Migrant Information Note

Issue #30 – December 2016

This issue of the IOM Migrant Information Note (MIN) provides information on 1) the Royal Ordinance concerning Rules on Bringing Migrant Workers to work with Employers in the Kingdom; 2) Post-Arrival and Reintegration Centers for Migrant Workers; 3) Conditions for changing employers for migrant workers in the fishing and seafood processing sectors; 4) Requirements for issuance of seasonal work permits for Cambodian, Laotian and Myanmar migrant workers in accordance with Section 14 of the Working of Alien Act B.E. 2551; 5) Procedures and timeframe to recruit migrant workers from Cambodia, Lao PDR and Myanmar according to the MOUs 6) Procedures for bringing Vietnamese migrant workers to Thailand under the MOU to work in construction and fishing; and 7) the latest statistics of migrants in Thailand.

1. The Royal Ordinance concerning Rules on Bringing Migrant Workers to work with Employers in the Kingdom

On 16 August 2016, the Department of Employment (DOE) of the Ministry of Labour (MOL) issued the “Royal Ordinance concerning Rules on Bringing Migrant Workers to work with Employers in the Kingdom B.E. 2559 (2016)” . The aims of this new legislation are to appropriately regulate the recruitment of migrant workers to work in Thailand, prevent smuggling of migrant workers coming to work in Thailand irregularly, and strengthen protection for all stakeholders to receive fair treatment based on international guidelines, procedure and standards.

The Royal Ordinance specifies two modalities of recruiting migrant workers: 1) Direct recruitment by employers, which requires payment of a deposit to the responsible governmental agencies according to the official rate; and 2) Recruitment through licensed recruiters with permission granted by this Royal Ordinance, who are required to pay a deposit at a minimum rate of 5 million THB and must comply with official procedures to recruit migrant workers.

The Royal Ordinance includes the following provisions:

- It requires employers to pay recruitment fees and related expenses when recruiting migrant workers;
- Compensation can be deducted from the deposit made to the Department of Employment in case of contract violation during recruitment;
It requires recruiters and employers to share responsibility in recruiting migrant workers by clearly specifying their respective responsibilities in providing fair treatment for migrant workers and employers; and to regulate the role of recruiters in Thailand.

It specifies that recruiters in Thailand who have recruited migrant workers and brought them into the country before the Royal Ordinance was announced can proceed with recruitment/hiring for another 60 days after the Royal Ordinance was brought into force.

To request permission to bring migrant workers to work in Thailand, the applicant must meet the following criteria indicated by DOE:

1. Be registered as a limited company;
2. Have minimum capital of at least one million THB;
3. The authorized capital must be owned by Thai nationals to a ratio of at least three-quarters and at least three-quarters of the total stakeholders must be Thai nationals;
4. Provide a precise and identifiable location of the company’s office;
5. An applicant’s permit has never been, nor is in the process of being, revoked or suspended according to this Royal Ordinance, the Employment and Job-Seekers Protection Act or Maritime Labour Law;
6. Provide one authorized manager to act as juristic person, who meets the eligibility criteria and has no prohibited qualifications, as follows:
   6.1) Thai national
   6.2) Age of at least 20 years old
   6.3) Not being a board member, shareholder or manager of company who has been granted a permit and whose permit has been, or is being, revoked under this Royal Ordinance; the Employment and Job-Seekers Protection Act, or Maritime Labour Law;
   6.4) Not being declared as a disabled person or equivalent;
   6.5) Not being a person with a background of misconduct or immorality;
   6.6) Has never been subject to a final sentence of imprisonment for fraud or corruption of laws including this Royal Ordinance, the Employment and Job-Seekers Protection Act or Maritime Labour Law;
   6.7) Deposit payment at minimum rate of 5 million Thai Baht to DOE to prevent any damage caused from bringing migrant workers to work with employers in the Kingdom, which can be deposited in the form of cash, government bond or bank guarantee.

The Full “Royal Ordinance concerning Rules on Bringing Migrant Workers to work with Employers in the Kingdom B.E. 2559 (2016)” is available at the following link:
http://www.doe.go.th/prd/alien/law/param/site/152/cat/6/sub/0/pull/category/view/list-label

Remark: The term “recruiters” normally refers to “licensed recruiter”. The term “recruiters” in this Royal Ordinance may refer to either employer or licensed recruiter.
2. Post-Arrival and Reintegration Centers for Migrant Workers

The Cabinet approved on 26 July 2016 for the Ministry of Labour to establish “Post-Arrival and Reintegration Center for Migrant Workers” for Cambodian, Laotian and Myanmar migrant workers in three provinces:

1) Post-Arrival and Reintegration Center for Migrant Workers, Tambon Mae Sot, Tak province at 555 Asia Road, Mae Sot, Tak, which opened on 23 October 2016;

2) Post-Arrival and Reintegration Center for Migrant Workers at the Indochina Market, Aranyaprathet, Sa Kaew, at 499/158, 160, 162, 164 Indochina Shopping Mall, Parai, Aranyaprathet, Sa Kaew, which opened on 15 September 2016.

3) Post-Arrival and Reintegration Center for Migrant Workers, Nong Khai, located at 165/1 Moo 5, Meechai, Nong Khai, opened on 27 September 2016.

The objectives are to provide migrant workers with training on employment contracts, labour rights and life skills; verify employers according to employment contracts; pre-screen migrant workers before their arrival to work in Thailand; record migrant workers’ personal information and benefits to which they are entitled upon return to country of origin; and provide assistance to employers and migrant workers to ensure that both act in accordance with the employment contract. The centers provide services for those employers and migrant workers recruited according to the Memorandum of Understanding (MOU).

3. Migrant workers in the fishing and seafood processing sectors are able to change employers within the same sector

According to the guidelines issued by DOE, migrant workers in the fishing and seafood processing sectors are able to change employers within the same sector regardless of the number of employers or provinces. Migrant workers in other sectors can also change job to work with a different/new employer in the fishing and seafood processing sectors. However, migrant workers in the fishing and seafood processing sectors cannot change to work in other sectors.

Migrant workers who do not comply with these regulations are liable to be fined up to 20,000 THB according to the Working of Alien Act B.E. 2551 (2008) and any employers who recruit migrant workers in violation of these regulations are liable to be fined up to 10,000 Thai Baht. For further information, please contact Provincial Employment Offices or Department of Employment Hotline 1694.

Responsible Unit
Office of Foreign Workers Administration, Department of Employment

Type of service
One-stop service

Related laws
Ministerial Regulation concerning application for and issuing of work permits and declaring employment of foreign workers B.E. 2554 (2011)

Timeframe
A total of 15 days, as stipulated in the Ministerial Regulation concerning application for and issuing of work permits and declaring employment of foreign workers B.E. 2554 (2011)

Scope of services

<table>
<thead>
<tr>
<th>Location/service locations</th>
<th>Service hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provincial Employment Offices</td>
<td>Monday - Friday (Except for official holidays). From 08:30-16:30 hrs. (with lunch break)</td>
</tr>
</tbody>
</table>

Rules, Procedures and Conditions for Application

1. Migrant workers with residency and citizenship of the countries that share borders with Thailand, who have been approved to enter Thailand in accordance with immigration law, and intend to engage in temporary work during the allocated period on the border or its extended areas, are to submit an application for a temporary work permit along with travel document and payment of fee.

2. Migrant workers must have passed a medical check and must not have any forbidden symptoms as stated in the relevant Ministerial Regulation.

3. Employer must obtain an approval/quota to employ migrant workers.

Remark:

* The application procedure will officially commence when the officers have checked all required documents. In case that there are incomplete and/or missing documents required which lead to a rejected application, the officers will provide a list of those documents and any other required supporting documents. The applicants must resubmit the revised application and supporting documents within the stated time period, or else the application will be considered as forfeited. A copy of errors will then be provided to applicants as the evidence.

* The result of the application will be announced within 7 days of completion of processing.

* Each officer can accept a maximum of 25 applications per day. The processing time may be extended should the quantity of applications exceed the stated limit.
**Procedure, Processing Time and Responsible Department**

<table>
<thead>
<tr>
<th>Procedures</th>
<th>Responsible Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The applicant submits the application and documents to the responsible officers to examine accuracy and completeness (processing time 1 hour)</td>
<td>Department of Employment</td>
</tr>
<tr>
<td>2. The officer considers the application and proposes to the registrar (processing time 4 hours)</td>
<td>Department of Employment</td>
</tr>
<tr>
<td>3. The registrar considers the application and signs the work permit (processing time 2 hours)</td>
<td>Department of Employment</td>
</tr>
<tr>
<td>4. The applicant pays the fee/receives the work permit</td>
<td>Department of Employment</td>
</tr>
</tbody>
</table>

**Total processing time: 1 working day**

**Required Documents**

1. One application form for work permit according to Section 14 (Tor Thor 9);

2. An original and a copy of border pass or travel document issued by the country of origin and approved by the Ministry of Foreign Affairs;

3. A copy of approval to enter the Kingdom of Thailand;

4. If the employer is a Thai citizen, the employer is to submit a copy of identification card and a copy of house registration;

5. If the employer is a foreign citizen, the employer is to submit a copy of passport or residence permit and a copy of work permit;

6. If the employer is a corporate body, the employer is to submit a copy of the corporate registration (with approval from the Ministry of Commerce issued within the previous six months) and a copy of the house registration, passport or the work permit of the corporate body’s authorized executive;

7. An original medical approval that states the foreigner does not have any forbidden symptoms as stated in the Ministerial Regulation stipulating Prohibitions Preventing an Migrant Worker from Applying for a Work Permit (B.E. 2552(2009)) by the Ministry of Labour;

8. A copy of foreign worker approval quota (within valid period);

9. Three 3x4cm photos displaying the top half of the body from the front, with no hat or dark glasses (photo must be taken no more than 6 months before the application date);
10. An original letter of attorney with 10 Baht Duty Stamp and a copy of identification card of the representative (in case the foreign applicant did not submit the application by him/herself);

11. A copy of work location map.

Fee

- Application fee: 100 Baht
- Work permit fee (with validity not longer than 3 months): 225 Baht

Contact

- Office of Foreign Workers Administration, Department of Employment
- Tel: 022463051

Source: Chonburi Department of Employment www.chonburidoe.com
5. **Procedures and timeline for bringing migrant workers from Cambodia, Lao PDR, Myanmar and Viet Nam to work in Thailand under the Memoranda of Understanding (MOUs) as stated in the Royal Ordinance concerning Rules on Bringing Migrant Workers to work with Employers**

**Employer/Company**

1. File request to hire migrant workers (Nor Chor 1) at Provincial Employment Office 1-10
2. Documents are reviewed and receipt is issued for employer/company
3. Notification of approval within 3 days after document review completion

**Documents for requesting migrant workers to enter the Kingdom**

1. Request form (Nor Chor 2)
2. Copy of contract with recruitment agency in case employer hires a recruiter to bring migrant workers to work in the Kingdom and a copy of recruitment license (Nor Chor 4)
3. Power of Attorney form
4. Employment contract (in fishing sector must use fishing sector employment contract (Por Mor 1)
5. A copy of quota approval to employ migrant workers and a copy of employer’s confirmation of quota to employ migrant workers
6. Other related documents such as employer evidence/registration document, copy of factory establishment permit, and employment contract with business partners.
7. In case of direct recruitment, employers can provide power of attorney as follows:
   - (1) Juristic person gives authority to officer, evidence of application for Social Security must be shown
   - (2) Individual can provide power of attorney to spouse/offspring/siblings, who must provide a copy of ID card and house registration that proves legal relations.

**Employer/Company**

1. Request form (Nor Chor 2)
2. Passport and Visa with a copy
3. Letter of approval for a work permit
4. Medical certificate (issued within the last 6 months)
5. Other related documents

**Documents for a work permit on behalf of a migrant worker**

1. Application form (Tor Thor 2)
2. Certificate of employment
3. A copy of work permit
4. Name list of migrant workers with checkpoint that will be entered
5. A copy of passport
6. Three half-length 3x4 cm photos
7. Other related documents such as employer evidence/registration document, deposit document in case the documents are required to be sent through a recruitment representative or Department of Overseas Labour (DOLAB)
8. Copy of contract with recruiter in case of employer hires a recruiter to bring migrant workers to work in the Kingdom and a copy of recruitment license (Nor Chor 4)
9. In case of direct recruitment by the employer, power of attorney can be provided as follows:
   - (1) Juristic person gives authority to officer, evidence of application for Social Security evidence must be shown
   - (2) Individual can provide power of attorney to spouse/offspring/siblings, who must provide a copy of ID card and house registration that proves legal relations.

**Department of Employment (DoE)**

Issues official letter to related agencies as follows:
- **For Cambodian, Laotian, and Vietnamese migrants**
  1. Thai embassies in Phnom Penh, Vientiane, and Hanoi issue VISA (500 THB/person) (For Vietnamese, inform DOLAB)
  2. Immigration Bureau issues approval for migrant workers to enter the Kingdom
- **For Myanmar migrants**
  1. Myanmar officials verify employment from employers, 2. Immigration Bureau issues VISA Non-LA and approves migrant workers to enter the Kingdom (500 THB/person)

**Post-Arrival and Reintegration Center for Migrant Workers (Tak, Sa Kaeo, Nong Khai)**

Once migrant workers from Cambodia, Lao PDR, and Myanmar enter the Kingdom, they must:
1. Attend the training related to work and life skills in Thailand
2. Officers inform name list of migrant workers to Provincial Health Office 1-10 and Division of Personnel

**Responsibility of country of origin**

1. Application and selection of migrant workers
2. Preparing name list and notifying Thai employers

**Employer/Company**

1. Employer files request to hire migrant workers (Nor Chor 2)
2. Document reviewed by and receipt issued for employer/company
3. Employers/licensed recruiter prepares documents to submit to country of origin, except for Viet Nam, in which case the documents are required to be sent through a recruitment representative or Department of Overseas Labour (DOLAB)

**Documents for a work permit**

1. Work Permit Application form
2. Passport and Visa with a copy
3. Letter of approval for a work permit
4. Medical certificate (issued within the last 6 months)
5. Other related documents

**Migrant workers must;**
1. Complete health check-up (500 THB)
2. Receive Medical Certification to obtain work permit at Provincial Health Office 1-10 and Vietnamese workers must attend training
6. Procedures for bringing migrant workers from Viet Nam to work in the construction and fishing sectors under the MOU

On 23 July 2015, the Minister of Labour of Thailand and the Minister of Labour, Invalids and Social Affairs of Viet Nam signed the Memorandum of Understanding on Employment Cooperation and the Agreement on the Employment of Workers between Thailand and Viet Nam.

The Cabinet Resolution on 10 November 2015 subsequently agreed to permit recruitment of Vietnamese workers to work in Thailand under the MOU, with the Ministry of Labour (MoL) tasked with developing procedures to facilitate this process in a transparent, efficient, convenient and cost-effective manner. MoL has developed the below procedures whereby employers can submit a request for workers directly to recruitment agencies in Viet Nam, or can use the services of registered recruitment agencies in Thailand.

**Procedures for bringing Vietnamese workers to work in Thailand**

*Step 1*

Employers must submit a request for employing Vietnamese workers at Provincial Employment Offices (PEOs) or the Department of Employment (DOE) in Bangkok. After the employers receive the official request form to employ Vietnamese migrant workers, they can proceed to contact the Viet Nam recruitment representatives or Thailand recruitment representatives. The Viet Nam recruitment representatives are those that have been approved by the Ministry of Labour, Invalid and Social Affairs (MOLISA) of Viet Nam, made up of labour service centers, three job centers in Ngne An, Ha Tinh and Quan Binh, and five private recruitment agencies: SONA, TTLC, Thinh Long Corp, Hoang Long Huresu and Vihatico.

The request form for employing Vietnamese migrant workers must state the desired amount of employees, requested skills/qualifications, working conditions and salary. The work contract between the employer and employee must first be approved by the relevant PEO or DOE.

*Step 2*

The Viet Nam recruitment representative must inform the Department of Overseas Labour (DOLAB) and make a public announcement on the opening of registration to work in Thailand.

*Step 3*

The employer selects the Vietnamese workers from those who have registered. The employer signs the work contract in advance for each worker, then informs DOE and the Viet Nam recruitment representative.

*Step 4*

The DOE approves the worker list and sends a request to Thailand Ministry of Foreign Affairs and the Thai Embassy/Consulate in Viet Nam to issue the visa for selected workers, as well as notifies DOLAB.
**Step 5**

The Viet Nam recruitment representative assigned by DOLAB will prepare the workers with basic English language course and training before departure. The representative will advise the worker on signing of the work contract (which will have been signed in advance by the employer) and signing of contract for overseas employment. At the same time, the representative will submit a visa application, together with all relevant documents and the list of the workers that have been approved by DOLAB, to the Thai Embassy/Consulate in Viet Nam.

**Step 6**

The Viet Nam recruitment representative will notify employers of the name list and flight information of the workers in order for them to be received at the airport. The employers must bring the workers to complete a medical examination, submit a work permit application, and complete a one-day training at the allocated DOE office before they can start work legally.

**Step 7**

During the working period in Thailand (each contract must last no longer than two years), the employer and Thailand recruitment representative must follow-up on the workers to ensure their wellbeing. They must also cooperate with the Embassy of Viet Nam in Thailand and the Viet Nam recruitment representative to assist in resolving any problem that arises.

**Step 8**

Should the work contract reach its expiration or there is a need for the worker to return to Viet Nam before fulfilling the contract, which is not the fault of the worker, the employer and Thai recruitment representative are responsible to provide a return flight/transportation. The Viet Nam recruitment representative must be notified to receive the workers upon return to Viet Nam and end the contract for overseas employment.
7. Statistics of Migrant Workers in Thailand

Table 1: Number of migrant workers registered under the Cabinet Resolution of 23 February 2016 (as of October 2016):

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Myanmar</td>
<td>724,684</td>
</tr>
<tr>
<td>Cambodia</td>
<td>384,542</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>68,324</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,177,550</strong></td>
</tr>
</tbody>
</table>

*Source: Office of Foreign Workers Administration, Department of Employment, Ministry of Labour*

Table 2: Number of migrant workers with valid work permits who have entered Thailand through the MOU process (as of October 2016):

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Myanmar</td>
<td>183,780</td>
</tr>
<tr>
<td>Cambodia</td>
<td>146,467</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>40,467</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>370,714</strong></td>
</tr>
</tbody>
</table>

*Source: Office of Foreign Workers Administration, Department of Employment, Ministry of Labour*

Table 3: Number of migrant workers from the previous Nationality Verification Process remaining in Thailand (as of October 2016):

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Myanmar</td>
<td>769,336</td>
</tr>
<tr>
<td>Cambodia</td>
<td>100,578</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>62,225</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>932,139</strong></td>
</tr>
</tbody>
</table>

*Source: Office of Foreign Workers Administration, Department of Employment, Ministry of Labour*

Table 4: Number of migrant workers working on short-term/seasonal basis (as of October 2016):

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cambodia</td>
<td>2,937</td>
<td>3,502</td>
</tr>
<tr>
<td>Myanmar</td>
<td>46</td>
<td>35</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>6,520</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Source: Office of Foreign Workers Administration, Department of Employment, Ministry of Labour*
Table 5: Number of migrant workers who are insured under the insurance scheme provided by the Ministry of Public Health (as of August 2016):

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Myanmar</td>
<td>1,146,784</td>
</tr>
<tr>
<td>Cambodia</td>
<td></td>
</tr>
<tr>
<td>Lao PDR</td>
<td></td>
</tr>
</tbody>
</table>

Source: Health Insurance Group, Ministry of Public Health

Table 6: Number of migrant workers with valid work permit enrolled under the Social Security Fund (as of July 2016):

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Myanmar</td>
<td>288,209</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>11,865</td>
</tr>
<tr>
<td>Cambodia</td>
<td>74,953</td>
</tr>
<tr>
<td>Vietnam</td>
<td>540</td>
</tr>
<tr>
<td>Other</td>
<td>89,996</td>
</tr>
<tr>
<td>Total</td>
<td>465,563</td>
</tr>
</tbody>
</table>

Source: Social Security Office, Ministry of Labour

The Migrant Information Note is produced by the Labour Migration Programme, IOM Thailand Office. For further information, please contact us by tel: 02-3439300, fax: 02-3439399, or e-mail: migrantnews@iom.int

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