WORKING OF ALIENS ACT, B.E. 2521 (1978)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 8th Day of July B.E. 2521, Being the 33rd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on working of aliens;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly as follows:

Section 1.

This Act is called the "Working of Aliens Act, B.E. 2521."

Section 2.

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

Section 3.

The Announcement of the National Executive Council No. 322, dated 13th December B.E. 2515 shall be repealed.

Section 4.

This Act does not apply to performance of specific duty by aliens in the Kingdom in the following capacities:

1. (1) as members of a diplomatic mission;
2. (2) as members of a consular mission;
3. (3) as representatives of member countries and officials of the United Nations and specialized institutions;
4. (4) as personal servants coming from foreign countries to work regularly for persons in (1) or (2) or (3);as persons who perform duty or mission under an agreement concluded between the Government of Thailand and foreign Governments or international organizations;
5. (5) as persons who perform duty or mission for the benefit of education, culture, art, sports or other activities as may be prescribed by the Royal Decree;
6. (6) as persons permitted by the Government of Thailand to enter and perform any duty or mission

Section 5.

In this Act,

"alien" means a natural person who is not of Thai nationality;

"work" means engaging in work by exerting energy or using knowledge whether or not in consideration of wages or other benefit;

"permit" means a work permit;

"holder of permit" means an alien who has been granted a permit;

"Committee" means the Committee Considering Working of Aliens;

"competent official" means person appointed by the Minister for the execution of this Act;

"Registrar" means person appointed by the Minister as Registrar of working of aliens;"Director-General" means the Director-General of the Labour Department;"Minister" means the Minister having charge and control of the execution of this Act.

Section 6.

Subject to Section 12, any work which an alien is prohibited to engage in any locality and at any particular time and whether subject to absolute or conditional prohibition, and to any extent shall be prescribed by the Royal Decree.

Section 7.

Subject to Section 10, an alien may engage in any work which is not prohibited by the Royal Decree issued under Section 6 only upon receipt of a permit from the Director-General or official entrusted by the Director-General except an alien who is permitted to enter the Kingdom for

temporary stay under the law on immigration in order to engage in the work which is of necessity and urgency for period not longer than fifteen days, but such alien may engage in the work after he has notified the Director-General or official entrusted by the Director-General in writing in the forms prescribed by the Director-General.

Section 8.

Subject to the law on immigration, any person wishing to employ an alien in his business in the Kingdom may submit an application on behalf of the alien to the Director-General or official entrusted by the Director-General.

The Director-General or official entrusted by the Director-General may issue permit to an alien under paragraph one only after the entry into the Kingdom of such alien.

Section 9.

In granting a permit to alien under Section 7 and Section 8, the Director-General or official entrusted by the Director-General may prescribe any condition therein for the alien to comply therewith. In such case, the alien is required to give assurances that he would comply with such conditions and in the case under Section 8, such alien shall give assurances prior to his entry into the Kingdom.

Section 10.

An alien who has been permitted entry to work in the Kingdom under the law on promotion of investment or other laws shall apply for a permit with the Director-General or official entrusted by the Director-General within thirty days from the date of his entry into the Kingdom, but if such alien is already in the Kingdom, the period of thirty days shall begin as from the day he is aware that he has been granted permission to work under the law on promotion of investment or other laws. Pending the issue of permit, the applicant shall be allowed to engage in such work.

Upon receipt of application, the Director-General or official entrusted by the Director-General shall issue a permit without delay.

Section 11.

An alien who may apply for a permit under Section 7 must possess the following qualifications:

1. (1) having a place of residence in the Kingdom or having been permitted entry into the Kingdom for temporary stay under the law on immigration but not as tourist or in transit;
2. (2) not being disqualified or prohibited under the conditions prescribed by the Minister as published in the Government Gazette.

Section 12.

The following aliens may engage in only such works which have been prescribed by the Minister as published in the Government Gazette. In such Notification, the Minister may prescribe any condition as he may deem appropriate:

1. (1) aliens under a deportation order under the law on deportation who have been permitted to engage in profession at a place in lieu of deportation or while awaiting deportation;
2. (2) aliens whose entries into the Kingdom have not been permitted under the law on immigration and are awaiting deportation;
3. (3) aliens who are born within the Kingdom but have not acquired Thai nationality under the Announcement of the National Executive Council No. 337, dated 13th December B.E. 2515 or under other laws;
4. (4) aliens whose Thai nationality has been revoked under the Announcement of the National Executive Council No. 337, dated 13th December B.E. 2515 or under other laws.

An alien may engage in such works as prescribed by the Minister under paragraph one only upon receipt of a permit from the Director-General or official entrusted by the Director-General.

Section 13.

Permits issued under this Act shall be valid for one year from the date of issue except:

1. (1) the permit issued to an alien under Section 10 shall be valid for such period which he has been permitted to work under such laws;
2. (2) the permit issued to an alien under Section 12 shall be valid for the period prescribed by the Director-General or official entrusted by the Director-General which must not exceed one year from the date of issue;
3. (3) the permit issued to an alien who has been permitted entry into the Kingdom for temporary stay under the law on immigration shall be valid for such period which he has been permitted to stay in the Kingdom at the time of the issue of the permit;
4. (4) the permit issued to an alien who has been permitted entry into the Kingdom for temporary stay under the law on immigration without definite period shall be valid for thirty days from the date of issue.

Section 14.

In the case a holder of permit which is issued under Section 10 has received extension of working period under such laws, the holder thereof shall notify the Registrar within thirty days from the date of receiving extension and the Registrar shall record such extension in the permit.

Section 15.

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 prior to the expiration thereof. In such case, the applicant for renewal of the permit may continue working until the Registrar issues an order refusing the renewal of the permit.

Each renewal of permit shall be valid for one year, except

1. (1) the renewal of permit under Section 13 (3) shall be valid for the period not more than the extension which the holder has been permitted to stay in the Kingdom;
2. (2) the renewal of permit under Section 13 (4) shall be valid for thirty days each time unless such alien has been permitted to stay in the Kingdom under the law on immigration for a definite period which is longer than thirty days in which case the renewal of permit shall be for such period which he has been permitted to stay in the Kingdom, but not longer than one year.

Section 16.

The Minister has the power to issue Ministerial Regulations prescribing forms, rules and procedures in the following cases:

1. (1) application for and issue of permit under Section 7, Section 8, Section 10 and Section 12;
2. (2) application for renewal and renewal of permit under Section 15;
3. (3) application for and issue of permit substitute under Section 19;
4. (4) application for and issue of permission to change work or locality or place of work under Section 21;
5. issue of identity card under Section 31.

Section 17.

In the case of refusing to issue a permit or not granting permission under Section7, Section 8, Section 10, Section 12 or refusing to renew the permit under Section 15 or not granting permission to change the work or locality or place of work under Section 21, 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 refusal. 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.

Section 18.
A holder of permit must keep the permit on himself or at the place of work during work in order that it may be readily shown to competent official or Registrar.
Section 19.
If a permit is materially damaged or lost, holder of the permit shall apply for a substitute with the Registrar within fifteen days from the date of the Knowledge of such damage or loss.
Section 20.
In the case an alien resigns from work which is specified in the permit, he shall return the permit to the Registrar of Province where the place of work is situated within seven days from the date of his resignation.
Section 21.
A holder of permit shall not engage in the work other than that which is specified in the permit or change locality or place of work from that which is specified in the permit unless a permission is obtained from the Registrar.
Section 22.
No person shall employ an alien who has no permit nor employ him in the work which is of different description or condition from that specified in the permit.
Section 23.
Any person who employs an alien, or transfers an alien to work in a locality other than that which is specified in the permit, or has an alien resigning from his employment, shall notify the Registrar within fifteen days from the date of employment, transfer or resignation.
The notice under paragraph one shall be in the form prescribed by the Director-General.
Section 24.
There shall be a committee called the "Committee Considering Alien's Work" consisting of the Permanent-Secretary for Interior or person entrusted by the Permanent-Secretary for Interior as Chairman, a representative of the Ministry of Foreign Affairs, a representative of the Ministry of Industry, a representative of the Department of Local Administration, a representative of the Police Department, a representative of the Department of Social Welfare, a representative of the Department of Public Prosecution, a representative of the Department of Trade Registration, a representative of the Department of Internal Trade, a representative of the office of the Board of Investment, a representative of the office of the National Economic and Social Development Board, and not more than three other persons appointed by the Minister as committee members and a representative of the Labor Department as member and secretary.
Section 25.
Members appointed by the Minister hold office for a term of two years and may be re-appointed.
Section 26.
Members appointed by the Minister vacate office prior to the end of term upon:

1. (1) death;
2. (2) resignation;
3. (3) removal by the Minister.

In the case members are appointed during the term of members already appointed, notwithstanding it is a new or additional appointment, the appointees shall hold office only for the remaining terms of the members already appointed.
Section 27.
The Committee has the duty to consider, give recommendation or advice to the Minister as follows:

1. (1) the issue of Royal Decrees under Section 4 (6) and Section 6;
2. (2) prescription of work which the Minister may publish under Section 12;
3. (3) the issue of Ministerial Regulations under Section 16;
4. (4) consideration of appeal of order under Section 17;
5. (5) other matters as entrusted by the Minister.

Section 28.
At a meeting, the presence of not less than one-half of all the members shall constitute a quorum. If the Chairman does not attend or is unable to perform his duty, the members present shall elect one among themselves to preside over the meeting.
The decision of the meeting shall be made by majority of votes. Each member shall have one vote; and in case of an equality of votes, the person presiding over the meeting shall have an additional vote as casting vote.
Section 29.
The Committee has the power to appoint a sub-committee to carry out any activity or consider any matter within the scope of duty of the Committee.
The provisions of Section 28 shall apply to the meeting of a sub-committee *mutatis mutandis.*
Section 30.
In performing the duties under this Act, the Director-General or official entrusted by the Director-General, Registrar or competent official is empowered to:

1. (1) issue a written inquiry or summon any person to provide facts as well as to require him to produce any document or evidence;
2. (2) enter any premises during the period which is believed to be the working period under a reasonable belief that an alien is working there in order to ensure compliance with this Act. For this purpose, he is empowered to inquire into facts or request production of any document or evidence from the person who is responsible for or connected with such place.

In performing the duty under (2), the owner or occupant of such premises or person who is responsible for or connected with the said premises shall render appropriate facilities.
Section 31.
The Registrar and competent official must have identity cards.
In the performance of duty, the Registrar and competent official must produce their identity cards upon request of the person concerned.
Section 32.
In performing the duties under this Act, the Director-General or official entrusted by the Director-General, Registrar or competent official shall be an official under the Criminal Code.
Section 33.
Any alien who is working in violation of the Royal Decree issued under section 6 shall be liable to imprisonment for a term not exceeding five years or to a fine from two thousand Baht to one hundred thousand Baht or to both.
Section 34.
Any alien who is working in violation of Section 7 or in violation of the conditions specified under Section 9 or works without a permit or in violation of the conditions prescribed by the Minister under Section 12 shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding five thousand Baht, or to both.
Section 35.
Any alien who is working in violation of Section 10, S0ection 18 or Section 20 shall be liable to a fine not exceeding one thousand Baht.
Section 36.
Any holder of permit who fails to comply with Section 14 or Section 19 shall be liable to a fine not exceeding five hundred Baht.
Section 37.
Any alien who continues working after his permit has expired without applying for a renewal before the expiration thereof or has applied for a renewal but the Registrar has issued an order refusing the renewal of the permit under Section 15 and such alien has not appealed the order of the Registrar, or if he has appealed but the Minister has decided not to grant renewal of the

permit under Section 17 shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht or to both.

Section 38.

Any holder of a permit who violates Section 21 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand Baht or to both.

Section 39.

Any person who employs an alien in violation of Section 22 shall be liable to imprisonment for a term not exceeding three years, or to a fine not exceeding sixty thousand Baht, or to both.

Section 40.

Any person who violates Section 23 or Section 42 shall be liable to a fine not exceeding one thousand Baht.

Section 41.

Any person who fails to comply with a written inquiry or summons or refuses to provide facts or furnish document or evidence, or obstructs or fails to render facilities to the Director-General or official entrusted by the Director-General, or the Registrar or competent official in the performance of their duties under Section 30 shall be liable to a fine not exceeding three thousand Baht.

Section 42.

Any person who employs an alien in his business prior to the date the Announcement of the National Executive Council No. 322, dated 13th December B.E. 2515 comes into force and has not, up to the date this Act comes into force, submitted particulars concerning aliens in his employment under Clause 35 of the said Announcement, shall submit the said particulars in the form prescribed by the Director-General within forty-five days from the date this Act comes into force.

Section 43.

A Permit issued under the Announcement of the National Executive Council No. 322, dated 13th December B.E. 2515 shall continue to be valid as long as it has not expired and the holder of permit continues to engage in the work for which he has been granted the permit.

Section 44.

An alien who has a place of residence in the Kingdom under the law on immigration and is working prior to the date the Announcement of the National Executive Council No. 322, dated 13th December B.E. 2515 comes into force and has applied for a permit with the Director-General or official entrusted by the Director-General under Clause 34 paragraph one of the said Announcement and the Director-General or official entrusted by the Director-General has issued the permit which has not been collected by the alien who is still working on the date this Act comes into force, shall collect the permit within sixty days from the date this Act comes into force, otherwise such permit will be regarded as having expired at the end of the said period.

Section 45.

An alien under Section 12 who is engaging in any work on the date this Act comes into force may continue in such work until there is a Notification of the Minister under Section 12

After the Minister has issued a Notification under Section 12, in the case the work which an alien is engaging is permitted under the Notification of the Minister, such alien may continue in such work but must apply for a permit within ninety days from the date the Notification of the Minister comes into force. In the case the work which an alien is engaging is prohibited under the Notification of the Minister, such alien may continue in such work for one hundred and eighty days from the date this Act comes into force.

Section 46.

All the Royal Decrees, Ministerial Regulations and Notifications or Orders of the Minister or the Director-General or permits which have been issued or given by virtue of the Announcement of the National Executive Council No. 322, dated 13th December B.E. 2515 insofar as they are not contrary to or inconsistent with this Act shall remain in force and shall be regarded as the Royal

Decrees, Ministerial Regulations and Notifications or Orders of the Minister or the Director-General, or permits issued under this Act.

Section 47.

The Minister of Interior shall have charge and control of the execution of this Act and shall have the power to appoint the Registrar and competent officials and issue Ministerial Regulations prescribing fees not in excess of the rates attached hereto, granting exemption of fees and prescribing other activities for the execution of this Act.

Ministerial Regulations shall come into force after their publication in the Government Gazette.

Countersigned by General Kriangsak Chomanan as the Prime Minister

Fees

1. (1) Work permit of Baht 1,000 per year
2. (2) Renewal of a permit or extension of working period of Baht 1,000 per year
3. (3) Permit substitute of Baht 300 per year
4. (4) Permission for changing work or locality or place of work of Baht 500 per year

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