

Summary

The draft Royal Ordinance Concerning the Management of Foreign Workers' Employment B.E. ...

The Royal Ordinance Concerning the Management of Foreign Workers' Employment B.E.... has been developed as a revision of the two current legislations, the Working of Alien Act B.E. 2551 (2008) and the Royal Ordinance Concerning Rules on Bringing Migrant Workers to Work with Employers in the Kingdom B.E. 2559 (2016), which did not cover all aspects of foreign workers management and are consequently unable to address the problems concerning the working of foreign workers effectively. The main points of the RO are as follows:

1. The Labour Minister has the power to issue an announcement prescribing types of work not regarded as working according to this law, in order to support the Government's investment promotion and doing business policies.

2. The Labour Minister, with approval from the Policy Committee on the Management of Foreign Workers' Employment, shall issue an announcement concerning the types of work in which foreign workers are prohibited to engage.

3. The Labour Minister, with approval from the Committee, may issue an announcement prescribing the levies regarding the employment of foreign workers who come to work in the Kingdom in accordance with the specified types of work, in which such levies can be collected from the employers.

4. The Labour Minister, with approval from the Cabinet, may issue an announcement prescribing the types of work that require the allocation of quotas for foreign workers. However, the BOI group is excluded from this announcement.

5. The Interior Minister, with approval from the Cabinet, may issue an announcement specifying the accommodation zoning for any specific groups or areas of work of the permitted workers, in order to ensure the Kingdom security and the public safety.

6. Setting up a complaint mechanism and accessibility to complaint channels for the foreign workers who have been violated by their employers or licensees who are permitted to bring in foreign workers to work and have not complied with their responsibilities according to this Royal Ordinance, as the case may be.

7. Specifying that the Border Pass or official document issued by the countries of origin to the foreign workers, whose nationality is of one of the Thailand's neighboring countries, will be the document to apply for their work permits.

8. Making an additional amendment of a list in foreign worker's work permit by specifying the types of work, employer, area of work, and conditions according to the permission, in order to be flexible for a permission of the employment of foreign workers.

9. Assigning employers and licensee's duties and responsibilities in bringing foreign workers to work in Thailand more clearly. This is to provide protection and a complaint mechanism for foreign workers who are suffering from employers or licensees who fail to comply with their assigned duties and responsibilities, without burdening government agencies.

10. In case of resignation of the permitted foreign workers, their employer shall inform the Registrar.

11. Revising the purposes of payment of the Management of Foreign Worker's Employment Fund in order to assist foreign workers who have their legal rights violated or to finance the administration of the fund to be more extensive.

12. Revising the Penalty Provisions of the draft Royal Ordinance by increasing penalties such as:

1) Anyone who deceives others that he or she may bring foreign workers to work with the employers in the Kingdom shall be liable to imprisonment for 3 – 10 years or a fine of 600,000 – 1,000,000 Baht per foreign worker, or both.

2) Anyone who supports the violations according to number 1) shall be liable to imprisonment for 1 – 3 years or fine of 200,000 – 600,000 Baht, or both.

3) Anyone who operates a business of bringing foreign workers to work without being permitted by the Director-General of Department of Employment shall be liable to imprisonment for 1 – 3 years or a fine of 200,000 – 600,000 Baht, or both.

4) Employers who have not been permitted by the Director-General, Department of Employment to bring in foreign workers to work for themselves shall be liable to imprisonment for a term not exceeding 1 year or a fine not exceeding 200,000 Baht per foreign worker, or both.

5) Licensees who bring in foreign workers to do business that the Director-General of the Department of Employment has prohibited in the announcement shall be liable to imprisonment for a term not exceeding 1 year or a fine not exceeding 200,000 Baht, or both.

6) Anyone who accepts a foreign worker who works in a prohibited type of work or does not have a work permit or has a work permit but assigns the foreign worker to perform prohibited work shall be liable to a fine of 400,000 - 800,000 Baht per foreign worker.

7) Anyone that accepts a foreign worker who does not obtain a work permit that specifies that he or she is the employer shall be liable to a fine of 400,000 - 800,000 Baht per foreign worker.

8) Anyone who accepts a foreign worker to work not in accordance with the work permit shall be liable to a fine of 400,000 Baht per foreign worker.

9) Anyone who confiscates the work permit or important documents that belong to the foreign worker shall be liable to imprisonment for a term not exceeding 6 months or a fine not exceeding 100,000 Baht, or both.

10) Employers who fail to notify the Registrar in the case that a foreign worker quits the work, shall be liable to a fine not exceeding 100,000 Baht.

11) Foreign workers who engage in work without having the work permit or engage in a type of work prohibited by the Minister's announcement shall be liable to imprisonment for a term not exceeding 5 years or a fine of 2,000 – 100,000 Baht, or both.

12) Foreign workers who fail to notify the Registrar in the case of urgent work shall be liable to a fine of 20,000 – 100,000 Baht.

13) Foreign workers who work differently from what is permitted in the work permit shall be liable to a fine not exceeding 100,000 Baht.