

Thailand – Highlights of Changes to the Labor Law May 2018

Below are details of the changes described in the alert dated May 15, 2018.

New Process/Rule	Current Process/Rule	Impact
Work Permit Changes		
<p>Work Permit exemption</p> <ul style="list-style-type: none"> • Available to foreign nationals who occasionally perform the following activities: organizing, setting up, participating, giving opinion, conducting lectures, training or demonstration in a conference or seminar, or work for artistic, cultural, sports or other purposes as designated by the Department of Labour. • The Department of Labour must issue a Regulation to implement this policy designating conditions applicable to qualify for the exemption. • Current rules apply until a Regulation is issued and takes effect. • Foreign nationals registered as an authorized person with the Ministry of Commerce for an entity that holds a Foreign Business Operation License of either (a) Branch Office, (b) Representative Office; or (c) Regional Office will be able to sign company documents without needing to obtain a work permit in Thailand. This 	<p>Current regulations require that foreign nationals obtain work authorization to be able to conduct these hands-on activities</p> <p>Previous regulations required a work permit for foreign nationals to sign company documents in Thailand.</p>	<p>Once a Regulation is in effect, foreign nationals may conduct such activities without the need to obtain work authorization, subject to the conditions applicable to qualify for the exemption.</p> <p>Employers sending foreign nationals to sign documents on behalf of the employer no longer need to obtain a work permit, which saves time and costs associated with work permit applications.</p>

<p>takes effect immediately.</p>		
<p>In-country extension of Urgent Work Permit (UWP)</p> <ul style="list-style-type: none"> Foreign nationals conducting urgent work in Thailand may be allowed to extend their stay once in country, for another 15 calendar days, if their work has not been completed in the initial allowable 15-day period. The Department of Labour must issue a Regulation to implement this policy, designating the period allowed and other conditions applicable to qualify for the exemption. Current rules apply until a Regulation is issued and takes effect. 	<p>UWPs are currently granted for a non-extendible 15-day period.</p> <p>The initial UWP must be filed within three days of arrival and a subsequent UWP can be filed 45 days from the expiry of the last UWP.</p>	<p>This can potentially benefit foreign nationals who need to stay longer under a UWP, since they will no longer need to exit the country and reenter to apply for a new one.</p> <p>It should also reduce travel and immigration-related expenses to employers of UWP holders.</p>
<p>Government Notification Requirements</p>		
<p>Notification required upon starting employment</p> <ul style="list-style-type: none"> Both employer and employee are required to notify the Registrar of the Employment Department at One Stop Service Center (Registrar) within 15 calendar days from the date the employee starts working in Thailand. This requirement takes effect immediately. A fine of THB 20,000 (approx. USD 623) will be imposed on both the employer and employee who failed to make such notification. 	<p>No such notification was previously required.</p>	<ul style="list-style-type: none"> This requirement puts an additional procedural burden on both the employer and employee (though Fragomen files the notification on behalf of employers and employees). Both should ensure compliance with the rule to avoid a costly fine.

<ul style="list-style-type: none"> Enforcement of penalties for non-compliance will take effect on July 1, 2018. 		
<p>Notification required upon termination of employment</p> <ul style="list-style-type: none"> The employer is required to notify the Registrar within 15 calendar days from the date of termination of the foreign national's employment. This requirement will take effect immediately. A fine of THB 20,000 (approx. USD 623) will be imposed on those who failed to make such notification. Enforcement of penalties for non-compliance will take effect on July 1 2018. 	<p>Currently, employers are required to notify the Registrar within seven calendar days from the last official work date.</p>	<p>This requirement lengthens the period to notify, allowing employers more time to comply with the requirement.</p>
<p>Changes in employment details</p> <ul style="list-style-type: none"> Any addition or modification of the employee's work location is now allowed without the need to notify or obtain permission from the Registrar, provided that such location was previously registered with the Ministry of Commerce or the employer has a legal obligation to send its employee to work at the site (e.g., Service Agreement with a client). Any addition or modification of the employee's job details (e.g., job title, job 	<p>Previously, such amendments/modifications required prior approval from the Employment Department.</p>	<p>Employers are no longer required to file Work Permit amendment applications when making these changes in their foreign employees' employment details. This removes the need to file additional applications for any changes to a foreign national's employment details.</p>

<p>description, etc.) is now allowed without the need to notify or obtain permission from the Registrar, provided that such modification is permitted by, and consistent with, existing Labor Laws.</p> <ul style="list-style-type: none"> • These changes take effect immediately. 		
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Penalties for Violation

<p>Reduced penalties</p> <ul style="list-style-type: none"> • The government will reduce the steep penalties announced last June 2018 which was subsequently suspended due to public outcry and the mass exit of affected migrant workers. • Accordingly, employers who hire a foreign national without proper work authorization or allows their foreign employees to engage in any prohibited profession or occupation may be liable to a fine of THB 10,000 to THB 100,000 (approximately USD 312 to USD 3,117) per foreign employee, instead of the previous THB 400,000 to THB 800,000 (approximately USD 12,468 to USD 24,936) per foreign employee. • Foreign nationals who work without proper work authorization or engage in any prohibited profession or occupation 	<p>Implementation of the higher penalties was suspended shortly after it was announced so current penalties are on a level with this planned reduction.</p>	<p>Despite this reduction in penalties, employers should continue to ensure compliance with the law and foreign nationals should ensure that their work activities are in line with what was authorized in their Work Permit.</p>
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<p>may be liable to a fine of THB 5,000 to THB 50,000 (approximately USD 156 to USD 1,558), instead of the previous fine of up to THB 100,000 (approximately USD 3,117) and/or imprisonment.</p> <ul style="list-style-type: none">• Employers who are repeat offenders may be subject to a maximum of one year imprisonment and/or a fine from THB 50,000 to THB 200,000 (approximately USD 1,558 to USD 6,234) per foreign employee. They may also be prohibited from employing foreigners for a period of three years from the date of the final court judgement.• These changes will take effect on July 1, 2018.		
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