regulations (as dependents, retired persons, or sports trainers; for family reunions, medical treatment, or legal proceedings).
- Diplomatic Visa “D”. Applicable to aliens who enter the Kingdom on a diplomatic or consular mission or for the performance of duties with international organizations.
- Official Visa “F”. For performance of official duties involving the Thai government.

- Immigrant Visa (Permanent Residence). Applicable to those aliens entering Thailand for permanent residence purposes.
- Non-Quota Immigrant Visa. Applicable to permanent residents wishing to leave Thailand and return within a year.
- Courtesy Visa. Applicable to those diplomatic and/or official passport holders who enter the Kingdom for purposes other than official duties and to those ordinary passport holders who enter the Kingdom in response to an official Thai request.

Length of Stay

Length of stay in Thailand depends on the type of visa.

Transit Visa	Not exceeding 30 days
Tourist Visa	Not exceeding 30 or 60 days
Non-Immigrant Visa	Not exceeding 90 days
Diplomatic, Official, and Courtesy Visa	As necessary

Extension of Stay

A transit visa may be extended for 7 to 10 days depending on applicant's nationality. A tourist visa may be extended for a maximum of 7 days or 60 days (30 days at a time) depending on applicant's nationality. Extension applications for tourist and transit visas are handled for a government fee of THB 1,900. The following documents are needed to process an extension application:

- Passport or travel document.
- One photograph (2 ½ inches square).
- Statement of reasons for requesting an extension.

Non-immigrant visa categories "B" or "B-A" are usually extended for a period not exceeding one year at a time from the date of arrival except "IM" which shall not exceed two years, and "IB" which is generally two to three years depending on the recommendation of the Board of Investment and the size of the investment. Extensions for non-immigrant visas are handled for a government fee of THB 1,900. Numerous supporting corporate documents are needed.

Overstaying

The period of stay allowed is always stamped or written in the passport upon arrival in Thailand. Every alien is responsible for checking his/her passport for the authorized length of stay.

Passport and visa control is a rigorous process in Thailand and is not to be dismissed lightly. Any alien who overstays in Thailand is subject to a fine of THB 500 for each day after the expiration date of the permitted length of stay up to a maximum of THB 20,000. This fine may be paid at the Immigration Division or at the airport upon departure. If an alien cannot or is otherwise unable to pay the fine for overstaying a visa, he/she is subject under Section 30 of the Penal Code to detention at the Immigration Detention Center.

Change of Visa

The Thai government gives foreigners who did not get a chance to apply for a Non-Immigrant visa before arriving in Thailand the opportunity to change their visa if they need to stay in Thailand

longer. This procedure may be done within the country. An eligible foreigner must have entered Thailand with a tourist or transit visa granted by a Thai Embassy or Consulate abroad. The foreigner must apply for a change in type of visa not less than 21 days before his current visa is due to expire. Various documents are required depending on the purpose of the application for a non-immigrant visa.

Re-entry Permit

Aliens holding any kind of visa for stay in Thailand who wish to leave and return to the country by the expiry date of such visa without having to apply for a new visa must apply for a re-entry permit prior to departure. A re-entry permit allows the alien to re-enter Thailand and use the time remaining on his/her visa. If a re-entry permit is not applied for, the visa will automatically be canceled although it has not expired. To facilitate the travel schedules of aliens, aside from the immigration offices throughout Thailand, a re-entry permit may be obtained at Suvarnabhumi (Bangkok), Chiang Mai, Phuket, Hat Yai, and Sukhothai international airports, as well as other designated immigration checkpoints throughout the country. Suvarnabhumi (Bangkok) International Airport operates 24 hours, 7 days a week, while other checkpoints operate from 8 a.m. to 4 p.m., Monday to Friday. The fee for a single re-entry is THB 1,000 while that for multiple re-entries is THB 3,800. It is advisable to request a multiple-entry visa if one expects to be frequently traveling out of Thailand. This allows the visa holder more than one entry into Thailand during his/her travels. If the visa holder leaves Thailand before the expiration of his/her visa and wants to return but does not have a re-entry permit, he/she must apply for a new visa from a Thai Embassy or Consulate abroad.

Exits may only be legally made at designated immigration control points. The crossing of any border is an exit for immigration purposes, whether or not the exit point is controlled. Thus, forays into neighboring countries are deemed exits, legal or otherwise, and returning to Thailand from such trips is a new entry requiring proper visas or re-entry permits.

WORK PERMITS

Applications for Work Permits

An applicant for a work permit must have either a non-immigrant visa or a residence permit. Generally, a non-immigrant visa must be obtained before entering Thailand. A residence permit is usually granted only after a foreigner has resided in Thailand for at least three consecutive years under a non-immigrant visa. An employer or potential employer may file an application for advance permission for an employee to work before the foreigner enters the country. However, the work permit itself will not be issued until the individual enters Thailand on a valid non-immigrant visa.

If the job being applied for is not in Bangkok, the application is filed at the relevant Provincial (*Changwat*) Department of Employment Office. Supporting documents usually must be translated into Thai with appropriate certification.

At the present time, the following documents must be supplied by applicants for work permits. The labor officials make changes in the list of required documents whenever they consider it appropriate:

- Application form (Tor. Thor. 2) and three photographs, front view and 5X6 cm in size (taken within the previous six months).
- Letter from employer certifying employment and reasons for not employing Thai national.
- Employment agreement.

- Copy of the company's affidavit certified by the Commercial Registration Department (taken within the previous six months).
- Copy of list of shareholders certified by the Commercial Registration Department (taken within the previous six months).
- Copy of certificate of incorporation.
- Copy of Taxpayer Card, VAT certificate, or Phor. Por. 01 and 09.
- Copy of current balance sheet with profit and loss showing total assets.
- Copy of Phor. Ngor. Dor. 50 (Corporate Income Tax Return) including receipt.
- Organizational chart.
- List of all expatriate(s) in the company indicating position and work permit number(s).
- Copies of educational certificates and letters of recommendation from previous employment.
- Copies of all pages of passport showing the valid non-immigrant visa ("B" or "O").
- Copies of all pages of the work permit of the authorized director showing the valid date (if the authorized director is an alien).
- A medical certificate certifying that the applicant is free from prohibited diseases (issued within the previous three months).
- Power of attorney affixed with THB 10 duty stamp.
- Map of the company's location.
- Official form for notification of commencement of work (Tor.Thor. 10).
- Other relevant document(s), if any.
- Copy of Phor. Por. 30 for the previous six months including receipt for a newly set up company.

All photocopies of documents must be certified as true copies by the authorized director(s) and affixed with the company seal.

If the application is to be filed by another person, a valid Power of Attorney in the prescribed form must be attached with a THB 10 duty stamp affixed.

On the application form, the job description entry must be completed with a detailed description of the job to be performed, how it is related to other employees, and what materials will be used in the work.

If the job applied for is subject to a license under a particular law in addition to the Alien Employment Act, a photocopy of such license (e.g., a teacher's license, physician's license, press card from the Public Relations Department, certificate of missionary status from the Religious Affairs Department, etc.) must be attached.

If the applicant is married to a Thai national, the marriage certificate must be presented along with the spouse's identity card, birth certificates of children, household registration certificate, and a photocopy of every page of the applicant's passport.

If the applicant is applying for a position previously held by an alien, a photocopy of predecessor's work permit, together with his/her notice of resignation from the company or a letter confirming his/her intended date of departure, must be presented.

Length of Work Permits

According to the current Alien Employment Act B.E. 2551 (A.D. 2008), a work permit can be granted for up to two years, regardless of the duration of stay which is stamped on a foreigner's passport. Also, a work permit is good only for the particular job for which it was issued and within the geographic limitations specified in the work permit. Working in a position or at a location other than that specifically approved is grounds for termination of a work permit. Foreigners may hold more than one position with one or more employers but must obtain permission for each position and for each employer. Generally, the permission for each position is entered in the original work permit record.

Exceptions to the Alien Employment Act permit foreigners to perform work deemed necessary and urgent which can be completed within 15 days. However, the Department of Employment must be informed before work begins.

Exemptions from Work Permits

Certain foreigners are exempt from work permit requirements. There are seven categories:

- Members of the diplomatic corps.
- Members of a consular mission.
- Representatives and officials of the United Nations and its specialized agencies.
- Personal servants from abroad employed by any of the above.
- Persons who perform duties or missions under agreement between the government of Thailand and another foreign government or international organization.
- Persons who perform duties or missions for the benefit of education, culture, arts, sports, or other activities as may be sanctioned by royal decree.
- Persons with special permission from the government of Thailand to enter and perform duties or missions in the Kingdom.

PENALTIES FOR WORK PERMIT VIOLATIONS

Working without a valid work permit, even for a day, is a criminal offense. Penalties for working without a work permit include imprisonment of not exceeding five years or a fine from THB 2,000 to THB 100,000, or both. In the case such foreigner agrees to travel out of Thailand within the period of time prescribed by the interrogating officer, which must not be later than 30 days, the interrogating officer may impose a fine and make arrangements for said foreigner to travel out of Thailand. Foreigners who do work reserved solely for Thais are liable to a fine of up to THB 20,000. A company or employer that hires a foreigner without a valid work permit is subject to a fine from THB 10,000 to THB 100,000 for each foreign worker/employee.

One should always have a photocopy of his/her work permit available when traveling, and be prepared to show it upon arrival in the country.

One-Stop Service Center

In 1997, the government established the One-Stop Service Center to facilitate the processing of visas and work permits for qualified foreign investors, experts, and correspondents. Through the Center, the Immigration Bureau and the Department of Employment can issue visas and work permits within three hours. In general, the processing of visas is handled by the Immigration Bureau, while the processing of work permits is handled by the Department of Employment, which normally take about 10 to 14 working days to complete their review process. The following investors, executives, or experts, including their family members, are qualified to submit applications through the Center:

- An executive or expert who has been granted privileges under the Investment Promotion Act B.E. 2520 (A.D. 1977), the Petroleum Act B.E. 2514 (A.D. 1971), or the Industrial Estate Authority of Thailand Act B.E. 2522 (A.D. 1979).
- An individual investor who brings in money from abroad of not less than THB 2 million for the purchase of shares in a private company.
- An executive or expert working with a company whose fully paid-up registered capital or whose operational fund is not less than THB 30 million.
 - Aliens who come to work for the foreign press.
 - Alien researchers and developers in science and technology.
 - Alien officers of branch offices of overseas banks, foreign banking offices of overseas banks in Bangkok, provincial foreign banking offices of overseas banks, and representative offices of foreign banks.
 - Aliens who come to work for branch, representative, or regional offices of overseas enterprises.