

Rule of Department of Employment

On

The Criteria for the Consideration for Work Permit Issuance B.E. 2547

For the purpose of work permit issuance pursuant to section 7 and section 8 of Working of Aliens Act B.E. 2521 consistent with Rule of Department of Employment on the Criteria for the Consideration for Work Permit Issuance shall be prescribed.

By the virtue of section 32 of the Act of Organization of State Administration B.E. 2534 as amended by the Act of Organization of State Administration (No. 5) B.E. 2545, the Director-General of the Department of Employment set the following rules

No. 1 : This Rule shall be called “Rule of Department of Employment on the Criteria for the Consideration for Work Permit Issuance B.E. 2547

No. 2 : This Rule shall come into force on 8 October B.E. 2547

No. 3 : The following shall be repealed:

(1) Rule of Department of Employment on the Consideration Criteria and Conditions for Work Permit Issuance B.E. 2545 issued on 22 May B.E. 2545

(2) Rule of Department of Employment on the Consideration Criteria and Conditions for Work Permit Issuance (No. 2) B.E. 2545 issued on 11 July B.E. 2545

(3) Rule of Department of Employment on the Consideration Criteria and Conditions for Work Permit Issuance (No. 3) B.E. 2547 issued on 5 February B.E. 2546

No. 4 : The consideration for work permit issuance pursuant to section 7 and 8 shall be made in a necessary and appropriate manner, taking into account:

(1) Political, religious, and social security of the Kingdom.

(2) The protection of Thai nationals over aliens in the occupations for which Thai nationals have adequate skills and there is no shortage of labour in the occupations.

(3) The employment of the aliens shall bring about a large amount of foreign currencies for investment or expenses in the Kingdom, and shall generate employment of Thai nationals in a large number, or in case where modern and advanced technology is required, bring about technology transfer to Thai nationals.

(4) Skill development of Thai nationals shall be derived from technology or knowledge transferred, or the understanding of how to operate modern machines and tools by such aliens.

(5) Humanitarian reasons.

No 5 : Work permit for the aliens mentioned in No. 4 shall be issued according to the following criteria:

(1) For the aliens who work with and have certified letters from financial institutions under the supervision of Bank of Thailand or Ministry of Finance or other government offices taking responsibility in financial institutions supervision, the number of such aliens to be granted a work permit shall be as identified in the certified letters.

(2) For the aliens who have certified letters from central or regional or local government offices, state enterprises and public organizations under Public Organization Act which identifies name, position and duration of work.

(3) For the alien workers who work with the employers whose business have a registered paid-up capital of not less than 2 million baht. Work permit shall be issued to an alien worker for every two-million baht investment or for the aliens who work with the overseas registered employers who perform business in Thailand with an investment of capital from overseas of not less than 3 million baht; work permit shall be issued to an alien worker for every three-million baht investment. Or for the aliens who work with the overseas registered enterprises which perform their business in Thailand before 30 October B.E. 2545, but have no document identifying their capital transferred from overseas. In such case their statement of account of the recent 6 months shall be considered and work permit shall be issued to an alien worker for every three-million baht investment. For the aliens who are married to Thai nationals and have a marriage certificate and cohabit as husband or wife, the amount of investment capital required in order to receive a work permit shall be reduced to half of the amount prescribed above. The number of alien workers to be granted work permit shall not be more than ten people. However, the number of alien workers to receive work permit shall not be more than 10 unless it falls under the following situations:

(a) Working with the employers who paid revenue tax of a recent year of not less than 3 million baht.

(b) Working with the employers who perform export business and bring about foreign currencies into Thailand of minimum 30 million baht in a recent year.

(c) Working with the employers in tourism business, which bring not less than 5,000 foreign tourists into Thailand in a recent year.

(d) Working with the employers who employ not less than 100 Thai workers.

(4) For the aliens who work with the employers whose business have paid up capital of minimum 2 million baht or work with the employers who have overseas registered and perform the business in the Kingdom with not less than 3 million baht of overseas capital,

the said criteria about the limit on the number of aliens to be granted work permit as prescribed in No. 5 (3) shall not apply to the following:

(a) Alien workers who can use technology which Thai nationals cannot perform or where there is a shortage of Thai worker. However, there shall be a technology transfer to at least 2 Thai nationals with the time limit.

(b) Alien workers who possess expertise to accomplish the work in a limited timeframe project.

(c) Alien workers who work in entertainment business with a temporary contract.

(5) The aliens who work in a foundation, association or other nonprofit organizations, which create benefits to society as a whole, are exempt from the prescription of No. 5 (3).

(6) The aliens who work in representative offices of foreign international-trading businesses set up to give recommendations on merchandise the head office distributes to dealers or customers, publicize information about merchandise or new services of the head office, report the head office about business movement in Thailand to not more than 2 persons in the head office. The aliens who perform the duty in Thailand for marketing supply or service supply for their head offices, or perform the duty in quality and quantity controlling of products made in Thailand for their head office shall be permitted to work in such position in such business for not more than five persons. However, this criteria is not prescribed to representative offices which can provide a procurement or service in Thailand for their head office and that head office had ordered such goods or service from manufacturer in Thailand in a recent year for the value of not less than 100 million baht.

(7) The aliens who work in regional offices which are established under the laws of country and perform a business in another country, to perform the work as a representative of the head office in providing the services for example, business coordination and supervision to the branch or the companies in their group of companies which are located in the region, consultant or human resources development training services, financial management, marketing management and sale promotion planing, production development, and research and development without getting any income from such services other than receiving the payment from the head office, and with no authority to buy or sell or do any trading business with any person or legal person in a country where such representative offices are located, such aliens shall be permitted to work in that representative office not more than five persons. However, representative offices, which bring more than 10 million baht into Thailand for their expenses in a recent year, are exempt from the above-mentioned criteria.

No 6 : The consideration of work permit issuance according to No.4 to the aliens whose employers are natural persons and not possess any qualification as specified in No. 5, shall be subject to the following criteria:

(1) For the aliens who work with the employers whose business generates income in the past or present year. The work permit will be issued to an alien worker for every 700,000 baht income but the total number of aliens to be granted work permit shall not be more than three persons.

(2) For the aliens who work with the employers who paid tax in the past year. The work permit will be issued to an alien worker for every 50,000 baht income but the total number of aliens to be granted work permit shall not be more than three persons.

(3) For the aliens who work with the employers who employ four Thai workers; a work permit will be issued to an alien for every four Thai workers but the total number of aliens to be granted work permit shall not be more than three. For the aliens whose spouses are Thai nationals and having a marriage certificate, as well as cohabiting as husband and wife, the criteria prescribed in Paragraph one shall be reduced by half.

No 7 : The quota of work permit under No. 4 to be issued to the aliens who perform the works of legal or law suit services, shall be as agreed by the two parties in the following work:

(1) Arbitrator

(2) Conducting law suits in arbitration court in the case in which the applicable law is not Thai law or in case where no final judgment is requested in the Kingdom of Thailand.

No 8 : The consideration other than the above mentioned case or regulations shall be under the authority of the Director-General.

No 9 : The applications which are submitted to the competent official before the effective date of this Rule shall be under the prescription of the Rule of Department of Employment on the Consideration Criteria for Work Permit Issuance B.E. 2545 issued on 22 May B.E. 2545, the Rule of Department of Employment on the Consideration Criteria for Work Permit Issuance (No. 2) B.E. 2545 issued on 11 July B.E. 2545 and the Rule of Department of Employment on the Consideration Criteria for Work Permit Issuance (No. 3) B.E. 2546 issued on 5 February B.E. 2546.

No 10: The Director-General shall have charge and control of the execution of this Rule.

Given on the 30 th day of September B.E. 2547

Chuthatawat Indrasukhsri
(Chuthatawat Indrasukhsri) Director - General