



Statistics

Percentage of migrant workers by types of work permit

Migrant workers and their dependents

Policies and Laws

November 2016

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December 2016

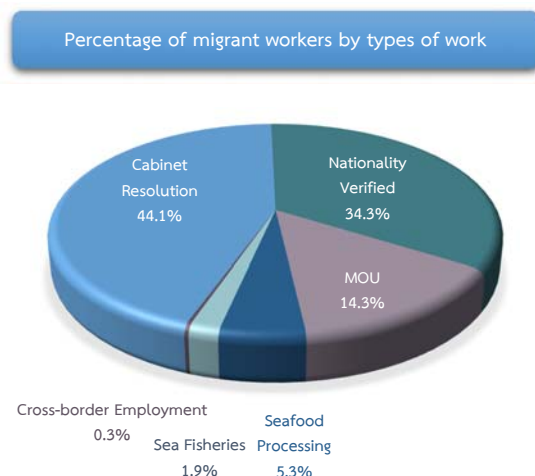
1. Cabinet Resolution dated 7 December 2016 Re: Draft Ministerial Resolution on prescribing status and conditions on living in the kingdom for those who were born in the kingdom, but not entitling to Thai Nationality, B.E. ...
2. Cabinet Resolution dated 7 December 2016 Re: Resolving the problems of nationality and personal status of alien students and non-nationals born in the Kingdom
3. Cabinet Resolution dated 13 December 2016 Re: Permission to human trafficking victims and witnesses to reside in the Kingdom and allow to engage in work legally after ending a lawsuit

Statistics of Migrant Workers, November 2016				
Category / Country	Myanmar	Cambodia	Laos	Total
Nationality Verified	754,037	99,030	63,025	916,092
MOU	188,979	149,485	43,502	381,966
Cabinet Resolution	723,360	385,829	69,489	1,178,678
Sea Fisheries	27,224	21,730	1,038	49,992
Seafood Processing	100,870	35,632	4048	140,550
Cross-border Employment	596	6,436	-	7,032
Total	1,795,066	698,142	181,102	2,674,310

(Data from Foreign Worker Administration Office and website of Ministry of Labor : November 2016)

Statistics of Registered Dependents of Migrant Workers				
Category / Country	Myanmar	Cambodia	Laos	Total
Cabinet Resolution	11,157	10,557	1,953	23,667
Seafood Processing	2,259	1,488	183	3,930
Total	13,416	12,045	2,136	27,597

(Data from website of Ministry of Labor : November 2016)



1 Notification of the Office of the Prime Minister RE: Prescribing of working areas permitted for Aliens under Section 13(2), underneath Alien Working Act, B.E. 2551 (No.3), B.E. 2559

Synopsis

In granting permission for the migrant worker to engage in work as a “**language coordinator**” - for Cambodian, Laotian or Burmese; the employer who shall hire must abide by the following conditions:

- (1) to settle a job announcement which gives an opportunity at first to Thais for at least 15 days
- (2) In case no recruitment taking place after the announcement made under (1), the permit shall be granted to employ the migrant worker to be a language coordinator responsible for a hundred migrant people. This is except for state agencies, state enterprises, foundations, or other organizations whose objectives are not to aim at making a profit; but to create benefits to the entire society, granting to hire for necessity and appropriateness.
- (3) to carry out the assigned migrant to have training by government agencies related

This notification will benefit the government sector, business sector, and civil society; because be able to employ the migrants who are capable of communicating both Thai and migrants’ languages, to engage in work as a communicating assistant, a translator, or a migrant healthcare worker. As we have seen them in several healthcare facilities which are employing these positions. This could help encourage migrant workers even more accessible to services and protections.

As per condition (3), the assigned migrant shall have to be trained by relevant state agencies; as a result, certain agencies have launched out training curriculum. For instance, the Ministry of Public Health has initiated to improve the draft of curriculum and employment guidelines of migrant healthcare workers to be in conformity with this notification.



2 Notification of the Office of the Prime Minister RE: Prescribing of working areas permitted for the alien who may apply for a work permit under Section 13, underneath Alien Working Act, B.E. 2551

Synopsis

The alien who may apply for a work permit should have the following qualifications:

- (1) Those have lived in Thailand for a long time and have been particularly permitted to stay in Thailand and have been registered according to the civil registration law the criteria of which defined by the cabinet, including their dependents born in Thailand. This except migrant workers from Cambodia, Laos, Myanmar, Vietnam, and other countries; those who are under the law on working of alien prescribed working areas in particular.
- (2) Those have been given the document certified by the Chief District Officer stating the result of their nationality verification is underway, as stating in the law on nationality regarding adding the name of persons into the household registration as the law on civil registration specified.

This notification is likely that would cover the minority groups who have lived in Thailand for a long time; and have national identity number [ID no.] beginning with 6; and their descendants who have national ID no. beginning with 7. It also includes non-national people who had been surveyed under the “2005 strategy to solve personal status and right problems” with national ID no. beginning with 0. According to this announcement, it allows this group to engage in all types of work.

Additionally, the Department of Employment has notified to the aforesaid aliens who desire to work, that the alien shall have to submit the application at the appropriate Provincial Employment Offices (PEO) and Bangkok Employment Offices where the workplaces located. The procedures that the alien must follow to complete the application are:

1) Request permission to the relevant governor before travelling

- Bangkok Metropolis area: apply a request form to the Permanent Secretary of the Ministry of Interior or the commissioner;
- Provincial areas: in case outing of the area, apply a request form to the Provincial Governor or the Chief District Officer or the Assistant District Officer or the commissioner at the district office

2) Apply for a work permit

Submit the application form with the following documents to the PEO; original and copy of school certificate, former employer’s certificate stating the employee is qualified; and experienced appropriate for certain work, employment certificate, medical certificate, map of workplace, identity card for non-Thai Nationality, document of permission to travel, one photo (size 3X4 cm), etc. All this, the permit is exempt from fee; but must pay 100 baht to apply for a work permit.

This announcement will be beneficial for work opportunity of minority groups able to engage in all categories of work, and of school-age children able to attend public schools. As well as some on-site NGOs that have been employing these groups to work for will be able to hire persons in other categories of work other than unskilled and semi-skilled.



3

Conditions on changing employer of migrant workers

The department of Employment has notified that migrants from Cambodia, Laos, and Myanmar which their employment contracts have not yet expired; if want to change the new employer, working conditions, working area or workplace, able to do so underneath the following cases:

- 1) *Death of the employer*
- 2) *Bankruptcy of the employer*
- 3) *Being tortured or physically hurt by the employer*
- 4) *The employer fails to abide by the employment contract or the labor protection law.*
- 5) *The employee works under the conditions that may be harmful to his/her life, mind and health*

Nonetheless, the aforesaid cases are exceptional for migrant workers in the fishing and aquatic animals processing industries; the period of work permit renewal of which starting from 1 November to 30 December 2016; to change their employers is yet to be allowed. When beyond the specified period, the migrants of these group are eligible to do that as the migrant workers in other categories do.

The case that the employer lays off employees, means the employer fails to pay the wages for the employee, not because of the termination of employment contract, and of the fail of employer on running his business. For the case

that the employee engages in corruption, perpetrates a crime, does a severe damage to employers' business on purpose, violates work rules, regulations or orders of the employer being enforceable only to the extent as it is fair and reasonable; in such cases, the employee will not be allowed to change the new employer, but will be canceled a work permit and then repatriated.

For the case that the employee is tortured or physically hurt by the employer likely to harm to life, body, mind, or health; the employee shall have to present the police report as an evidence that the employer has done so. The employee is thus eligible to change the employer, work conditions, workplace as the consideration of registrars relevant to alien work.

For the migrant who wishes to change the employer, or the employer who wishes to employ migrants, must show the documentary evidences about employment termination, business cancellation, a chart against the employer. And must pay the costs as follows; for fee at 1,000 baht, for submitting application at 100 baht, and for permission to change or add category of work, employer, working area or work place or working conditions as permitted at 900 baht.



4

Headway of the process of nationality verification

Upon the recent cabinet resolution regarding the nationality verification, there has been progress for the Cambodian migrants.

The Cambodian Authority has notified that the migrant worker who has been verified nationality; and is awaiting to receive the documents from the country of origin; could collect a passport (PP), a travel documents (TD), and an Overseas Cambodian Worker card (OCWC) from Cambodian officials at three locations in Thailand.

Bangkok – at Bic C Supermarket, Lard Phrao

Chonburi – at Tesco Lotus Supermarket

Pathum Thani – at Zeer Rangsit Shopping center

In case the migrant worker is uneasy to travel by themselves; the employer can proceed on behalf of the employee

through the online system. Cambodian officials would take time to verify the documents within 14 days and inform the result later. There must pay a 950- baht fee for the process.

For Burmese migrants, there has been no progress despite that previously there would be the establishment of the Certificate of Identity (CI) centers at five provinces in Samut Sakorn, Samut Prakarn, Tak, Chiang Rai, and Ranong for issuing the travel certificates for Burmese migrants who lack of officially identity documents; and for those who have all required documents can request passports there.

However, the clear progress toward this matter has not yet made so far.



1

Cabinet Resolution dated 7 December 2016 Re: (Draft) Ministerial Resolution on prescribing status and conditions on living in the kingdom for those who were born in the kingdom, but not entitling to Thai Nationality, B.E. ...

Synopsis

The cabinet has approved in principle of the draft government's Resolution on determining status and conditions on living in Thailand for those who were born in the Kingdom, but not entitling to Thai Nationality, B.E. ..., issued under the Nationality Act (No 4), B.E. 2551 (2008) section 7 bis, paragraph 3, as the following; *"The person, who is born within the Thai Kingdom and has not acquired Thai nationality under paragraph one, shall reside in the Thai Kingdom under conditions stating in the Ministerial Regulation; but principles of national security and human rights have to be considered as well. Nevertheless, the person shall be deemed to have entered and resided in the Thai Kingdom without permission under the law on immigration when there is no such Ministerial Regulation still".*

The contents of the draft regulation are as follows;

1. prescribing the person who is born in the Kingdom of Thailand and does not acquire Thai nationality as his father or mother was; except the children of an alien father and mother residing in the Thai Kingdom without permission under the law on migration, and the orphan which has a certificate issued by the official under the Ministry of Social Development and Human Security.
2. prescribing the rights of housing in the Thai Kingdom of a father and mother or a father or mother is terminated, which is extended to the person who is born within Thailand. This excepts the person, who is not less than completely 18 years of age or the emancipated minor, who is unable to return to the country that a father or mother has or used to have a domicile or used to reside, who has a guardian, husband, wife or children with Thai nationality, who has a domicile in the Thai Kingdom for a consecutive period, who is in underway his education, or who has made contributions to the country as specified criteria.
3. prescribing the person born in the Thai Kingdom, without Thai Nationality, and aged over 18 may be repealed the rights of housing in the Thai Kingdom for in the case that his performance whatsoever effects to the security or interests of the state, or amounting to an insulate the nation, or commit any act contrary to public order or good morals.
4. prescribing children of a person who was born within Thailand entitling to residing the Thai Kingdom according to this Ministerial Relation, entitling to have rights and obligations as same as a father and mother or a father or mother, even if such a father or mother has passed away.

Consequently, this draft determines personal status of children of aliens or migrant workers who were born within Thailand are entitled to have status and rights to live in the nation in accordance with the rights of their parents. This except the group that parents immigrated illegally, their children shall have status and rights to live differed from the said parents. Concurrently, the residential right of the children born in Thailand also come to an end as do their parents, barring the case of the person who is married to Thais or has a Thai nationality child. The group of children who are unable to travel back to the country of origin which their parents used to have a domicile or reside, including the persons are still in schooling in Thailand, or people who have made contributions to Thai society as outlined criteria. Those people may gain status of residing in Thailand after their parents' status already terminated. Besides, this regulation entitles to the right to live in Thailand persisted to children even though their parents are not alive.

So, this Ministerial Regulation is advantageous to migrant children and to people working with migrant children in helping migrant children born in Thailand become non-illegal status and have a right to stay legally in Thailand according to the right of their parents. This resolution enables foreign children to have more right to gain protection, to access to social services such as healthcare, public education or other basic rights.

This regulation is however on the underway process of the juridical council's scrutiny. In this regard, the cabinet has taken opinions of the Ministry of Foreign Affairs and the Secretariat of the National Security Council (SNSC) into consideration.

The SNSC's interesting points are; 1) for children of aliens who are entitled to have status and the right of housing in Thailand specified in the Ministerial Regulation, should not cover to the children of the illegal migrant group relevant to state security, in particular the Myanmar people escaping from battles, Rohingyas, Uighurs, North Koreans, and other groups facing that kind of same problems. 2) regarding status maintaining and the right of housing according to the Ministerial regulation, as of SNSC' view, this prescribed condition is too broad, there should be concise and should have a deliberate verification and screening.

Synopsis

The cabinet has approved in principle on granting citizenship as proposed by the Ministry of Interior to the two groups of people; the children of an ethnic minority group born in Thailand, and the children who are currently studying or have graduated. The specified principles to grant Thai nationality as follows;

1. Approving Thai Nationality in general to the child born by the ethnic minority group who was born in Thailand, the required qualification as follows:

- 1.1 A father or a mother from ethnic minorities having been registered, given a 13-digit identity number in accordance with the law on civil registration, and entering into the Thai Kingdom for not less than 15 years till the day of filling the application for naturalization;
- 1.2 having a birth certificate or any of birth evidenced documents proving their birth within the Thai Kingdom, and household registration or personal record;
- 1.3 having no evidence suggesting holding any other nationality;
- 1.4 being able to speak and understand Thai language;
- 1.5 revealing faithful adherence to the democratic regime of government with the king as head of the state;
- 1.6 having good behavior, not acting prejudicial to national security, not having been punished by a court judgement except a penalty of offence committed due to negligence or petty, unless a period of at least five years has elapsed before the date of applying for Thai Nationality;

2. Approving Thai Nationality in general to children and persons in educational institutions or graduated who were born in the Thai Kingdom, of a father or a mother are from other groups, not ethnic minorities as the Ministry of Interior had made personal records, or non-parents, and have the following qualifications;

- 2.1 having the qualifications in 1.2 -1.6
- 2.2 having received a bachelor's degree or its equivalent in Thailand, for those who graduated abroad must be awarded scholarship from Thai Government agencies;
- 2.3 For rootless people not having a father or a mother or being abandoned since very young, and not yet graduated at higher education level, there must be a certificate on rootless issued by agencies under the Ministry of Social Development and Human Security, and also has a domicile with the Thai Kingdom in consecutive periods of not less than 10 years till the date of applying for Thai Nationality.
- 2.4 For the persons who are still in schooling and in need of the acquisition of Thai Nationality, there must be the approval of the Minister of Interior or his authorized representative.

So, this resolution is good for the children of ethnic minorities who were born within Thailand and legally registering and residing for a long time, enabling to apply for Thai Nationality more easily. At the same time, it might be beneficial to migrant children or other minority groups which are in the Thai higher education level, particularly the graduated group enable to apply for Thai Nationality. Migrant Working Group members should have to scrutinize to this principle of acquiring Thai nationality, and to encourage migrant children to be attentive to the importance of education, and opportunity from the Thai education system.

All this, the Cabinet have assigned the Ministry of Interior taking into account the opinions of the Ministry of Public Health (MoPH), the Office of the National Economic and Social Development Board (NESDB), and the Office of the National Security Council (NSC) for implementation.

For the MoPH's opinion, preparing more budget should be made for administering health care among these groups. For the NESDB's advisement, there should be a caution regarding to a dishonest subrogation, or citizenship application for other not in line with the conditions. For the NSC's opinions, firstly, to the ethnic minorities

who have to registered and have a 13-digit ID number especially under section 38 bis 2 of the Civil Registration Act, such a registration implementations of which seem to be too broad, lack of a concise criteria, and do not give permission to residing in Thailand. So it would risk that yields a push factor resulting non-targeted persons would seek to exploit this matter.

Secondly, there should take in to consideration of naturalization for children to be connected with the status of their parents, particularly in the groups of their parents not being allowed to reside in Thailand according to the law on immigrant, then it would occur a family-connection problem in result. With this regard, there should be an expediting resolution on the status of custody.

Lastly, for the case on naturalizing to the group studying in higher education, there may be migrant children existing as well. That may effect on the migrant labor management in particular to those are underway proofing of nationality. And to obtain citizenship would render the government shouldering more burden of caring for these groups. There should be an appropriate preparation toward these groups.

The cabinet has approved measures proposed by the Ministry of Interior to grant permission to human trafficking victims and witnesses to stay temporarily in Thailand and to work legally after a lawsuit ends. The details are following;

1. acknowledged to revise the impediments regarding permission to victims and witnesses of human trafficking to stay and work in the Thai Kingdom, and other issues which are beneficial to victims and witnesses, and to prosecutions

according to the emergency operational plan for prevention and suppression of human trafficking in the latter six months of the year 2016 as proposed by the Ministry of Interior. Gist is as follows:

1.1 assigned the Ministry of Interior to issue an announcement that the Minister will grant to victims and witnesses of human trafficking whose lawsuits have ended, a temporary residence and work permission valid for a period of 2 years. This includes the dependents who are the children of the aforesaid migrants. When the two-year period expires, the said migrants whose behaviors do not threaten to the nation security are desirous to continue to work, they can apply for remaining in Thailand for every 1 year, and have to register for making personal record and for receiving an identity number as the law prescribed.

1.2 assigned the Ministry of Labor to consider a permission for the migrant who is a victim and a witness of human trafficking and has granted permission, as a special case, to stay temporarily in Thailand during awaiting repatriation, and to work for all categories with fee exemption for a work permit, and gaining wages as the laws specified.

1.3 assigned the Ministry of Public Health to process medical examinations and to offer health insurances to the registered migrants attaching when applying a work permit, with fee exemption for these group.

2. assigned the Ministry of Interior and the Ministry of Social Development and Human Security, the Bureau of the Budget, and the related agencies to undertake the

recommendations from the Ministry of Public Health, the Office of the National Security Council, and the Office of the Juridical Council that all agreed that the said migrants have to purchase health insurance as same as other migrants do, that budget allocation for the said migrants should be made for not burdening with public health agencies, victims, and witness of human trafficking, and that there should have collaboration with the countries of origin of those migrants to systematically and clearly verify and certify personal status of target group.

Besides, permission for the aforesaid migrants to stay temporarily in Thailand and work legally should not cover to the

migrants who have involved in the state security and has immigrated irregularly, the countries of origin of them do not affirm their status, such as Rohingya, and there should implement correctly in accordance with the laws and regulations related.

All this, assign to the related agencies integrating for the prevention and resolution on human trafficking achieves urgently the government policy.

So, this resolution has extended the rights for the affected migrants of human trafficking to stay and work in Thailand after the lawsuit ends, despite the earlier permission granted only the duration of prosecution. This resolving will benefit directly to victims and witnesses in human trafficking cases (Remark – there were no the report of this cabinet resolution in the cabinet meeting's minutes publishing in the government's website, but it was found in the report of the Secretariat of the Cabinet distributed to the relevant agencies) whose aims are only at travelling to seek work in Thailand. The allowance of staying and working in Thailand is a 2-year period for the first time and a 1-year period for a renewal thereafter.

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