



# GMS Flash Alert

## Immigration Edition

2017-120 | July 24, 2017



# Thailand – New Decree Tightens Rules on Hiring, Employing Foreign Nationals

A new Thai decree amends the current rules and practices for employers hiring and employing foreign nationals in Thailand.<sup>1</sup> The terms of the decree took effect on 23 June 2017. The main objective of the decree is to improve the management of foreigners who are working in Thailand so that their entry into Thailand, and their work and management in Thailand, can be carried out systematically and efficiently.

Key points of the new decree impacting employers and foreign employees are summarized below.

---

## WHY THIS MATTERS

The new decree tightens the rules around hiring and employing foreign nationals in Thailand and reinforces penalties and other sanctions for employers who violate the new rules.

In addition, the decree sets out clear responsibilities for employers who bring foreigners into Thailand to work with the aim of providing coverage and sufficient measures to protect foreign workers who may have been exploited. In addition, there are provisions aimed at civil society to encourage taking part in protecting victims of forced labour and human trafficking.

---

## A. For the Employer

- 1) Where an employer hires (1) a foreign employee to provide services that are prohibited for foreigners under the Notification<sup>2</sup> prescribing any work as work in which a foreigner is not permitted to engage, issued by the Minister of Labour with approval of the Aliens' Working Management Policy Board; (2) a foreign employee who does not have a valid work permit; or (3) a foreign employee who holds a work permit of another employer, that employer may be liable for a fine from THB 400,000 to THB 800,000 per foreign employee (Sections 102 and 122).

- 2) Where an employer assigns a foreign employee to do work and provide services different from those described in his/her work permit, the employer may be liable for a fine not exceeding THB 400,000 per foreign employee (Section 123).
- 3) Where an employer fails to notify that the employment of its foreign employee has been terminated or such a notification comes after seven (7) days from the effective termination date, the employer may be liable for a fine not exceeding THB 100,000 (Section 124).
- 4) Where an employer seizes a foreign employee's work permit or personal identification card, the employer may be subject to imprisonment for a period not in excess of six (6) months, a fine of not more than THB 100,000, or both (Section 131).

## **B. For the Foreign Employee**

- 1) Where a foreign employee is working in Thailand without a valid work permit or provides services that are prohibited for foreigners under the Notification prescribing any work as work in which a foreigner is not permitted to engage, issued by the Minister of Labour with approval of the Aliens' Working Management Policy Board, the foreign employee may be subject to imprisonment for a period not in excess of five (5) years, a fine from THB 2,000 to THB 100,000, or both (Section 101).
- 2) Where a foreign employee works or provides services different to those described in his/her work permit, the foreign employee may be liable for a fine not exceeding THB 100,000 (Section 121).
- 3) Where a foreign employee works or provides services on an urgent and necessary basis without notifying the Labour Authority, the foreign employee may be liable for a fine of THB 20,000 to THB 100,000 (Section 119).

## **Delay in Penalty Enforcement**

Order No. 33/2560 was issued on 4 July 2017, by the Head of the National Council for Peace and Order to delay the enforcement of Sections 101, 102, 119, and 122 of the new decree which are to be effective on 1 January 2018 (i.e., the penalty imposed on employers as mentioned in Clause A 1) above and the penalties imposed on foreign employees as mentioned in Clauses B 1) and 3) above).

---

### **KPMG NOTE**

Employers should seek advice on the changes under the new decree so that they can act in compliance and introduce (where and when appropriate) systems, processes, and controls to foster such compliance that can be maintained at the highest levels.

---

## FOOTNOTES:

1 "The Aliens' Working Management Emergency Decree, B.E.2560 (2017) " was issued to replace the existing "Working of Alien Act B.E. 2551 (2008) " and "Emergency Decree on Recruitment of Foreigner to Work with Employers in Thailand, B.E.2559 (2016)." It took effect on 23 June 2017. See: [http://lb.mol.go.th/images/flie\\_Aliens.pdf](http://lb.mol.go.th/images/flie_Aliens.pdf) (Thai version).

2 The Notification to be issued according to this new decree is in the drafting stage. Currently, the Labour officer refers to the previous one, i.e., "Royal Decree prescribing works relating to occupation and profession in which an alien is prohibited to engage B.E. 2522 (1979)."

\* \* \* \*

THB 1 = EUR 0.0257

THB 1 = USD 0.03

THB 1 = GBP 0.023

THB 1 = AUD 0.0378

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Thailand:



**Lynn Tastan**  
**Partner**  
Tel. + 66 (0) 2677 2477  
[ltastan@kpmg.co.th](mailto:ltastan@kpmg.co.th)



**Tanittha Cha-um**  
**Associate Director**  
Tel. + 66 (0) 2677 2466  
[tanittha@kpmg.co.th](mailto:tanittha@kpmg.co.th)



**Wanpratueng Ramgomut**  
**Associate Director**  
Tel. + 66 (0) 2677 2565  
[wanpratueng@kpmg.co.th](mailto:wanpratueng@kpmg.co.th)

*\* Please note that KPMG LLP (U.S.) does not provide any immigration services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

**The information contained in this newsletter was submitted by the KPMG International member firm in Thailand.**

© 2017 KPMG Phoomchai Tax Ltd., a Thai limited company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

[www.kpmg.com](http://www.kpmg.com)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



© 2017 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.