



Funded by the
European Union



Human Rights and Gender Equality

Comparative Study on Laws and Policies in the Management of Migrant Workers in ASEAN

National Report: Thailand



Enhanced Regional EU-ASEAN Dialogue Instrument

E-READI

Disclaimer

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967. The Member States are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam. The ASEAN Secretariat is based in Jakarta, Indonesia.

This publication was produced with the financial support of the European Union. The information and views set out in this report are those of the author and do not necessarily reflect the official opinion of the European Union, the ASEAN Member States, the ASEAN Secretariat, any related working groups, institutions and bodies, nor any person acting on their behalf. Neither the European Union, the ASEAN Member States, the ASEAN Secretariat, any related working groups, institutions and bodies, or any person acting on their behalf may be held responsible for the use that may be made of the information contained therein. Responsibility for the information and views expressed lies entirely with the authors.



The European Union Mission to ASEAN

Menara Astra 38th Floor
Jl. Jend Sudirman Kav 5-6
Jakarta 10220
Indonesia
Phone : (62 21) 2554-6200
Fax : (62 21) 2554-6201
E-mail : mission-asean@eeas.europa.eu
Website: <http://eeas.europa.eu/asean>

The ASEAN Secretariat

The ASEAN Secretariat
Community Relation Division (CRD)
70 Jalan Sisingamangaraja
Jakarta 12110
Indonesia
Phone: (62 21) 724-3372, 726-2991
Fax: (62 21) 739-8234, 724-3504
E-mail: public@asean.org

About the Report

This national report was one of ten national ASEAN Member State reports produced to feed into a regional **Comparative Study on Laws and Policies in the Management of Migrant Workers in ASEAN**. The regional study offers a comprehensive analysis on how ASEAN Member States have dealt with the movement of migrant workers into their labour markets, covering all skill levels and including occupations under the 8 ASEAN Mutual Recognition Arrangements (MRAs), and providing recommendations as feedback for ASEAN policymakers and practitioners in improving policies and measures pertaining to the mobility of migrant workers.

The national reports and the regional study were produced with support by the "Enhanced Regional EU-ASEAN Dialogue Instrument" (E-READI), a development cooperation program funded by the European Union. E-READI facilitates dialogues between the EU and ASEAN in priority policy areas of joint interest.

This national report was prepared by **Dr. Ruttiya Bhula-or** and **Dr. Ratchada Jayagupta** from Collaborating Centre for Labour Research, College of Population Studies, and Institute of Asian Studies of Chulalongkorn University. The text of this publication is meant as a reference document for concerned stakeholders only. It may **not** be freely quoted or reprinted. The right to reprint and further circulate this national report lies with **Ministry of Labour, The Kingdom of Thailand**

Table of Contents

List of Acronyms	i
Terminology	ii
Executive Summary	iii
Chapter 1 Introduction	1
1.1 Purpose	1
1.2 Types of work permits	1
Chapter 2 Migration Laws and Policies Across Four Areas	3
2.1 Entry and Stay Measures	3
1.2.1 Application for visa and work permit	3
1.2.2 Work prohibited to foreign workers	6
1.2.3 Length of work permit and renewal of work permit.....	17
1.3 Incorporation Measures	19
1.3.1 Social Security	19
1.3.2 Change employers.....	20
1.3.3 Filing a complaint.....	20
1.3.4 Fund for repatriation.....	20
1.3.5 Other laws relating to exemptions and benefits for foreigners' businesses.....	20
1.3.6 Rights of association.....	21
1.3.7 Working conditions.....	21
1.3.6 Special agreements on foreign business operation	21
1.4 Exit Measures.....	21
1.4.1 Fund for repatriation.....	22
1.5 Enforcement Measures	22
1.5.2 Specific details regarding protection laws and policies for foreign workers.....	26
1.5.3 Responses by the Royal Thai Government to COVID -19.....	27
Chapter 3 Progress and Challenges in Implementation (Since 2015)	31
3.1 Progress	31
3.1.1 Specification of MRAs occupations in the new regulations	31
3.1.2 Improvement in the regulation of recruitment agencies and allow for an online system.....	32
3.2 Challenges	32
3.2.1 National laws and policies not aligned with regional frameworks	32
3.2.2 Additional requirements of licensed occupational councils	33
3.2.3 Labour demand in Thailand are majorly for low- & semi-skilled workers, thus the number of migrants through MRAs is small	33
3.2.4 Managing recruitment and management of migrant workers through bilateral agreements	34
3.2.5 Gaps in human capital & skill development opportunities that might impede lifelong learning in the future of work.....	34

3.2.6 Better data management & partnership cooperation.....	34
3.2.7 Need to promote social dialogues and monitoring& evaluation.....	35
Chapter 4 Lessons Learned	36
4.1 One Start One Stop Services	36
4.2 Establishment of Migrant Worker Assistance Centres.....	37
4.3 Engaging the civil societies organizations (CSO) into action.....	37
Chapter 5 Recommendations and Opportunities for Cooperation	38
5.1 Entry and Stay Measures & Exist measures	38
5.1.1 MOU and Bilateral agreements with neighbouring countries	38
5.1.2 Develop a G-to-G database and research on ASEAN migration to access demand for migrant workers and additional potential opportunities for further collabouration	38
5.2 Incorporation Measures.....	39
5.2.1 Setting and matching regional educational standards in MRAs	39
5.2.2 Need to promote social dialogues and institutional capacity strengthening at the implementation level	39
5.3 Enforcement Measures	40
5.3.1 Capacity building and strengthening existing national mechanisms.....	40
5.3.2 COVID-19: opportunities or threats for migrant workers	40
Reference	41
Bibliography.....	41
Annex	44
Annex 1: Research Methodology	44
Annex 2 List of individuals consulted and interviews.....	45
Annex 3 List Annexed to the Foreign Business Act, B.E. 2542 (1999).....	46
Annex 4 List attached to the Ministry of Labour’s Announcement on Occupations that are Prohibited to Foreign Workers in Thailand, inaugurated on 1 April 2020	49

List of Acronyms

ASEAN	Association of Southeast Asian Nations
ASEC	ASEAN Secretariat
E-READI	Enhanced Regional EU-ASEAN Dialogue Instrument
MOLISA	Ministry of Labour, Invalids and Social Affairs
MOU	Memorandum of Understanding
MRAs	Mutual Recognition Arrangements
SLOM	Senior Labour Officials Meeting
UN	United Nations

Terminology

According to Royal Ordinance Concerning the Management of Employment of Foreign Workers, B.E.2560 (2017), the key terms relating to foreign workers are specified under Section 5 of the Act. The key terms are the following:

“Work” means engaging in an occupation whether with or without an employer, but does not include an operation of business of a person who is granted a license in accordance with the Foreign Business legislation.

“foreigner” means a natural person who is not of Thai nationality;

“employer” means an employer under the law on labour protection and shall also include a natural person or a juristic person intending to bring a foreigner for working in the country with himself or itself;

“employee” means a person who works for an employer in return for wages;

“permit for bringing foreigners for working” means a permit for bringing foreigners for working with employers in the country;

“person granted permission for bringing foreigners for working” means a person granted permission for bringing foreigners for working with employers in the country;

“work permit” means a work permit of a foreigner;

“person granted permission for working” means a foreigner granted permission for working.

“Registrars” means the Director-General and competent officials appointed by the Minister with the recommendation of the Director-General for issuing work permits and performing other activities under this Royal Ordinance.

“Director-General” means the Director-General of the Department of Employment;

“Minister” means the Minister having charge and control of the execution of this Royal Ordinance.

Executive Summary

Thai government is joining an ASEAN initiative to conduct a study to enhance a better understanding and to promote greater mobility of migrant workers within the ASEAN region. The key responsible entity is the Ministry of Labour, Invalids and Social Affairs (MOLISA) Viet Nam, in collaboration with the ASEAN Secretariat (ASEC) and with the support of the Enhanced Regional EU-ASEAN Dialogue Instrument (E-READI). The study is part of the Work Plan 2016-2020 of the Senior Labour Officials Meeting (SLOM) Working Group on Progressive Labour Practices to Enhance the Competitiveness of ASEAN.

Thailand has achieved significant progress in MRAs implementation in last five years. In 2020, Thailand has updated the prohibited occupations, allowing 3 categories under MRAs to work in accordance with international agreements. The services include (1) controlling, auditing, performing or providing accounting services; (2) work in civil engineering services; and (3) work in architectural professions. In addition, in 2016, Thailand has regulated on bringing migrant workers to work with employers in Thailand B.E. 2559. It helps improve Thailand's management of recruitment agencies and strengthen protection for all stakeholders to receive fair treatment based on international guidelines, procedure and standards.

However, many challenges remain. Based on the interviews, national laws and policies are not yet aligned with the MRAs regional framework. There is indifferent recognition of foreign professionals under 8 MRA categories between ASEAN applicants and those from other nationalities, except those working in accounting services, civil engineering services, and architectural professions. Many occupational Councils and Boards still require licenses to perform work. A certain set of requirements, for example, skills related to language, duration of training/ working and requirements for licensure examinations is also mandatory to obtain a license and thus a work permit.

The labour market conditions play crucial roles to labour mobility. While high-skilled workers are more likely to migrate to higher-income countries comparing to the lower skilled workers, the semi and low- skilled workers are more likely to migrate within the region. In relation to this aspect, the development and comparison of global skills standards and skills demand must be drawn to facilitate labour migration.

There is considerable variation in national capacity, especially quality assurance mechanisms of national skills development and certifications systems among the AMS. There is a need to develop occupation-specific government database challenges the opportunities to extend the mobility of professionals. National strategies need to manage labour surplus, shortages, unbalanced movement of migrant workers. Data collection and occupational database should be improved. Such lack combined with workforce data limitations constrains the monitoring of MRA impact.

A set of recommendations are proposed in three sets: (1) entry, stay and exist measures; (2) incorporation measures; and (3) enforcement measures.

Regarding entry, stay and exit measures, promoting a bilateral framework under ASEAN framework is recommended. The bilateral agreement can also use to promote the MRAs and semi-skilled workers can be used as tools to facilitate safe, regular labour migration between countries, as well as specify preferable sectors/ occupations to provide better protection. There is a need to enhance collaboration among ASEAN countries and between sending and receiving countries. Continuing mode of cooperation in labour migration is through bilateral and non-binding instruments. Along with the bilateral framework, we

should also develop a G-to-G database and research on ASEAN migration to access demand for migrant workers and additional potential opportunities for further collaboration. Thus, there is a need to understand labour migration flows and future trends. Addressing both labour market needs and the protection of migrant workers and can be more beneficial if they are based on social dialogues. The analysis needs to employ the database into practice and policy design, which can project the labour demand and flows in short term and medium term. Further deliberations needed to achieve practical results in harmonizing regulations related to industry competencies, professional certification and competency-based certification. Closer understanding and knowledge sharing of each other's system of recognition of qualifications is needed for improved comparability rather than harmonization, given widespread fragmentation of responsibility for recognition of qualifications within member states.

Incorporation measures highlight the importance of disparities in regional educational standards remains an obstacle to freer movement between AMSs. Promoting compatible core competencies and shared curricular content through the strengthening of university networks, information-sharing and promotion of curricula initiatives at a regional level. English is the established language for accessing current research as well as the language for ASEAN regional and international communication.

There is a lack of practical mechanisms to advance the MRAs process between government ministries and between government, civil society, and social movements. A national and international level to discuss MRAs implementation in practical details should be established regularly. Stakeholder collaboration in order to utilize the regional network and platform such as the ASEAN Forum for Migrant Labour (AFML), ASEAN Labour Minister Meeting (SLOM), ASEAN Committee on Migrant Workers (ACMW) consultation on the ACMW Work Plan 2021-2025. Another possible activity is to organize back-to-back meetings aiming to achieve barriers of fair, zero migration cost in specific issues.

To strengthening law enforcement, there is a need to build the capacities for ministries of labour and workers' and employers' organizations to participate in regional debates and processes. Capacity building members of employers', workers and governments to support its member organizations' efforts & staff. A stronger capacity will strengthen political and public support, which is needed to drive the process forward and to ensure the mutual benefits of ASEAN. As the COVID-19 pandemic has changed the global labour demand and global supply, there is a need to enhance opportunities for migrant workers. Policymakers need to rethink how they view migrant workers. Once the pandemic subsides, restrictive border policies may remain due to economic depression in Thailand. However, a number of migrant workers, especially those from neighbouring countries, will return through natural channels. Such situation will expedite violence at workplace and vulnerable situation to human trafficking. In addition, the situation may create tension to individuals. Therefore, concerned agencies at subnational, national and international levels should provide psycho-social counselling services for all. It is also necessary to rethink how to enhance labour mobility in this region under this new normal situation and beyond.

Chapter 1 Introduction

The Ministry of Labour, Invalids and Social Affairs (MOLISA) Viet Nam, in collaboration with the ASEAN Secretariat (ASEC) and with the support of the Enhanced Regional EU-ASEAN Dialogue Instrument (E-READI), jointly study to better understand possible ways to promote greater mobility of migrant workers within the ASEAN region. The study is part of the Work Plan 2016-2020 of the Senior Labour Officials Meeting (SLOM) Working Group on Progressive Labour Practices to Enhance the Competitiveness of ASEAN.

Thai government, as one of ASEAN Member States, is joining this initiative to study a Thai case to input into an ASEAN-wide comparative study in laws and policies in managing the entry and stay, incorporation and exit of migrant workers within ASEAN Member States (AMS). This report covers all skill levels including occupations under the 8 ASEAN Mutual Recognition Arrangements (MRAs).

1.1 Purpose

The study aims to identify the gaps between the regional commitments and the current national legislations related to the management of migrant workers and develop policy recommendations towards labour mobility especially in occupations under the 8 MRAs. The study aims at:

1. Identify relevant laws and policies on labour migration in Thailand;
2. Identify and propose measures to promote labour mobility in the region as well as enhance the management of migrant workers, including in occupations under 8 MRAs in ASEAN;
3. Identify opportunities for AMS to learn from each other's' experiences on labour mobility (peer learning); and
4. Identify and propose how AMS can collaborate on measures to reduce irregular labour migration and abusive migration practices in Thailand.

1.2 Types of work permits

Types of work permits can be segregated into 8 types, as listed in Table 1.

Table 1 Types of work permits

Section	Target group
Section 59: Work permits, general	All workers – generally semi- high skilled workers
Section 59: Work permits, through Memorandum of Understandings	Generally low skilled workers under Memorandum of Understandings with neighbouring countries.
Section 62: Work permits under the law on investment promotion, petroleum or other laws	All workers – generally semi- high skilled workers that linked to investments, petroleum or other laws.

Section 63: Work permits with regards to national security, social impact and humanity: Temporary work permits during waiting for deportation/ repatriation	Migrants who are (1) being deported under the law on deportation and being granted with the exemption to conduct a profession at any place instead of deportation or during the time of deportation (2) entering into or being in Thailand without being permitted under the law on immigration but shall be permitted to stay in Thailand to be repatriated out of the Kingdom under the law on immigration. The result of deportation or repatriation is announced by the end of January of each year.
Section 63/1 group 1: Work permits while migrants are being deported under the law on deportation and being granted with the exemption to conduct a profession & born in Thailand but has not been granted with the nationality	Migrants with the following characteristics: (1) having the nationality withdrawn under the Announcement of the Revolutionary Council No. 337 dated the 13th of December B.E. 2515 (1972) or other laws; (2) being a foreigner who was born in Thailand but has not been granted with the nationality under the Announcement of the Revolutionary Council No. 337 dated the 13th of December B.E. 2515 (1972) or the law on nationality
Section 63/1 group 2: Work permits while migrants are being granted with the status of legal migrant under the notification of the Ministry of Interior, and a foreigner who has no status under the registration and has been given an identification card under the Rule of Central Registration Bureau.	Migrants with the following characteristics: 1) being a foreigner who has been granted with the status of legal migrant under the notification of the Ministry of Interior issued under the law on immigration; 2) being a foreigner who has no status under the registration and has been given an identification card under the Rule of Central Registration Bureau issued under the law on people's registration.
Section 63/2: Work permits in the case where the Minister under the law on immigration permits a foreigner or type of foreigner to enter into Thailand under the law on immigration or exempt a foreigner or type of foreigner from complying with the law on immigration	The Council of Ministers may prescribe that such foreigner or type of foreigner may be able to work for the benefit of economic and social development. This section is applied to migrant workers during the COVID-19 pandemic to extend their work permits duration.
Section 64: Work permits with regards to border type	Low skilled workers from neighbouring countries: Cambodia, Myanmar, and Lao PRD (As of 2020, Thai-Lao PDR is yet to be implemented)

Sources: Ministry of Labour, as of October 2, 2020,

Chapter 2 Migration Laws and Policies Across Four Areas

The analysis in this Chapter is structured in 4 key parts: (1) entry and stay measures; (2) incorporation measures; (3) exit measures; and (4) enforcement measures. The employment permits are segregated into 8 types as listed Section 1.2.

2.1 Entry and Stay Measures

1.2.1 Application for visa and work permit

For those foreigners who wish to enter to Thailand to work or conduct business, the first step is to obtain Non-Immigrant Visa Category B. For single entry with three-month validity, the visa fee is 2,000 THB. For multiple entries with one-year validity, the visa fee is 5,000 THB. Four types of Non-Immigrant Visa Category B are the following:

- Non-Immigrant Visa Category “B” (Business Visa) for those who wish to enter Thailand to work or to conduct business.
- Non-Immigrant Visa Category “B” for business trip/meeting and consultant
- Non-Immigrant Visa category “IB” (BOI). This visa is issued to foreign citizens employed to work on investment projects which are under the auspices of the Board of Investment of Thailand (BOI)
- Non-Immigrant Visa Category “B” (Teaching purpose). Foreigners who intend to take up employment as school teachers at the levels below university level in Thailand (Department of Consular, 2019).

After obtaining the Non-Immigrant Visa, a foreigner is able to work in Thailand once such person is granted a work permit from the Ministry of Labour. The Work Permit is the document which regulates a foreign employee’s nature of work, period of employment, and basic information of employer and company. Fees for application for work permit are in Annex 1.

In general, a person who applies for a work permit shall have the following qualifications (Ministry of Labour, 2019).

- (1) Having set of skills and knowledge to perform the work as stated in the application for a Work Permit;
- (2) Not being an incompetent person, quasi-incompetent person, insane or mentally disorder;
- (3) Not being sick of Leprosy, Tuberculosis in dangerous stage, Elephantiasis, drug addition, third stage of Syphilis; and
- (4) Not having been imprisoned according to the violation of the immigration laws or other related to foreign worker laws within one year before applying for a work permit.

A foreign worker who resides outside Thailand that desires to apply for a work permit in Thailand may submit the application and make payment for the fees through electronics system. Any employer who desires to employ a foreign worker to work in Thailand may submit a work permit application on behalf of the foreign worker to the Registrar, including paying

for fee on behalf of the foreigner¹. With reference to Foreigners' Working Management Emergency Decree, B.E.2560, entry measures of migrant workers by type of employment permits can be described in Table 2.

Table 2 Types of employment permits and an entry measure

Section	Target group
Section 59: Work permits, general	<p>A foreign worker who resides in Thailand or receives permission to enter Thailand temporarily under the immigration law, but not for tourism or transit purpose, shall be able to engage in the types of work that are not prohibited for foreign workers², and shall obtain a work permit (Section 59).</p> <p>In case of a short period of work, a foreign worker who enters Thailand temporarily under the immigration law to engage in the work that consist of necessary or urgent characteristics or ad hoc work for a period of not exceeding fifteen days (Section 61).</p>
Section 59: Work permits, through Memorandum of Understandings	<p>As Thailand committed in Memorandum of Understandings (MOU) on Employment with foreign government, i. e. Cambodia, Lao PDR, Myanmar, and Vietnam, a foreign worker of the corresponding countries is allowed to work and get a work permit through an agreed process. The MOU also allows any employer³, who wishes to bring in foreign workers from overseas to work in Thailand under an agreement or MOUs to inform the Registrar, regarding the number of countries the foreign workers reside in, the type of work the foreign worker to be engaged in and other detail to find candidates from the counterpart country.</p> <p>Before a foreign worker engages in work with the employer, the employer shall prepare an employment contract in writing with, at least, the detail as prescribed by the Director-General and store the employment contract at a business place of the employer and copy the contract for the employee to keep (Section 46).</p>
Section 62: Work permits under the law on investment promotion, petroleum or other laws	<p>When a foreign worker is permitted to work in Thailand under the law on investment promotion, petroleum or other laws, the authority who grants permission under such law shall notify the Registrar (Section 62).</p> <p>The Registrar shall issue the work permit to that foreign worker within 7 days. While waiting for the work permit that foreign worker may engage in work. The work permit shall be valid for a period of being permitted to entry to conduct work under such law.</p>

¹ Foreigners' Working Management Emergency Decree, B.E.2560, Section 60

² The list of occupations that are prohibited to foreign workers in Thailand is shown in Annex 4.

³ Who do not operate businesses concerning workers subcontract or wages subcontract

<p>Section 63: Work permits with regards to national security, social impact and humanity: Temporary work permits during waiting for deportation/repatriation</p>	<p>Foreigners under the following characteristics may apply for permission to work, as follows: (1) being deported under the law on deportation and being granted with the exemption to conduct a profession at any place instead of deportation or during the time of deportation (2) entering into or being in Thailand without being permitted under the law on immigration but shall be permitted to stay in Thailand to be repatriated out of the Kingdom under the law on immigration.</p> <p>Application for work and issuance of work permit under paragraph one shall be in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation and the work permit shall be valid for the same period of exemption but shall not exceed 1 year as from the date of issuance of work permit and the work permit shall be extended as necessary but shall not exceed 1 year each time.</p>
<p>Section 63/1 group 1:: Work permits while migrants are being deported under the law on deportation and being granted with the exemption to conduct a profession & born in Thailand but has not been granted with the nationality</p>	<p>Foreigners under the following characteristics may apply for permission to work, as follows (1) having the nationality withdrawn under the Announcement of the Revolutionary Council No. 337 dated the 13th of December B.E. 2515 (1972) or other laws; (2) being a foreigner who was born in Thailand but has not been granted with the nationality under the Announcement of the Revolutionary Council No. 337 dated the 13th of December B.E. 2515 (1972) or the law on nationality. On the other hand, this group has stayed in Thailand and being temporary allowed to work.</p> <p>Application for work permit and issuance of work permit in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation and the work permit shall be valid for a period of 5 years as from the date of its issuance and shall be extended for 5 years each time.</p>
<p>Section 63/1 group 2: : Work permits while migrants are being granted with the status of legal migrant under the notification of the Ministry of Interior, and a foreigner who has no status under the registration and has been given an identification card under the Rule of Central Registration Bureau.</p>	<p>Foreigners under the following characteristics may apply for permission to work, as follows: 1) being a foreigner who has been granted with the status of legal migrant under the notification of the Ministry of Interior issued under the law on immigration; 2) being a foreigner who has no status under the registration and has been given an identification card under the Rule of Central Registration Bureau issued under the law on people's registration.</p> <p>Application for work permit and issuance of work permit in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation and the work permit shall be valid for a period of 5 years as from the date of its issuance and shall be extended for 5 years each time.</p>
<p>Section 63/2: Work permits in the case</p>	<p>In the case where the Minister under the law on immigration permits a foreigner or type of foreigner to enter into Thailand</p>

<p>where the Minister under the law on immigration permits a foreigner or type of foreigner to enter into Thailand under the law on immigration or exempt a foreigner or type of foreigner from complying with the law on immigration</p>	<p>under the law on immigration or exempt a foreigner or type of foreigner from complying with the law on immigration, the Council of Ministers may prescribe that such foreigner or type of foreigner may be able to work for the benefit of economic and social development. Work permit is valid for the period as requested by the applicant but not more than 2 years as from the date of issuance of such work permit.</p> <p>This section is applied to migrant workers during the COVID-19 pandemic to extend their work permits duration.</p>
<p>Section 64: Work permits with regards to border type</p>	<p>The foreign worker being of nationality of the country having common boundary with Thailand who enters into Thailand with border pass or other document in the same way, may be permitted to work in Thailand temporarily through the specified period or season within the area which is specified. Localities, nationalities of foreigners and types or natures of work and the conditions for application thereto shall be as prescribed in the Notification of the Council of Ministers by publication in the Government Gazette (Section 64). The Government Gazette dated 18 June 2015 allows boarder workers to work as labourers and domestic workers in Special Economic Development Zones, and special zones. The work permit is valid for the period as requested by the applicant but not more than 3 months.</p> <p>The Gazette allows cross border workers from three countries: Cambodia, Myanmar, and Lao PDR. However, as of October 2020, the negotiation between Thai and Lao PDR has not yet finished.</p>

1.2.2 Work prohibited to foreign workers

There is a restriction on types of work prohibited to foreign workers under the Royal Decree Prescribing Works relating to Occupation and Profession Prohibited to Foreign Workers B.E. 2522 (1979), its amendments No.2 B.E. 2536 (1993), No. 3 B. E. 2543 (2000), No.4 B.E. 2548 (2005), and the Ministry Announcement of Specification of Works prohibited to Foreign workers (Inaugurated dated 21 April 2020). Thai government categorised works that prohibited to foreign workers coming on Section 59 into four groups, as follows:

(1) Works that totally prohibited to any foreign workers;

Referring to occupations Strictly Prohibited to Foreign Workers:

No.	Occupations	Definition
1	Wood carving	Wood carving or carving decorative patterns on wood, preparation of wood and carving on wood to make decorative patterns on furniture, decorations and other wares, as well as repair and modification.
2	Driving of motor vehicles or driving of vehicles that do not use machines or engines in the country, except for international aircraft piloting or forklift driving	Driving motor vehicles, including trams, to transport goods and passengers by road, water, air, or driving vehicles in the country that do not use machines or engines, except for international aircraft piloting or driving a forklift installed with equipment for lifting or moving things.
3	Auction	Work related to valuation and auction of property or goods, including real estate, livestock, and agricultural products.
4	Cutting or polishing diamonds or gemstones	All or part of the cutting into shape and polishing diamonds or gemstones or precious stones with machines, as well as repair and modification of diamonds or gemstones or precious stones.
5	Hair cutting, hair perming or beautifying	<p>Hair cutting, hair perm, hair washing, hair dyeing, hair styling and hair design services for both men and women, makeup, cosmetic work, individual feature enhancement, facial massage, manicure and beauty enhancement for customers in various ways, but not including the following:</p> <p>(1) providing services or supporting or general facilitation, such as equipment preparation and cleaning, foot washing, etc;</p> <p>(2) Makeup, hairdressing, or hair design, for which the worker travels from abroad to work in a film production with permission to make a foreign movie in Thailand under the law on movies and videos.</p>
6	Handweaving of cloth	Weaving cloth and carpets with hand loom, as well as spinning cotton or silk yarn with a spinning machine, reeling two or more yarns onto a tube without twisting, reeling yarn from one tube to another, reeling yarn to prepare for

		weaving, inspecting defects in cloth or fabric, and repairing cloth or fabric
7	Mat weaving or making wares using reeds, rattan, jute, straw, bamboo, bamboo pulp, grass, chicken feather, coconut leaf stalk, fibre, wire or other materials	Weaving mats or making wares using reeds, rattan, jute, straw, bamboo, bamboo pulp, grass, chicken feather, coconut leaf stalk, fibre, wire or other materials by hand or using a loom or a weaver that is not a machine, as well as repair and modification works
8	Making Saa paper by hand	Processing Saa barks through various steps until it results in sheets of paper as thick or thin as needed to make umbrellas, to be used as wrapping paper and for other uses
9	Making lacquerware	Weaving bamboo strips into containers or other wares, then coating with a type of traditional lacquer to make them solid and the surface smooth, then polishing, and carving and decorating them with patterns and colours through various techniques
10	Making Thai musical instruments	Making Thai traditional musical instruments, including strings, drums, winds and others, from materials by hand or machine, as well as decoration, repair and modification works
11	Making nielloware	Making metal products, and decorating the surface using lead enamel to create patterns
12	Making goldware, silverware or copper-alloy ware	Making wares or decorations by bending, hammering or cutting gold, silver, copper alloy or other precious metals into various shapes, as well as soldering or welding to piece several parts together and carving patterns onto the surface, and polishing up
13	Making copper-tin alloy ware polished with stone powder	Cutting, hammering, bending or pressing metals, mostly brass and copper, into wares or decorations, then polishing with stone powder by hand or machine, as well as decoration, repair and modification
14	Making Thai dolls	Making Thai dolls, cast or stuffed by hand or machine, as well as decoration, repair and modification
15	Making alms bowl	Shaping metal sheets, mostly cast iron, by bending, hammering, polishing into an alms bowl or making alms bowls by casting metals into a mold and then coating or smoking and polishing, as well as repair work

16	Making silk products by hand	Using silk to make or using silk with other materials in making clothes, costumes, hats, wares and decorations, by hand or machine
17	Making Buddha images	Making Buddha images by casting, welding, sculpting, carving, reprinting, pressing, and other methods, as well as surface decoration and repair of Buddha images
18	Making paper or cloth umbrellas	Making umbrellas made by paper or cloth by hand and repairing and modifying the umbrellas
19	Brokerage or agency work, except for brokerage or agency work in international trade or investment	Working as an intermediary or contact between two parties to make deals on insurance, trading commodities, trading or renting and letting property, or trading or participating in business services, and receiving a commission in return, except for the work related to international trade or investment
20	Thai massage	Examination, diagnosis, treatment, healing, prevention of diseases, nourishing and restoring health using knowledge of the arts of Thai massage following Thai traditional medical practice according to the law on Thai traditional medicine profession
21	Cigarette rolling by hand	Cigarette rolling work starting from cutting or slicing tobacco leaves, then rolling into the leaf sheets, dry banana leaf or rolling papers, and packing tightly, then cutting both ends of the cigarette evenly
22	Tour guides or tour operations	<p>1. Tour guide work means to bring tourists, whether individually or in groups, to travel to various locations, and provide advice and information for tourists;</p> <p>2. Tour operations means to bring tourists to travel for sightseeing or for other purposes, and provide one or more services or facilities, i.e., accommodation, food, guide or any other services</p>
23	Peddling	Bringing goods to sell at various locations by carrying or bearing on the shoulder or loading in trolleys, bicycles, motorcycles or motor vehicles, or in paddling or rowing boats or motor boats.
24	Manual typesetting of Thai characters	Bringing Thai characters of various sizes to arrange on a stick to form texts with spaces and lengths of lines exactly matching the original,

		then sliding it down the loading rails and into the proof paper printer; changing cases when there are mistakes. When printing is finished, separate the letters and put them into each corresponding slot in the storage.
25	Pulling or twisting silk yarn by hand	Using hands to pull and twist two or more silk yarns out of silk worms; connecting silk yarns that are broken during pulling and twisting; keeping silk yarns that have been pulled and twisted in a basket or a container; then reeling silk yarns made of bamboo or reeling them into skeins.
26	Clerical or secretarial work	<p>1 Clerical work means work involving shorthand writing, typing, tele typing, punching cards, tape punching, receiving-paying money, collecting money, calculation of production costs, calculation of wages and working hours, factotum, dispatch carrier, answering phone calls, taking in or sending out things, overseeing stock of goods, warehouse inventory, weighing, letter correspondence, accounting, general administration, receiving and sending documents, personnel, insurance, public relations, reception, booking travel tickets, library, filing documents, statistics, survey, enumeration, editing and coding, proofreading, printing, photocopying, copying documents, addressing documents, and other jobs In the role of clerks or staff in the clerical level as determined by the establishment</p> <p>2 Secretarial work means work involving recording of statements, reports or accounts with shorthand, typing accounts from notes written in shorthand or from a dictation recorder, making appointments for the superior and reminding the superior when an appointment is due, welcoming those who come to meet the superior, inquiring, answering questions and making contact via telephone, presenting personal and important letters and mails as well as letters and documents from various departments sent to the superior, drafting correspondence letters, filing documents, as well as supervising staff and other tasks as assigned by the superior</p>
27	Legal services or services in legal proceedings, except for the following work:	Providing services in legal counselling, litigation and others such as representing as a lawyer in all types of cases, acting on behalf of clients in

	<p>(A) Performing duties of arbitration;</p> <p>(B) Providing assistance or representation in the arbitral proceedings in the event that the law applicable to the dispute being considered by the arbitrator is not Thai law.</p>	<p>legal matters, drafting contracts or making legal documents, etc.</p> <p>Except for the following work:</p> <p>(A) Performing duties of an arbitrator in an arbitration case;</p> <p>(B) Any work performed for the Arbitral Tribunal or the parties to the dispute in order to assist or facilitate the arbitral proceedings to be completed successfully or the work to either defend or to act on behalf of either party in the event that the law applicable to the dispute being considered by the arbitrator is not Thai law, and shall include the following work:</p> <ol style="list-style-type: none"> 1. Liaison for cases, research, compile, and provide opinion on facts and legal issues to the arbitral tribunal or the parties; 2. Take notes during the hearing using shorthand or other techniques in the same manner; 3. Presentation of opinions as an expert 4. Works involving special technology used in recording sound, images and evidence produced in the hearing
--	--	--

(2) Works under international agreements or commitments;

Referring to occupations prohibited to foreign workers with a condition that foreign workers are allowed to do the work in accordance with international agreements or obligations to which Thailand is bound under the provisions of law:

No.	Occupations	Definition
1	<p>Controlling, auditing, performing or providing accounting services, except for the following work:</p> <p>(A) Occasional internal audit work;</p> <p>(B) Work as per international agreements or obligations to which Thailand is bound, for which the Professional Council provides a certification of qualifications;</p>	<p>Providing accounting services for individuals, juristic persons, groups of persons, foundations, associations, enterprises, private agencies, state enterprises, or government agencies, as follows:</p> <ol style="list-style-type: none"> 1. All or partial accounting work; 2. Audit, internal audit, due diligence/cash monitoring; 3. Keeping financial records on behalf of an organization, management of financial matters for an organization or customers; 4. Reception, exchange, and payment of money in banks and offices; 5. Use of computer, various electronic devices, programmes, software, for calculation, recording and processing of accounting and financial data; 6. Other services related to accounting in various branches, such as bookkeeping, auditing, administrative accounting, setting an accounting system, tax accounting, and education and accounting technology, as well as consultancy, development and training; 7. Supervision of works in 1 – 6; <p>This shall include the performance of duties in one or more of the following capacities:</p> <ol style="list-style-type: none"> (1) Independent service provider; (2) Owners, executives, employees, or staff at all levels of the accounting service agency or an organization, whether it be persons, juristic persons, groups of persons, enterprises, private agencies, state enterprises, or government agencies; <p>Except for the following work:</p> <p>(A) Occasional internal audit;</p> <p>(B) Work as per international agreements or obligations to which Thailand is bound, for which the Council of Accounting Profession is to certify qualifications.</p>
2	(2) Work in engineering – civil engineering related to consultancy, project planning,	Civil engineering work relating to consultancy, project planning, design and calculation, supervision of construction or production, inspection, facilitating

	designing and calculating, organizing, researching, testing project, construction supervision, or providing advise, except those who are registered as a professional engineer under the ASEAN Mutual Recognition Arrangement (MRA) as well as other international agreements related to cross-border engineering services or licensees of engineering practice in the field of civil engineering under the law on engineers	system set up, researching, testing, except (1) those who are registered as a professional engineer under the ASEAN Mutual Recognition Arrangement (MRA) as well as (2) other international agreements related to cross-border engineering services or (3) licensees of engineering practice in the field of civil engineering under the law on engineers, who are allowed to work under specified conditions.
3	(3) Work in architectural profession related to project study, design, management and construction supervision, inspection or consulting work, except for professional architects under the ASEAN Mutual Recognition Arrangement (MRA) for architectural services as well as other international agreements on cross-border architectural services from the Council of Architects or licensees of architectural practice under the law on architects;	Work in the architectural profession involving project studies, design, management and supervision of construction, inspection, consultancy, except for professional architects under the ASEAN Mutual Recognition Arrangement (MRA) for architectural services as well as other international agreements on cross-border architectural services from the Council of Architects or licensees of architectural practice under the law on architects, who are allowed to work under the conditions prescribed by the Council of Architects.

(3) Skilled or Semi-Skilled Works which foreigners shall perform with a condition of having employers;

Referring to occupations prohibited to foreign workers with a condition that foreign workers are allowed to do the craftwork or semi-craftwork only when working for an employer:

No.	Occupations	Definition
1	Agriculture, animal husbandry, forestry or fishery	<p>1. Agriculture means work that requires knowledge or skills in cultivation of grains, vegetables, horticulture, perennials, shrubs and others;</p> <p>2. Animal husbandry means work that requires knowledge or skills about animal breeding, animal conservation, taking care of animals, and catching animals to obtain meat, milk, fur, hide, silk, honey, etc.;</p>

		<p>3. Forestry means work that requires knowledge or skills in cultivation of seedlings, planting trees, forest conservation, exploitation of forests, and processing wood into charcoal, or extracting crude oil from wood, or others;</p> <p>4. Fishery means work that requires knowledge or skills relating to fishing, aquaculture, taking care of aquatic animals, processing aquatic animals, as well as any actions that support fisheries.</p>
2	Masonry, carpentry, or construction work	<p>1. Masonry means work that requires knowledge or skills in constructing, assembling, installing and repairing a base or foundation, walls and other structures with bricks, stones or similar materials;</p> <p>2. Carpentry means work that requires knowledge or skills in cutting, shaping, assembling, installing, maintaining and repairing structures and structural components made of wood, measuring, assembling and modifying components of buildings, both interior and exterior, such as walls, doors, door and window frames, ceiling and wall panels;</p> <p>3. Building construction means work that requires knowledge or skills in building, installing, maintaining and repairing buildings and other structures, for example, making concrete model, pouring concrete, retouching the concrete surface, making metal reinforcement, erecting concrete structures supplemented with various materials, roofing, terrazzo flooring, flooring and walling with tiles or mosaics, plastering on walls and ceilings, installing insulating materials on walls, floors and ceilings, cutting and assembling glass panes into windows or doors, painting, installing drain and water pipe systems, installing sanitary ware, electrical wiring inside buildings or other structures</p>
3	Making mattress or quilt	Work that requires knowledge or skills in making mattress or quilts from various materials by hand or machine as well as repair and modification
4	Making knives	Work that requires knowledge or skills in making all types of knives from metal using

		hand-controlled tools, as well as repair and modification of knives
5	Making shoes	Work that requires knowledge or skills in making all types of shoes from various materials, as well as repair and modification of shoes
6	Making hats	Work that requires knowledge or skills in making hats for men, women, and children from all kinds of materials, as well as repair and modification of hats
7	Making costumes	Work that requires knowledge or skills in designing and sewing men's and women's clothes from start to finish, or other works related to costume making, as well as alteration, modification or fixing of clothes
8	Making pottery	Work that requires knowledge or skills in making pottery, starting from preparing clay and mold, sculpting and compacting clay into a mold, coating, drawing decorative patterns, drying and burning, either whole or part of this work

(4) Works which foreigners shall perform with a condition of having employers and are permitted to enter Thailand by the immigration laws under agreement or MoU between Department of Employment and other countries.

Referring to occupations prohibited to foreign workers with a condition that foreigners are allowed to do the work only when working for an employer and being permitted to enter Thailand by the law on immigration under the memorandum of agreement or memorandum of understanding made by the Thai government with foreign governments:

No.	Occupations	Definition
1	Labour	Manual work and usually simple work which requires mainly physical strength
2	Front shop sales	Selling goods at a wholesale or retail establishment as well as selling goods at stalls or shops located in markets or roadside

In sum, the prohibited occupations of each Section are demonstrated as follows:

Section	Prohibited occupation	Note
Section 59: Work permits, general	As listed in Annex 4	All workers – generally semi- high skilled workers
Section 59: Work permits, through Memorandum of Understandings		Generally low skilled workers as they require general skills.
Section 62: Work permits under the law on investment promotion, petroleum or other laws	X	All workers – generally semi- high skilled workers that linked to investments, petroleum or other laws.
Section 63: Work permits with regards to national security, social impact and humanity: Temporary work permits during waiting for deportation/ repatriation	As listed in Annex 4	Generally low skilled workers. This group can work under a certain type of prescribed by the Council of Ministers
Section 63/1 group 1: Work permits while migrants are being deported under the law on deportation and being granted with the exemption to conduct a profession & born in Thailand but has not been granted with the nationality		<p>Allow only 27 occupations: Bicycle repairing; Car seat assembly and repairing; Car body assembly and repair work; Assembly and repairing automobile exhaust systems; Hand soldering ironing; Woodworking and furniture making; Building construction carpentry; Sawing work in a wood processing plant; Tiler work; Painting; Assembling and repairing doors and windows; Installation of mosquito nets; Fabric dyeing work; Tailor's work except for making women's clothing; Laundry; Gardening of fruits and vegetables;</p> <p>Husbandry except for silk; Retail work of non-pharmaceutical products, chemicals, radio receivers, TV receiver, camera, film, camera, firearms or explosives, and related equipment Including spare parts; Food or beverage sales work; Production of food or beverages; Shoe assembly and repairing; Repairing watch/clock, pen and glasses; Knife sharpening and other belongings; Picture frame maker; Mechanic work of gold, silver or other precious metal items; Weaving, knitting and weaving work by hand, except silk weaving and silk products; and Labourer</p>

Section 63/1 group 2: Work permits while migrants are being granted with the status of legal migrant under the notification of the Ministry of Interior, and a foreigner who has no status under the registration and has been given an identification card under the Rule of Central Registration Bureau.	X	
Section 63/2: Work permits in the case where the Minister under the law on immigration permits a foreigner or type of foreigner to enter into Thailand under the law on immigration or exempt a foreigner or type of foreigner from complying with the law on immigration		Allow to work as per the Council of Ministers' s resolution.
Section 64: Work permits with regards to border type		Allow to work as labourers and domestic workers.

1.2.3 Length of work permit and renewal of work permit

The length and renewal of work permit is different upon work permits. In general, migrant workers can renew the work permit.

A migrant worker who desires to apply for a work permit shall have qualifications and without any disqualification ground as prescribed by the Ministerial Regulation and have not been punished before due to working without work permit or violating the Emergency Decree, except being acquitted for at least two years before applying for a work permit or being a foreign worker under Section 63 in which the Registrar grants a special permission to work (**Section 64/1**).

In the case of where there is a need to check the health of the foreign worker before issuing a work permit, the foreign worker or the employer of the foreign worker shall bring the foreign worker to a sanatorium that obtains a license to operate a sanatorium for a health check.

The permitted worker has a duty to notify the Registrar regarding the employer, the employer's workplace and they type of work within 15 days from the date of engaging in the work and shall notify the Registrar every time when there is a change of employer (**Section 64/2**).

Table 3 Types of work permits and length and renewal of work permit

Section	Length and renewal of work permit
Section 59: Work permits, general	<p>The work permit validity period shall be as requested by the employment contract but not exceeding 2 years. A specific period from receiving the application to the day of the work permit issuance shall not exceed 15 working days (Section 59).</p>
Section 59: Work permits, through Memorandum of Understandings	<p>The person granted permission for working who intends to continue working can submit an application for renewal of the work permit before the work permit expires. Upon submission of the application, the applicant for renewal may work for the time being until the Registrar gives an order refusing to grant renewal of the work permit. The extension period of the work permit shall be as requested by the employer upon the employment contract but not exceeding 2 years per extension (Section 67).</p>
Section 62: Work permits under the law on investment promotion, petroleum or other laws	<p>The work permit shall be valid for a period of being permitted to entry to conduct work under the law on investment promotion, petroleum or other laws. In the case that the permitted person to work has been granted an extension period to work, the responsible agency regarding those laws shall notify such extension period to the Registrar immediately, and the Registrar shall write down such extension period on the work permit. As such, the duration of the employment permit is upon the law on investment promotion, petroleum or other laws</p>
Section 63: Work permits with regards to national security, social impact and humanity: Temporary work permits during waiting for deportation/ repatriation	<p>Application for work and issuance of work permit under paragraph one shall be in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation and the work permit shall be valid for the same period of exemption but shall not exceed 1 year as from the date of issuance of work permit and the work permit shall be extended as necessary but shall not exceed 1 year each time.</p>
Section 63/1 group 1: : Work permits while migrants are being deported under the law on deportation and being granted with the exemption to conduct a profession & born in Thailand but has not been granted with the nationality	<p>Application for work permit and issuance of work permit in accordance with the criteria, procedure and conditions as prescribed in a Ministerial Regulation and the work permit shall be valid for a period of 5 years as from the date of issuance and shall be extended for 5 years each time.</p>
Section 63/1 group 2: Work permits while migrants are	

being granted with the status of legal migrant under the notification of the Ministry of Interior, and a foreigner who has no status under the registration and has been given an identification card under the Rule of Central Registration Bureau.	
Section 63/2: Work permits in the case where the Minister under the law on immigration permits a foreigner or type of foreigner to enter into Thailand under the law on immigration or exempt a foreigner or type of foreigner from complying with the law on immigration	Work permit is valid for the period as requested by the employer upon the employment contract but not more than 2 years as from the date of issuance.
Section 64: Work permits with regards to border type	The work permit is valid for the period as requested by the employer upon the employment contract but not more than 3 months.

1.3 Incorporation Measures

1.3.1 Social Security

Foreign workers, who are insured person, are entitled the right to receive free health services at medical establishment based on the medical health right card or other medical health establishment network. To receive the medical care right, foreign workers must register and remit to the social security system according to the Social Security Act B.E. 2533 (1990) and the Compensation 2537 (1994) (Department of Employment, 2018). The details are as follows:

Social Security Fund: Foreign workers shall register with the Social Security Office and remit the contribution at 5 percent of their remunerations, while employers and the government contribute at 5 percent and 2.75 percent respectively. Under this Fund, foreign workers are entitled to 7 benefits from the Fund under Section 54. These benefits are (1) injury or sickness benefits; (2) maternity benefits; (3) invalidity benefits; (4) death benefits; (5) child benefits; (6) old-age benefits; (7) unemployment benefits.

Compensation Fund: Only employers of foreign workers shall contribute to the fund at 0.2 – 1 percent of wages based on the risk types of the business establishment. Employees will receive benefits in case of damage, sick or invalidity loss or death resulting from work.

In case of foreign workers under MOU who works on specific types of work, which are housemates, agriculture, livestock, fishery, non-business commerce, these foreign workers shall register to healthcare system under the Ministry of Public Health to get health service benefits. Such foreign workers must have a medical check-up and register with medical

establishment prescribed by the Ministry of Public Health by purchasing health insurance. The health insurance costs 1,600 THB per year. To utilise the service, foreign workers must visit the chosen medical establishment (Foreign Management Office, 2018).

1.3.2 Change employers

Those who come to work in Thailand through the MOU, the foreign worker that quits before the completion of the employment contract is not permitted to work with another employer, except be able to prove to the Registrar the reason to quit result from the fault of the employer or has paid for the damage costs to the current employer. In such cases, the Registrar shall issue a new work permit or endorse the work permit showing the rights to change employer (Section 51).

1.3.3 Filing a complaint

The Department of Employment has provided a compliant system for foreign workers through website: <https://www.doe.go.th/helpme>. The website is in 6 languages including Thai, English, Khmer, Myanmar, Lao, Vietnamese. The category of filing a complaint are, for example, corruption of officials, hiring illegal workers, child labour, prostitution, employer abuse, human trafficking, and paid incomplete. This system provides a convenient and accessible channel for foreign workers when they face difficulties and any problem relating to employment.

1.3.4 Fund for repatriation

Under Section 75 - 85, the Department of Employment shall establish the “Foreigners’ Working Management Fund” and the “Committee of the Foreigners’ Working Management Fund” to manage the Fund. The fund aims to establish a revolving fund for foreigners’ working management, especially providing assistances for foreign workers who entry for working under the Foreigners’ Working Management Emergency Decree B.E. 2560 (2017). The Fund helps ,for instance, assisting foreigners who are violated their rights under labour laws; repatriating foreigners to the country of origin; and assisting and subsidizing State agencies or non-governmental organizations which have proposed projects or work plans in connection with working management, welfare provision, education, public health and labour protection for foreigners (Section 77).

1.3.5 Other laws relating to exemptions and benefits for foreigners’ businesses

There are also other laws relating to exemptions and benefits for foreigners’ businesses in Thailand. These are the Investment Promotion Act B.E. 2520 (1977) and its amendments No. 2 B.E. 2535 (1992), No. 3 B.E. 2544 (2001), No. 4 B.E. 2560 (2017). The purpose of these Acts is to encourage and develop investment in Thailand by providing special measures. In case of foreigner workers, these Acts grants both tariff and non-tariff privileges. For tariff measures are, for example, a tariff exemption for machines (Section 28 and 29); a tariff allowance for materials (Section 30); reduction of 50 percent of income tax

for a juristic person (Section 35 (1)). Regarding non-tariff benefits, the Thai government provides some special measures, for instance, giving a permission to a foreign investor to have right to land ownership (Section 27), in which foreigners are generally not allowed to have land ownership rights according to Thailand's land ownership laws. In addition, skill foreign workers are allowed to work in Thailand under the Investment Promotion of Investment Act (Section 26).

1.3.6 Rights of association

Persons who have the right to establish a labour Union must hold Thai nationality (Section 88, Labour Relations Act, B.E. 2518). However, the migrant workers can join a Labour Union upon each union's regulation.

1.3.7 Working conditions

The rights of foreign workers and Thai workers in Thailand is currently protected under the Labour Protection Act B.E. 2541 (1998) and its amendments the same as Thai workers. The purpose of the Act is to upholding high moral standards and treating employees fairly. The act has been amended in details to guarantee a better worker protection, improve working conditions, and impose sanctions on employers who fail to uphold them. The recent amendment is the Labour Protection Act B.E. 2562 (2019) No.7.

1.3.6 Special agreements on foreign business operation

Foreign investors are also able to operate a business in Thailand through special agreements or conventions which Thailand legally agrees with bilateral partners. To date, Thailand has 14 bilateral regional and international agreements with trade country partners (TDRI, 2017). The aim is to improve the environment for services trade and investment (DFT, 2020). Currently, three foreign investors from three countries are certified to operate businesses in Thailand. The agreements include (1) The *treaty of amity and economic relations between Thailand of Thailand and The United States of America*; (2) Japan-Thailand Economic Partnership Agreement (JTEPA); and (3) Thailand – Australia Free Trade Agreement (TAFTA) (TDRI, 2017).

1.4 Exit Measures

According to Foreigners' Working Management Emergency Decree, B.E. 2560 (2017), the employment of foreign workers terminated by (1) justifiable reasons; (2) resignation of foreign workers for any reason other than the breach of the contract of employers or violation of law; (3) expiration of the term under the contract of employment concluded in the country, employers have duty to notify to the authority (and must repatriate foreign workers to the country of origin within 7 days when the employment concludes (Section 50).

In case (1) the employer terminates employment of a foreigner without justifiable reason; (2) the employer is unable to continue the operation of the business; and (3) a

foreigner resigns on account of the employer's breach of the contract of employment or violation of the law, the employer must notify the Director-General in accordance with the rules and procedures prescribed in the Notification of the Director-General. If the foreign workers intend to work with another employer, such employer must place securities and obtain the Director-General's permission for employing such foreign worker. The new employment must start within 15 days as from the date of termination of the working with the original employer. However, in case that the foreign worker fails to find a replacement, the original employer remains have a duty to repatriate such foreigner to the country of origin within 7 days as from the date of the expiration of such period and notify the Director-General within 7 days from the date that the foreigner leaves Thailand (Section 51).

The foreign worker, who works with the employer under Section 43 and Section 46, that quits before the completion of the employment contract is not permitted to work with another employer, except be able to prove to the Registrar the reason to quit result from the fault of the employer or has paid for the damage costs to the current employer. In such cases, the Registrar shall issue a new work permit or endorse the work permit showing the rights to change employer.

The damage costs under paragraph one includes all the costs in bringing such foreign worker to work, which shall be calculated by the ratio of the time such foreign worker has completed work.

1.4.1 Fund for repatriation

One of the violation of the rights of foreign workers is withholding a work permit by employers. The Foreigners' Working Management Emergency Decree B.E. 2560 (2017) Section 131 specifies liability for those employers who withhold a work permit or an essential personal document of foreign workers. The minimum liability is a term of imprisonment not exceeding six months or to a fine not exceeding 100,000 THB or to both.

1.5 Enforcement Measures

1.5.1.1 Work permits

Penalties for employers hiring migrant workers without a legal work permit are enforced. Whoever accepts a foreign worker without obtaining a work permit shall be liable to fine between 10,000 Baht to 100,000 Bath per one foreign worker. If the violator repeats the violation, such violator shall be liable to imprisonment for a term of not exceeding 1 year or to a fine between 50,000 Baht to 200,000 Baht per one foreign worker, or to both. Such person shall be prohibited to employ another foreign worker for 3 years from the date of the court final judgment for penalty (Section 102).

Whoever fails to comply with anyone who employs a foreign worker shall notify the Registrar regarding the name and nationality of the foreign worker and the type of work within 15 days from the employment date, and shall notify the Registrar within 15 days from the date that the foreign worker no longer work and the reason shall also be included shall be liable to a fine of not exceeding 20,000 THB (Section 103)

Any foreign worker who engage in work without obtaining a work permit or engage in work other than their rights shall be liable to a fine between 5,000 to 50,000 THB. After the fine is paid, a repatriation of the foreign worker shall be arranged immediately (Section 101).

In addition, for those who fails to appear for giving explanations or fails to furnish documents or evidence that the Registrar and the competent official have requested shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand Baht or to both (Section 125).

1.5.1.2 Working hours, leave and holiday.

An employer has to notify a normal working time to an employee, by specifying the commencing and ending time of work in each day of the employee, which shall not 8 hours per day. Where the working hours of any day are less than 8 hours, the employer and the employee may agree to make up the remaining working hours in other normal working days, but not exceed 9 hours per day and the total working hours per week shall not exceed 48 hours. In case the work which may be harmful to health and safety of the employees (prescribed in the Ministerial Regulations), the working hours shall not exceed 7 hours per day and the total working hours per week shall not exceed 42 hours (Labour Protection Act B.E. 2541 (1998) Section 23).

An employer can require an employee to work overtime only if an employee give a prior consent in each occasion (Section 24).

Regarding leave and holiday, under the Labour Protection Act B.E. 2541 (1998) and its amendments, workers including foreign workers are entitled the rights to “leave” and “holiday”. The description on “leave” and “holiday” are clearly explained in Section 5 as detailed below:

“Holiday” means a day scheduled for an Employee to take a weekly holiday, traditional holiday or annual holiday;

“Leave” means a day on which an Employee takes sick leave, leave for sterilisation, leave for necessary business, leave for military service, leave for training or knowledge and skill development or maternity leave.

The rights to leave of the workers include:

Regular holiday

- An employer shall provide a weekly holiday of not less than one day per week for an Employee (Section 28).
- An employer shall announce not less than 13 traditional holidays per year in advance for employees, including National Labour Day as specified by the Minister (Section 29).
- An employee who has worked for an uninterrupted period of one year, is entitled to annual Holidays of not less than 6 days (Section 30)

Sick leave

Employees are entitled to sick leave as long as they are actually sick. However, in case of sick leave of 3 days or more, a certificate from a physician or an official medical establishment may be required by the employer. If the employee fails to provide the certificate, the employee shall give an explanation to the employer (Section 32).

Maternity leave

Under the Labour Protection Act B.E. 2541 (1998) and its amendments, Section 41, maternity leave has been recently expanded from 90 days to 98 days of maternity leave with pay. The leave includes leaves taken for medical appointments and examinations before the delivery and weekend and public holidays that occur during the leave period.

Other leaves

Employees also have the rights to other leaves, for example, a leave for sterilisation and a leave as a result of sterilisation for a period determined (Section 33), a leave for training or the development of their knowledge and skills (Section 36).

1.5.1.3 Minimum remuneration for skilled workers

According to the latest skilled workers' remuneration (Notification of the Remuneration Committee on Remuneration of Skill Standard dated 1 May 2020), the payment of skilled workers has increased based on the occupation groups. These occupation groups are service sector; electric, electronic and computer technicians; industrial technicians; electric and electronic industries; automobile parts industries; jewellery industries; mechanical and metal industries; air conditioning and cooling industries, moulding industries; steel industries; plastic industries; and shoes industries. The increased payments are range from 345 THB to 855 THB per day depending on occupational groups and the classification of levels in each group. In addition, employers can conduct training for their employees regardless for nationality under the Skill Development Promotion Act, B.E. 2545 and its amendment.

1.5.1.4 Protective measures for specific worker groups

The Labour Protection Act B.E.2541 (1998) and its amendments also ensure protection to specific workers, who are women (Section 38 - 43) and young workers, who are between 15 years and 18 years old (Section 44 – 52). The protection includes:

- specify the maximum working hours fixed at no more than eight hours per day and 48 hours per week;
- provide protection for sub-contract workers doing the same work as contract workers to receive fair remuneration and welfare on a non-discriminatory basis;
- revise categories of inappropriate works to allow women to perform such works if not harmful to their health;
- prohibit pregnant workers from working during 22:00-06:00 hours, working during weekends and public holidays, with exception to female workers holding executive, academic, administrative and accounting positions where such works do not impact on their health and with consent from pregnant workers;
- prohibit a worker below 18 years from working in sex-related venues;

1.5.1.5 Equal pay for equal work

The notion of gender equality is translated into practice in the Labour Protection Law under Section 53 regarding equal pay for equal work. This Section stipulates that employers must pay wages, overtime payments, payments for working on holidays, and payments for working overtime on holidays, at the same rate for both male and female employees who undertakes work of the same nature, quality, and quantity, or work of the same value, at an equal rate.

Several penalties, such as, fines for employers who fail to comply with the provisions in the Labour Protection Act B.E. 2541 (1998), and its amendments to provide a better protection for workers. The new amendment ranges from the procedural, for instance, notification requirements for changing employment circumstances, to the financially substantial, for example, the dramatic increase to severance pay for long-serving staff. The laws firmly comply responsibility and accountability on employers.

1.5.1.6 Protection from unfair practices and dialogue

The key ideas of the Labour Relations Act B.E. 2518 (1975) are to regulate and guarantee minimum standard of conditions of employment; the establishment of associations, unions and federation of employees and employers and their relations, as well as labour dispute management.

Employment conditions

Under Section 11, the minimum requirements of agreement regarding conditions of employment must contain (1) employment or working conditions, (2) working days and hours, (3) wages, (4) welfare, (5) termination of employment, (6) submission of complaints by employees, and (7) amendment or renewal of an agreement of employment conditions.

Unfair practices

The unfair practices in this Act is defined as the termination of the employment or take any action that results employees, a representative of employee and committees in labour union or federation are not unable to continue their work. The unfair labour practices in this Act tends to be defined in narrow terms, encompassing three general categories of conduct: (1) retaliation (for example, termination for labour union involvement), (2) wrongful pressure (for instance, forcing an employee to resign for union activity), and (3) termination while employees are under collective bargaining agreements, except in certain cases of misconduct or extenuating circumstances (Section 121).

The unfair practices shall be reported to the Labour Relations Committee within 60 days of the violation. In case the committee finds that an unfair practice occurs, the committee may order reinstatement. This can be appealed to the labour court, which might revoke the committee's order or require compensation instead of reinstatement.

1.5.1.7 Rights of association

Migrant workers can join a trade union. However, they can not legally establish a labour Union and cannot be members of the committee or sub-committee of a Labour Union as holding Thai nationality is mandatory (as Section 88 and 101, Labour Relations Act B.E. 2518).

1.5.2 Specific details regarding protection laws and policies for foreign workers

1.5.2.1 Social security and healthcare services

Foreign workers, who are insured person, are entitled the right to receive free health services at medical establishment based on the medical health right card or other medical health establishment network. To receive the medical care right, foreign workers must register and remit to the social security system according to the Social Security Act B.E. 2533 (1990) and the Compensation 2537 (1994) (Department of Employment, 2018). The details are as follows:

Social Security Fund: Foreign workers shall register with the Social Security Office and remit the contribution at 5 percent of their remunerations, while employers and the government contribute at 5 percent and 2.75 percent respectively. Under this Fund, foreign workers are entitled to 7 benefits from the Fund under Section 54. These benefits are (1) injury or sickness benefits; (2) maternity benefits; (3) invalidity benefits; (4) death benefits; (5) child benefits; (6) old-age benefits; (7) unemployment benefits.

Compensation Fund: Only employers of foreign workers shall contribute to the fund at 0.2 – 1 percent of wages based on the risk types of the business establishment. Employees will receive benefits in case of damage, sick or invalidity loss or death resulting from work.

In case of foreign workers under MOU who works on specific types of work, which are housemates, agriculture, livestock, fishery, non-business commerce, these foreign workers shall register to healthcare system under the Ministry of Public Health to get health service benefits. Such foreign workers must have a medical check-up and register with medical establishment prescribed by the Ministry of Public Health by purchasing health insurance. The health insurance costs 1,600 THB per year. To utilise the service, foreign workers must visit the chosen medical establishment (Foreign Management Office, 2018).

1.5.2.2 Specific protection and assistances for foreign workers

1.5.2.2.1 Filing a complaint

The Department of Employment has provided a compliant system for foreign workers through websites <https://www.doe.go.th/helpme>. The website is in 6 languages including Thai, English, Khmer, Myanmar, Lao, Vietnamese. The category of filing a complaint are, for example, corruption of officials, hiring illegal workers, child labour, prostitution, employer abuse, human trafficking, and paid incomplete. This system provides a convenient and accessible channel for foreign workers when they face difficulties and any problem relating to employment.

1.5.2.2.2 Fund for repatriation

The Department of Employment shall establish the “Foreigners’ Working Management Fund” and the “Committee of the Foreigners’ Working Management Fund” to manage the Fund. The Fund aims to (1) assisting foreigners who have an entry for working under this Royal Ordinance and who suffer violation of rights under labour law; (2)

repatriating foreigners from the Kingdom; (3) assisting and subsidising State agencies or non-governmental organisations which have proposed projects or work plans in connection with working management, welfare provision, education, public health and labour protection for foreigners; (4) providing monetary returns to foreigners who have contributed money to the Fund for the Repatriation of Foreigners from the Kingdom under the Foreigners' Working Act, B.E. 2551 (2008) and funding expenses in connection with such proceeding; (5) managing the Fund; (6) managing the foreigners' working under this Royal Ordinance.

The Fund shall consist of the money and property as follows: (1) the money and property transferred from the Fund for the Repatriation of Foreigners from Thailand; (2) the administrative fine charged under this Royal Ordinance; (3) the money or property donated; (4) fees collectible under this Royal Ordinance, in respect of which approval is given by the Ministry of Finance for their being expended without being required to be submitted to the Treasury as the State revenue; (5) fruits of the money or property of the Fund; (6) subsidies allocated by the Government as are necessary; (7) any other money or property received by the Fund in any case whatsoever (Section 76).

1.5.2.2.3 Employers Liability under Law of employers

One of the violations of the rights of foreign workers is withholding a work permit by employers. The Foreigners' Working Management Emergency Decree B.E. 2560 (2017) (Section 131) specifies liability for those employers who withhold a work permit or an essential personal document of foreign workers. The minimum liability is a term of imprisonment not exceeding 6 months or to a fine not exceeding 100,000 THB or to both.

1.5.3 Responses by the Royal Thai Government to COVID -19

1.5.3.1 Stay measures

The cabinet has its resolution on 24 March 2020, 15 April 2020, 2 June 2020 and 21 July 2020 to have the loosening measures on migrant workers management 2019-2020 as follows:

1. Migrant workers under MoU and seasonal workers are allowed to temporary overstay and work in Thailand regarding the Cabinet Resolution dated 2 June 2020. And, in addition to the latest Declaration of an Emergency Situation in all areas of Thailand of Thailand, they can stay temporarily in Thailand until 31 July 2020.
2. Migrant workers whose employers or licensees have already submitted the name list within 31 March 2020 can stay temporarily and work in Thailand until 30 November 2020, in accordance with the Cabinet Resolution dated 15 April 2020
3. Other overstayed migrant workers are allowed to temporary stay in Thailand until 26 September 2020 according to the Cabinet Resolution dated 21 July 2020. However, when it reaches the release period, they have to exit Thailand. In corresponding to

the temporary stay extension, the work permit is allowed to be extended. In case they wish to re-employ in Thailand, they shall apply to work through work permit application process.

According to ILO (2020), the Government of Thailand announced that MOU migrant workers and migrant workers holding valid border passes, whose documents were to expire on 31 March, are allowed to continue working until 30 April 2020. On 15 April, the Government of Thailand extended the deadline of the renewal of the work permits for the remaining 555,993 migrant workers registered under the national verification process (from 1,266,351 eligible migrant workers) who have not completed the process from 30 June to 30 November 2020.

The Cabinet resolution dated on 4 August 2020 announced that work permits for four groups of migrant workers in Thailand are extended. Eligible migrants must register for their work permit extension between 17 August and 31 October 2020. The following four groups of migrant workers are eligible to register to extend their work permits for a maximum period through to 31 March 2022 (IOM, 2020)

Group 1 - MOU workers who have completed 4-years of employment can renew their work permit for a maximum of two years. Group 1's Non-Labour Approved visa can also be extended for one year, with further extensions permitted as long as work permit remains valid.

Group 2 - MOU workers whose work and stay permits are invalid due to a change in employers can renew their work and stay permits through the same process as Group 1, with support from the new employer.

Group 3 - those who have completed the Nationality Verification process who had not yet registered on Name Lists before the 31 March 2020 deadline can continue to complete the process to extend their work permit.

Group 4 - Cross-border seasonal workers with an expired Border Pass who are stranded in Thailand due to the COVID-19 pandemic can renew their border passes. Each renewal is valid for 90 days through to 31 March 2022.

1.5.3.2 Relief measures

The Social Security Office has provided the relief measures for migrant workers and Thai workers. The measures include (1) reduction in Social Security Fund contribution rate for 6 months; (2) deadline extension for contributions; (2) deadline extension for contributions; (3) medical services for insured persons with COVID-19; (4) increase in unemployment benefits; and (5) provision of a loan programme for employment credit.

(1) Reduction in Social Security Fund contribution rate for 6 months

March-May 2020: Employers: from 5% to 4% ; insured Persons section 33: from 5% to 1% ; insured Persons section 39: from 9% to 1.8% (86 Baht per month).

September - November 2020: employers: from 5% to 2%; insured Persons section 33: from 5% to 2% ; insured Persons section 39: from 9% to 2% (96 Baht per month)

(2) Deadline extension for contributions:

The monthly contribution of March, April, and May have been deferred for three months.

- The contributions for wage of March must be paid no later than 15 July 2020.

- The contributions for wage of April must be paid no later than 15 August 2020.
- The contributions for wage of May must be paid no later than 15 September 2020.

(3) Medical services for insured persons with COVID-19

In pursuance of the *Notification of the Social Security Medical Committee concerning the Criteria, Conditions, and Rates of Medical Services for Coronavirus Disease 2019 or COVID-19*, SSO pays the hospitals for COVID-19 treatments, e.g., testing, rooms for the quarantine/treatment, antivirus or specific medicine for COVID-19, Laboratory diagnosis, etc. This measure comes into force as from 2 March 2020.

(4) Increase in unemployment benefits

In case of economic crisis

- Resignation cases = 45% of daily wage, for up to 90 days.
- Termination cases = 70% of daily wage, for up to 200 days.

In case of Force majeure;

- Employees' absence from work due to Force majeure guaranteed by the employers, the employers' order, or the Government's order to temporarily cease operation = receive loss of income compensation for 62% of their daily wage, up to 90 days.

(5) Financial Measure:

Loan programme for employment credit is provided to business operators to enhance business entities' liquidity so that business operators can survive with retention of labour force and ongoing production and distribution of products. The Social Security Board has provided a credit line (at 3%, period of 3 years) within the budget of 30,000 million Bath. The application is to be submitted by 31 December 2020. Currently, there are EXIM Bank and UOB Bank joining this programme.

1.5.3.3 Promoting personal protective measures during COVID-19

Department of Skills Development enhances Thais' and migrant workers' skills on personal protective measures that applies to both Thai and migrant workers, as follows:

- **Training to produce cloth masks and hand washing gel for the people**

Department of Skill Development, both central and provincial office, provides trainings of producing cloth masks, hand sanitizer, face Shield and other protective equipment to prevent the spread of the COVID-19 pandemic in order to promote jobs and increase income of people.

- **Produce equipment to prevent the spread of the 2019 coronavirus and distribute it to healthcare workers.**
- **Raising public awareness about the COVID-19 pandemic through all media channels.**

Department of Skill Development has continued raise awareness and practical guidelines about the COVID-19 pandemic across the country through all media channels

such as website, Social Media (Facebook, Line and YouTube), radio broadcast and pamphlets.

- **Raise awareness and publicize measures to prevent the COVID-19 pandemic in the workplace**

Promoting knowledge about the COVID-19 pandemic and how to practice as recommended by the Department of Disease Control, Ministry of Public Health to business establishments that submit a request according to the 2002 Skill Development Promotion Act 2002 and its amendments.

- **Protective measures by screening staff and service recipients**

The Department of Skill Development has established a screening point for staff and service recipients, e.g. trainees, and assessor.

- **Campaign for people to use the online service of the Department of Skill Development**

Department of Skill Development has created an e-services system for public services to provide easy, convenient, fast and efficient service access.

Chapter 3 Progress and Challenges in Implementation (Since 2015)

3.1 Progress

3.1.1 Specification of MRAs occupations in the new regulations

Previously, the MRAs are generally recognized at the framework level, there was no statement relating to MRAs in work permit registration. Occupations prohibited for foreign workers list appended to the Royal Decree in B.E.2522 (AD 1979) prescribed 39 prohibited occupations⁴ for foreign workers in Thailand. This list has been amended on several occasions by subsequent Royal Decrees. According to the Royal Decree, 4 out of 39 occupations were prohibited to work in Thailand. The related occupations to 8 MRAs, were supervising, auditing or giving services in accounting, except occasional international auditing; engineering work, civil engineering branch, that concerns planning and calculation, systemization, research, planning, testing, construction supervision or advisory work, except work requiring specialized skills; architectural work concerning designing, drawing, estimating, construction supervision, or advisory work; and tourist guide or tour organizing agency.

Later, the list was replaced by the list of prohibited occupations to foreign workers in Thailand, inaugurated on 21 April 2020 (See Annex 4). The recent list of prohibited occupations set 4 occupational sections with different conditions that allow foreign workers to register for work permits.

According to the recent list, a section that relates to MRAs is demonstrated in the section so-called, “Occupations prohibited to foreign workers with a condition that foreign workers are allowed to do the work in accordance with international agreements or obligations to which Thailand is bound under the provisions of law”. This section comprises 3 types of services that clearly allow migrant workers under MRAs to work, as follows:

- (1) Controlling, auditing, performing or providing accounting services, except for the following occupations: (i) occasional internal audit work; or (ii) work under international agreements or obligations to which Thailand is bound, for which the Professional Council provides a certification of qualifications;

⁴ The prohibited occupations include (1) Labour work, except crewmen engaging in fishery activities included under Item 2 below; (2) Cultivation, animal breeding, forestry and fishery work, except for labour work in maritime fisheries and work requiring specific skills in farm supervision; (3) Masonry, carpentry, or other construction work; (4) Wood carving; (5) Driving motor vehicles or non-motorized carriers, except for piloting international aircraft; (6) Shop attendants; (7) Auctioneering; (8) Supervising, auditing or giving services in accounting, except occasional international auditing; (9) Gem cutting and polishing; (10) Hair cutting, hairdressing and beautician work; (11) Hand weaving; (12) Mat weaving or making of wares from reed, rattan, kenaf, straw or bamboo pulp; (13) Manufacture of manual fibrous paper; (14) Manufacture of lacquerware; (15) Thai musical instrument production; (16) Manufacture of nielloware; (17) Goldsmith, silversmith and other precious metal work; (18) Manufacture of bronzeware; (19) Thai doll making; (20) Manufacture of mattresses and padded blankets; (21) Alms bowl making; (22) Manual silk product making; (23) Buddha image making; (24) Manufacture of knives; (25) Paper and cloth umbrella fabrication; (26) Shoemaking; (27) Hat making; (28) Brokerage or agency work, except in international business; (29) Engineering work, civil engineering branch, that concerns planning and calculation, systemization, research, planning, testing, construction supervision or advisory work, except work requiring specialized skills; (30) Architectural work concerning designing, drawing, estimating, construction supervision, or advisory work; (31) Dressmaking; (32) Pottery or ceramics; (33) Manual cigarette rolling; (34) Tourist guide or tour organizing agency; (35) Hawking business; (36) Thai character type setting; (37) Manual silk reeling and weaving; (38) Clerical or secretarial work; (39) Legal or litigation service, except (a) Working as arbitrator (b) Conducting law suits in Arbitration Court in cases where the law which enforces the dispute is not Thai Law or in cases that do not require judgment of Arbitration in the Kingdom of Thailand.

(2) Work in engineering – civil engineering related to consultancy, project planning, designing and calculating, organizing, researching, testing project, construction supervision or providing advice, except those who are registered as a professional engineer under the ASEAN Mutual Recognition Arrangement (MRA) as well as other international agreements related to cross-border engineering services or licensees of engineering practice in the field of civil engineering under the law on engineers;

(3) Work in architectural profession related to project study, design, management and construction supervision, inspection or consulting work, except for professional architects under the ASEAN Mutual Recognition Arrangement (MRA) for architectural services as well as other international agreements on cross-border architectural services from the Council of Architects or licensees of architectural practice under the law on architects.

3.1.2 Improvement in the regulation of recruitment agencies and allow for an online system

The law entered into force on 16 August 2016, helps improve Thailand's management of recruitment agencies and strengthen protection for all stakeholders to receive fair treatment based on international guidelines, procedure and standards. It aims to regulate recruitment agencies in bringing migrant workers to work in Thailand. The authorized recruitment agencies can only collect service fees and only charge other related expenses from the employers and at the rates prescribed in the Notification of the Director-General of the Department of Employment.

Thailand is the sole destination country within ASEAN that implements such fee policies during their recruitment (United Nations Thematic Working Group on Migration in Thailand, 2019). The Royal Ordinance also allows to a foreign worker who resides outside Thailand to apply for a work permit and make payment for the fees through an electronics system.

3.2 Challenges

Both high-skilled & low-skilled migrant workers face several challenges. In addition to the existing challenges, the labour demand and supply would change due to the corona virus pandemic. Key challenges are listed below.

3.2.1 National laws and policies not aligned with regional frameworks

- Based on the interviews, national laws and policies are not yet aligned with regional frameworks. The difficulties are to be governed by domestic (immigration and labour) regulations. It is clear that there is indifferent recognition of foreign professionals under 8 MRA categories between ASEAN applicants and those from other nationalities, except those working in accounting services, civil engineering services, and architectural profession. High-skilled workers usually apply for work permits through a regular channel for work permit registration (Section 59) or through an investment

promotion, petroleum or other laws (Section 62). Since the regular channel and those recognized under the ASEAN MRA are not distinguished. The MRA qualification is only to recognize the applicants' qualification among employers, yet it is unnecessary for the applicants to have such qualifications.

- Another important fact is that in practice, foreign workers working under the MRAs can do all other works except signing documents or perform specific tasks that required licences. As obtaining an occupational license means that the authority or an occupational council has to approve the license for a foreign worker, the foreign worker can perform work with locals as a team and supervise the work—but not signing a paper. For example, foreign construction companies operating in the region have employed local workers and foreign workers, some of whom have foreign certifications but not local ones. A local licensee in the company can provide a co-supervising management and sign for the necessary part. Thereby, firms with an adaptive management can still achieve the work without hiring one from AMS. Another possibility is to have foreign workers in other occupations' name or work from aboard, for example, managers or consultants, performing work in the destination country.
- Previous evidence suggest that there will be mobility within the region largely when the mechanisms of the MRAs are avoided. For example, 5400 nurses from AMSs have been registered in Singapore without invoking the MRA on nursing (Fukunaga, 2015).

3.2.2 Additional requirements of licensed occupational councils

While MRA principles are increasingly being incorporated into national legislation, additional requirements to the MRAs persist among AMS. Many occupational councils/ Boards (including Architect Council of Thailand, Council of Engineers, Federation of Accounting Professions, Thailand Nursing and Midwifery Council, Dental Council of Thailand, Medical Council of Thailand, and Tourism Professional Certification Board) requires licenses to perform work. In addition to the technical knowledge, additional requirements include, for example, skills related to language, duration of training and requirements for licensure examinations.

3.2.3 Labour demand in Thailand are majorly for low- & semi-skilled workers, thus the number of migrants through MRAs is small

Employment may depend on capital and market accessibility, wages, other direct& indirect benefits and strategies. High-skilled workers are more likely to migrate to higher-income countries comparing to the lower skilled workers. On the other hand, the semi and low- skilled workers thus are more likely to migrate within the region. In relation to this aspect, the development and comparison of global skills standards and skills demand must be drawn to facilitate labour migration. There is considerable variation in national capacity, especially quality assurance mechanisms of national skills development and certifications systems among the AMS.

3.2.4 Managing recruitment and management of migrant workers through bilateral agreements

Key challenges of entering processes of migrant workers, especially the low-skilled ones, are high recruitment cost; complicated process of recruitment; and, heavy reliance on recruitment agencies. In some cases, the recruitment and management processes may lead to labour exploitation and abusive practices.

As Thailand has realized such challenges, a set of key migration policies have been implemented, including (i) opening registration of irregular migrants from CLM, including (ii) establishing a nationality verification process that carried out by officials from the worker's sending country, permitted by destination country and (iii) signing a bilateral memorandum of understanding (MOU) on the cooperation of the employment of workers with neighbouring countries.

The bilateral MOUs formalize the sending countries' and Thailand's commitment under agreed principles and procedures. Due to the repeatedly extension policies, the nationality verification process (NV) has been used regularly since 2001, yet it made limited impact on reducing the irregular migrants. The recruitment process has been slow, complicated, costly, and failed to meet market demands. As a result, the inflow of irregular migrant workers has increased (Abella & Martin, 2015; Aoki, 2019). Many migrant workers believe that irregular channels provide quicker, more flexibility and cheaper comparing to the MOU channel. Thus, many prospective migrants continue to irregularly migrate (United Nations Thematic Working Group on Migration in Thailand, 2019: 32).

The MOUs initiatives will be key tools to open discussions on the social protection coverage, labour exploitation, including skills development to enhance labour productivities of both countries.

3.2.5 Gaps in human capital & skill development opportunities that might impede lifelong learning in the future of work

The ASEAN Qualifications Reference Framework (AQRF) has arisen from the ASEAN Charter in November 2007, corresponding with human resources development through education and life-long learning cooperation. It can help reduce human resource gaps in AMS, thus more opportunities for skills and labour market recognition. The ASEAN migrant plan should be developed in line with human capital plans, along with SDGs goal 5, SDG goal 8 linking to Thai national plan of National Economic and Social Development Plan (NESDC), 20 years development plan, and decent work country plan.

3.2.6 Better data management & partnership cooperation

Lack of existing occupation-specific government database challenges the opportunities to extend the mobility of professionals. National strategies need to manage labour surplus, shortages, unbalanced movement of migrant workers. In addition, data from private educational institutes and an occupational database are often unavailable. Such lack combined with workforce data limitations constrains the monitoring of MRA impact.

3.2.7 Need to promote social dialogues and monitoring& evaluation

To keep rolling the MRAs implementation, sufficient resources and coordination between government agencies are key supporting factors. However, there is a lack of practical mechanisms to advance the MRAs process between government ministries and between government, civil society, and social movements. Though there is the *ASEAN Forum on Migrant Labour (AFML)* every year, the discussion in the AFML has always been focusing on policies and principals, instead of practical details, such as, improving implementation and enforcement, as well as M&E of the process. A national and international level to discuss MRAs implementation in practical details should be established regularly.

Chapter 4 Lessons Learned

Thailand has demonstrated good practices in reducing irregular migrant workers through legalization and bilateral initiatives. The following lessons learned and practices highlight a stronger intergovernmental partnerships and cooperation toward a more sustained environment that enhanced benefits of the people in this region.

4.1 One Start One Stop Services

The One Start One Stop Services (OSOS)⁵, operating as a part of the Board of Investment, brings together staff from investment-related agencies to facilitate services for doing business in Thailand. The OSOS offers a wide range of investment-related services, including a work permit application. Investors with various applications to ensure the investors understand what is needed in order to register a company, obtain investment promotion privileges, obtain a foreign business license, request permission to use land for industrial operations. The OSOS also provides information and consultation on applications for privileges from the Revenue Department and Board of Investment, and on any related issues, providing basic information on Eastern Economic Corridor (EEC), Special Economic Zones (SEZ) and linking with other One Stop Service Centre for visas and work permits located in each Special Economic Zone.

Fig 1 Relevant organizations for the OSOS and work permit



Source Kosolpisitkul (2019)

⁵ OSOS, the investment service centre. "We make it easier for you to do business in Thailand" http://www.boi.go.th/tir/issue/201508_25_8/cover.htm

Agencies Represented at OSOS includes **Office of the Prime Minister** Office of the Board of Investment, Royal Thai Police, Immigration Bureau; **Ministry of Commerce** Department of Business Development, Department of International Trade Promotion; **Ministry of Finance** The Customs Department, The Revenue Department, The Excise Department; **Ministry of Energy** Department of Mineral Fuels, Department of Energy Business, Department of Alternative Energy Development and Efficiency, Office of the Energy Regulatory Commission; **Ministry of Industry** Department of Industrial Works, Department of Primary Industries and Mines, Industrial Estate Authority of Thailand; **Ministry of Interior** Department of Lands, Department of Public Works and Town & Country Planning, Provincial Electricity Authority, Metropolitan Electricity Authority, Provincial Waterworks, Authority, Immigration Bureau; **Ministry of Labour** Department of Employment, Department of Labour Protection and Welfare, Social Security Office; **Ministry of Natural Resources and Environment** Office of Natural Resources and Environmental Policy and Planning, Royal Forest Department; **Ministry of Public Health** Food and Drug Administration; **Ministry of Transport** Department of Land Transport; **Ministry of Tourism and Sports** Department of Tourism; **Ministry of Science and Technology** National Innovation Agency, Thailand Science Park; Software Park Thailand, Various One Stop Service Centres, One Stop Export Service Centre, Service Link, Ministry of Industry, One Stop Service Centre (OSS) in Special Economic Zone **Private Sectors** Banking Institutes, Industrial Parks, Telecommunication, Service Providers (CAT & TOT)

In addition to the OSOS for migrant workers through the BOI, there were one-stop-service centres (OSS) established for workers whose nationality is yet to be verified and seeking work permits. Thai authorities were trying to legalise all migrant workers, by encouraging them and their employers to undergo proper registration. It helped expedite the process. The OSS centres reduced the time required from 10 hours to six hours. The coordination channels among relevant authorities are improved so as to ensure migrant workers can have their nationality verified (Salaytoo, 2018).

4.2 Establishment of Migrant Worker Assistance Centres

The establishment of Migrant Worker Assistance Centres (MWACs) (ศูนย์ร่วมบริการช่วยเหลือแรงงานต่างด้าว), as a result of a Cabinet Resolution on 26 July 2016, has helped expand access to information and assistance for migrant workers. It provides advice, consultation, and disseminate information, especially labour-related issues, as well as coordination relevant agencies for migrant workers in Thailand. It also shows the intention to tackle human trafficking problems and promoting labour rights.

The ILO and MWG staff conducted assessments in five provinces: Chiang Mai, Tak, Nakhon Ratchasima, Samut Prakarn and Ranong during 2017 to assist in identifying key areas for strengthening the operational capacities of MWACs.

4.3 Engaging the civil societies organizations (CSO) into action

There is a growing community of CSOs working on immigration-related issues. The ASEAN community has recognized the importance of labour migration in the region and the need to protect and promote the rights of this vulnerable workforce.

The AFML has an AFML Coordination Committee (ACC) consisting of the representative of the SLOM Chair, the ASEAN Secretariat, the ILO, International Organization for Migration (IOM), Task Force for ASEAN Migrant Workers (TFAMW), and UN Women. Besides, representatives from government, employers, and workers, CSO representatives who are working on migrant labour issues or representative of migrant workers' groups based in ASEAN countries are also joined.

The roles of civil societies become strengthen through such corporation. It also includes other dialogues, for example, CSO representatives at the policy development and implementation for example, ASEAN Intergovernmental Commission on Human Rights (AICHR). However, a number of CSOs providing consultation on rights and legal-related issues have to be formalized and build capacities as to ensure the correct consultations providing to migrant workers.

Chapter 5 Recommendations and Opportunities for Cooperation

5.1 Entry and Stay Measures & Exist measures

5.1.1 MOU and Bilateral agreements with neighbouring countries

While MRA frameworks are important components of effective and fair labour migration policy, regional and national institutions can be weak and under-resourced. National laws and policies are often not aligned with regional frameworks.

Besides bilateral agreements for low-skilled level, the bilateral agreement can also use to promote the MRAs and semi-skilled workers can be used as tools to facilitate safe, regular labour migration between countries, as well as specify preferable sectors/ occupations to provide better protection. There is a need to enhance collaboration among ASEAN countries and between sending and receiving countries, e.g. G to G MOU and framework agreement. Continuing mode of cooperation in labour migration is through bilateral and non-binding instruments. Bilateral labour migration agreements can be various types of obligation, including

- Bilateral labour agreements which are legally binding rights and obligations
- Memoranda of Understanding (Non-binding agreements),
- other agreements (specific bilateral agreements between government ministries or agencies in destination and origin countries),
- Framework agreements or cooperation agreements that include labour migration along with other migration topics

5.1.2 Develop a G-to-G database and research on ASEAN migration to access demand for migrant workers and additional potential opportunities for further collaboration

Addressing both labour market needs and the protection of migrant workers and can be more beneficial if they are based on social dialogues. The analysis needs to employ the database into practice & policy design, which can project the labour demand and flows in short term and medium term. The accuracy and comprehensiveness of migrant workforce data, labour rights are critical to both national and regional workforce management. Thus, there is a need to understand labour migration flows and future trends.

Along with the database development, key researches that will enhance fair migration flows and promoting productivities are identified, but not limited to, as follows: (1) how to develop more effective matching of workers' skills and employers' labour demands (2) How to increase in productivity and in-migrant workers' safety and health at work; (3) how to enhanced competitiveness while embracing diversity; and (4) a commitment to combat exploitation and abusive labour practices.

For the purposes of enhancing mobility across ASEAN, clear laws and process in accepting personals through 8 categories are needed. A deeper exploration is required of why MRA processes are not being used to enable this movement.

Possible opportunities for further collaboration may include educators, or researchers to promote intellectual exchanges. Adaptation and development mechanisms to meet needs such as “temporary” licensing to allow research, education and professional observational exchanges should be continued, taking into consideration the impact of these initiatives on the continued implementation of the MRAs. Further deliberations needed to achieve practical results in harmonizing regulations related to industry competencies, professional certification and competency-based certification. There is a need for other professional sectors to move into more specific strategic commitments. Closer understanding of each other’s system of recognition of qualifications is needed for improved comparability rather than harmonization, given widespread fragmentation of responsibility for recognition of qualifications within member states.

5.2 Incorporation Measures

5.2.1 Setting and matching regional educational standards in MRAs

Disparity in regional educational standards remains an obstacle to freer movement between AMSs. Promoting compatible core competencies and shared curricular content through the strengthening of university networks, information-sharing and promotion of curricula initiatives at a regional level. English is the established language for accessing current research as well as the language for ASEAN regional and international communication.

In line with this initiative, the skills assessment should be done by the Department of Employment and Department of Skill Development to assess working knowledge of migrant workers for overall productivity and enhance better reintegration.

5.2.2 Need to promote social dialogues and institutional capacity strengthening at the implementation level

Promoting multi-stakeholder collaboration is crucial to enhance incorporation of migrants on the ground. Stakeholder collaboration in order to utilize the regional network and platform such as the ASEAN Forum for Migrant Labour (AFML), ASEAN Labour Minister Meeting (SLOM), ASEAN Committee on Migrant Workers (ACMW) consultation on the ACMW Work Plan 2021-2025. Another possible activity is to organize back-to-back meetings aiming to achieve barriers of fair, zero migration cost in specific issues.

Enhance the global partnership for sustainable development, complemented by multi-stakeholder partnerships that mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the sustainable development goals. Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships. In addition, integrative resources and technical capacity of all stakeholders, for example, ILO, IOM and Government should be jointly applied. The collaboration with the stakeholders like ILO, IOM, ATUC, DECP aims to reduce exploitative and abusive labour migration practices.

5.3 Enforcement Measures

5.3.1 Capacity building and strengthening existing national mechanisms

There is a need to build the capacities for ministries of labour and workers' and employers' organizations to participate in regional debates and processes. Capacity building members of employers', workers and governments to support its member organizations' efforts & staff, through various approaches, for example:

- conferences and meeting, awareness-raising campaigns
- guidance to enterprise and association members on the different national labour practices, ways it can be identified and the remedial actions that can be taken by businesses;
- advice on relevant legislations; and
- capacity building on core labour standards, key international instruments and buyers' code of conduct related to the elimination of forced labour and explaining to firms how these instruments impact on their operations.

A stronger capacity will strengthen political and public support, which is needed to drive the process forward and to ensure the mutual benefits of ASEAN.

5.3.2 COVID-19: opportunities or threats for migrant workers

The COVID-19 pandemic has changed the global labour demand and global supply. The labour demand for service and manufacturing sector has hit hard by the lower demand for goods and services. Policymakers need to rethink how they view migrant workers. Once the pandemic subsides, restrictive border policies may remain due to economic depression in Thailand. However, a number of migrant workers, especially those from neighbouring countries, will return through natural channels. Such situation will expedite violence at workplace and vulnerable situation to human trafficking. In addition, the situation may create tension to individuals. Therefore, concerned agencies at subnational, national and international levels should provide psycho-social counselling services for all.

Reference

Bibliography

- Abella, M., & Martin, P. (2015). Guide on measuring migration policy impacts in ASEAN. Bangkok : ILO Regional Office for Asia and the Pacific ; Tripartite Action for Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE project).
- Aoki, M. (2019). Thailand's Migrant Worker Management Policy as Regional Development Strategy. In N. Hatsukano, Rethinking Migration Governance in the Mekong Region: From the Perspective of the Migrant Workers and Their Employers (pp. 175-199). Jakarta: ERIA Research Project Report FY2017 no.19. Retrieved from https://www.eria.org/uploads/media/10.RPR_FY2017_19_Chapter_7.pdf
- Department of Employment (2018). Handbook for training foreign worker, Available from https://www.doe.go.th/prd/assets/upload/files/alien_th/0404b4bcd8a8a113f9dce8cb029f5ad5.pdf, Accessed on 20 April 2018.
- Department of Employment (2020) Loosening Measures for foreign worker management 2019 – 2020 Available at https://www.doe.go.th/prd/chiangmai/news/param/site/111/cat/7/sub/0/pull/detail/view/detail/object_id/33863, Accessed on 6 May 2020.
- Department of Foreign Trade (DFT) (2020) Trade privileges. Available at <http://www.dft.go.th/th-th/DFT-Service/ServiceData-Information/dft-service-data-privilege/Detail-dft-service-data-privilege/ArticleId/5069/5069>. Accessed on 4 May 2020.
- Fukunaga, Y. (2015). Assessing the Progress of ASEAN MRAs on Professional Services. ERIA Discussion Paper Series. Retrieved from <https://www.eria.org/ERIA-DP-2015-21.pdf>
- ILO (2020) COVID-19: Impact on migrant workers and country response in Thailand. Available at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/briefingnote/wcms_741920.pdf, Accessed on 4 May 2020.
- Kosolpisitkul, W. (2019, March 12). The One Start One Stop Investment Centre and One Stop Centre for Visas and Work Permits. Retrieved July 14, 2020, from Board of Investment: [https://www.boi.go.th/upload/content/3.%20\[PPT\]%20OSOS%20and%20One%20Stop%20Service%20Centre%20for%20Visas%20and%20Work%20Permits_5c864ca90d51a.pdf](https://www.boi.go.th/upload/content/3.%20[PPT]%20OSOS%20and%20One%20Stop%20Service%20Centre%20for%20Visas%20and%20Work%20Permits_5c864ca90d51a.pdf)
- Salaytoo, J. (2018, February 2). One-stop registration service for migrant workers launched. Retrieved from The Nation, Thailand: <https://www.nationthailand.com/national/30337834>
- Thailand Development Research Institute (TDRI) (2017) The Study on Laws related to foreign business operation and list of businesses in the Foreign Business Act 1999: Final report.
- United Nations Thematic Working Group on Migration in Thailand. (2019). Thailand Migration Report 2019. Bangkok: United Nations Thematic Working Group on Migration in Thailand. Retrieved from

https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRes.pdf

List of laws and regulations reviewed

- Compensation Act B.E. 2537 (1994) No. 2 B.E. 2561 (2018), Royal Thai Government Gazette, Vol. 135, Section 80 n, 10 October 2018.
- Compensation Act B.E. 2537 (1994), Royal Thai Government Gazette, Vol. 111, Section 28 n, 30 June 1994.
- Department of Consular (2019). Information for Non-Immigrant Visa “B”, Available from <http://www.consular.go.th/main/th/services/1287/104717-%E0%B8%82%E0%B9%89%E0%B8%AD%E0%B8%A1%E0%B8%B9%E0%B8%A5%E0%B9%80%E0%B8%81%E0%B8%B5%E0%B9%88%E0%B8%A2%E0%B8%A7%E0%B8%81%E0%B8%B1%E0%B8%9A%E0%B8%A7%E0%B8%B5%E0%B8%8B%E0%B9%88%E0%B8%B2%E0%B8%9B%E0%B8%A3%E0%B8%B0%E0%B9%80%E0%B8%97%E0%B8%A8%E0%B9%84%E0%B8%97%E0%B8%A2:-Non-Immigrant-Visa.html>, Accessed on 20 April 2020.
- Foreign Business Act B.E. 2542 (1999), Royal Thai Government Gazette, Vol. 116, Section 123 n, 4 December 1999.
- Foreigners’ Working Management Emergency Decree B.E. 2560 (2017). Royal Thai Government Gazette, Vol. 134 ,Section 65, 22 June 2017: 1-31. Royal Decree Prescribing Works relating to Occupation and Profession Prohibited
- Foreigners’ Working Management Emergency Decree B.E. 2561 (2018). Royal Thai Government Gazette, Vol. 134, Section 65 n, 27 March 2018 : 1-31.
- Labour Protection Act (No.2) B.E. 2551 (2008), Royal Thai Government Gazette, Vol. 125, 39 n, 27 February 2008.
- Labour Protection Act (No.3) B.E. 2551 (2008), Royal Thai Government Gazette, Vol. 125, Section 39 n, 27 February 2008.
- Labour Protection Act (No.4) B.E. 2553 (2010), Royal Thai Government Gazette, Vol. 128, Section 4 n, 17 January 2010.
- Labour Protection Act B.E. 2541 (1998) Royal Thai Government Gazette, Vol.115, Section 8 n, 20 February 1998
- Labour Protection Act B.E. 2562 (2019) No.7, Royal Thai Government Gazette, Vol. 136, Section 43 n, 5 April 2020.
- Labour Relation Act B.E. 2518 (1975), Royal Thai Government Gazette, Vol. 92, Section 47, 26 February 1975.
- Ministry Announcement of Specification of Works prohibited to Foreign workers dated 21 April 2020, Royal Thai Government Gazette, Vol. 137, Special Section 92 n, 21 April 2020.
- Ministry of Labour (2019). Work Permit Application for “Foreign Skill Workers and Experts ”, Available from https://www.mol.go.th/employee/permission_work/ Accessed on 20 April 2020.

- Notification of the Remuneration Committee on Remuneration of Skill Standard (No.9), Royal Thai Government Gazette, Vol. 137, Special Section 103₄, 1 May 2020: 29 - 36.
- Promotion of Investment Act B.E. 2520 (1977) , Royal Thai Government Gazette, Vol. 95, Section 38 Special issue, 4 May 1977
- Promotion of Investment Act B.E. 2520 (1977) No. 2 B.E. 2535 (1992), Royal Thai Government Gazette, Vol. 108, Section 201, Special issue, 21 November 1992.
- Promotion of Investment Act B.E. 2520 (1977) No. 3 B.E. 2544 (2001), Royal Thai Government Gazette, Vol.118 , Section 110, 30 November 2001.
- Promotion of Investment Act B.E. 2520 (1977) No. 4 B.E. 2560 (2017), Royal Thai Government Gazette, Vol. 134, Section 10 _n, 24 January 2017.
- Public Relation Department (PRD) (2020) Migrant workers affected by COVID-19 can claim unemployment benefits. 30 Apr 2020. Available at <https://thainews.prd.go.th/en/news/detail/TCATG200430163434719> , Accessed on 6 May 2020.
- Royal Decree Prescribing Works relating to Occupation and Profession Prohibited to Foreign Workers B.E.2522 (1979),Vol. 96 , Section 80, 14 May 1979: 75 - 80
- Royal Decree Prescribing Works relating to Occupation and Profession Prohibited to Foreign Workers B.E.2522 (1979) No.2 B.E. 2536 (1993), Vol. 110, Section 189, 17 November 1993.
- Royal Decree Prescribing Works relating to Occupation and Profession Prohibited to Foreign Workers B.E.2522 (1979) No. 3 B. E. 2543 (2000), Vol. 117, Section 105 _n, 15 November 2000.
- Royal Decree Prescribing Works relating to Occupation and Profession Prohibited to Foreign Workers B.E.2522 (1979) No.4 B.E. 2548 (2005), Vol. 122, Section 38 , 10 May 2005.
- Social Security Act B.E. 2533 (1990), Royal Thai Government Gazette, Vol. 107, Section 161, 1 September 1990.

Annex

Annex 1: Research Methodology

The study applied a highly participatory process. For the data collection in Thailand, the three methods have been implemented.

- **Documentary Research:** reviewing of official documents and data by examining official Documents that are currently in effect in Thailand to illustrate how the regulatory framework to manage the mobility of migrant workers is designed to work, from work permit application requirements to adjudication procedures in cases of complaints. Also, reviewing the official data to cover entry and stay measures, incorporation measures, exit measures, and enforcement measures.
- **Qualitative Survey:** The study conducts a comprehensive qualitative survey among key Thailand officials and experts with direct and expert knowledge on the existing laws and policies governing the management of migrant workers. The survey covers four categories as above-mentioned.
- **Structured key informant interviews:** The Findings from the survey are complimented by the structured key informants in Thailand, including key government officials, embassy personnel including labour attaches, heads of recruitment agencies and their associations, officials of international and nongovernmental organizations, including migrant organizations. The interviews focus on identifying the current regulatory and policy challenges, and opportunities in managing labour mobility.

Annex 2 List of individuals consulted and interviews

Date	Organization	Name/ Last name	Survey		Key Informant Interview	Note
			A	B		
20-Mar-63	Department of Employment, Work Permits Approval Section (Section 59)	Mr.S	/	/		Using a self-completed questionnaire
20-Mar-63	Department of Employment, Work Permits Approval Section (Section 59 MOU)	Mr.S	/	/		
20-Mar-63	Department of Employment, Work Permits Approval Section (Section 62)	Mr.S	/	/		
20-Mar-63	Department of Employment, Work Permits Approval Section (Section 63)	Mr.S	/	/		
23-Mar-63	Department of Employment, Work Permits Approval Section (Section 64)	Mr.S	/	/		
23-Mar-63	Inspection Office, Department of Labour Protection and Welfare	Mr.C		/	/	
23-Mar-63	Migrant Working Group	Mr.A			/	
23-Mar-63	International Labour Organization	Mrs.K			/	
23-Mar-63	Social Security Office	Ms. P			/	
30-Mar-63	Chulalongkorn University	Mrs.S			/	
21-Apr-63	Department of Employment, Department of Employment Inspector	Mr.C			/	
27-Apr-63	Department of Employment, Overseas Employment Administration Division	Mr.K			/	
1-May-63	Foreign Workers Administration Office	Mr.P			/	
4-May-63	International Labour Organization, ASEAN project	Ms.M			/	
6-May-63	Employers' Confederation of Thailand	Ms, S			/	

Annex 3 List Annexed to the Foreign Business Act, B.E. 2542 (1999)

LIST ONE

BUSINESSES *STRICTO SENSU* NOT PERMISSIBLE TO FOREIGNERS BY SPECIAL REASON

- (1) The Press, radio broadcasting station or radio and television station business
- (2) Rice farming, plantation or crop growing
- (3) Livestock farming
- (4) Forestry and timber processing from a natural forest
- (5) Fishery, only in respect of the catchment of aquatic animals in Thai waters and specific economic zones of Thailand
- (6) Extraction of Thai medicinal herbs
- (7) Trading and auction sale of antique objects of Thailand or objects of historical value of the country
- (8) Making or casting Buddha Images and monk alms-bowls
- (9) Land trading

LIST TWO

BUSINESSES RELATED TO NATIONAL SAFETY OR SECURITY OR HAVING IMPACTS ON ARTS, CULTURE, TRADITIONS, CUSTOMS AND FOLKLORE HANDICRAFTS OR NATURAL RESOURCES AND THE ENVIRONMENT

Chapter 1: Businesses related to National Safety or Security

- (1) Production, distribution and maintenance of:
 - (a) firearms, ammunition, gun powders and explosives;
 - (b) components of firearms, ammunition and explosives;
 - (c) armaments, ships, aircraft or vehicles for military use;
 - (d) equipment or components of all types of war materials
- (2) Domestic transportation by land, water or air, including domestic aviation

Chapter 2: Businesses Having Impacts on Arts, Culture, Traditions, Customs and Folklore

Handicrafts

- (1) Trading of antiques or artistic objects that are artistic works or handicrafts of Thailand
- (2) Production of wood carvings
- (3) Silkworm raising, production of Thai silk yarn, weaving of Thai silk or printing of Thai silk patterns
- (4) Production of Thai musical instruments
- (5) Production of goldware, silverware, nielloware, bronzeware or lacquerware

(6) Production of crockery or porcelains representing Thai arts and culture

Chapter 3: Businesses Having Impacts on Natural Resources or the Environment

(1) Production of sugar from sugar cane

(2) Salt farming, including non-sea salt farming

(3) Production of rock salt

(4) Mining, including rock blasting or rock crushing

(5) Timber processing for production of furniture and utensils

LIST THREE

BUSINESSES IN RESPECT OF WHICH THAI NATIONALS ARE NOT READY TO COMPETE WITH FOREIGNERS

(1) Rice milling and production of flour from rice and economic plants

(2) Fishery only in respect of the hatching and raising of aquatic animals

(3) Forestry from a grown forest

(4) Production of plywood, veneer wood, chipboards or hardboards

(5) Production of lime

(6) Provision of accounting services

(7) Provision of legal services

(8) Provision of architectural services

(9) Provision of engineering services

(10) Construction, with the exception of:

(a) Construction of structures for delivery of infrastructure public services in the sphere of public utilities or transportation requiring the use of special apparatuses, machines, technology or expertise, with the minimum capital of five hundred million Baht or upwards from foreigners;

(b) Construction of other types as prescribed in the Ministerial Regulation

(11) Brokerage or agency businesses, with the exception of:

(a) being a broker or an agent in the sale or purchase of securities or in services related to futures trading of agricultural commodities or financing instruments or securities;

(b) being a broker or an agent in the sale, purchase or procurement of goods or services necessary for the production or the provision of services amongst affiliated enterprises;

(c) being a broker or an agent in the sale or purchase, procurement, distribution or acquisition of domestic and foreign markets for the distribution of domestically manufactured or imported goods, which is in character the operation of international trade, with the minimum capital of one hundred million Baht or upwards from foreigners

(d) being a broker or an agent of other types as prescribed in the Ministerial Regulation

(12) Sale by auction, with the exception of:

(a) a sale by auction which, in character, involves international bidding of items other than antiques, objects of antiquity or artistic objects that are artistic works or handicrafts or objects of antiquity of Thailand or of historical value of the country;

(b) sales by auction of other types as prescribed in the Ministerial Regulation

(13) Internal trade related to traditional agricultural products or produce not yet prohibited by law

(14) Retail sale of goods of all types with the total minimum capital in the amount lower than one hundred million Baht or with the minimum capital of each store in the amount lower than twenty million Baht

(15) Wholesale of all types with the minimum capital of each store in the amount lower than one hundred million Baht

(16) Advertising business

(17) Hotel business, with the exception of the hotel management service

(18) Guided touring

(19) Sale of food and beverages

(20) Cultivation, propagation or development of plant varieties

(21) Other service businesses, with the exception of service businesses as prescribed in the Ministerial Regulation

Annex 4 List attached to the Ministry of Labour's Announcement on Occupations that are Prohibited to Foreign Workers in Thailand, inaugurated on 1 April 2020

List 1 Occupations Strictly Prohibited to Foreign Workers

No.	Occupations	Definition
1	Wood carving	Wood carving or carving decorative patterns on wood, preparation of wood and carving on wood to make decorative patterns on furniture, decorations and other wares, as well as repair and modification.
2	Driving of motor vehicles or driving of vehicles that do not use machines or engines in the country, except for international aircraft piloting or forklift driving	Driving motor vehicles, including trams, to transport goods and passengers by road, water, air, or driving vehicles in the country that do not use machines or engines, except for international aircraft piloting or driving a forklift installed with equipment for lifting or moving things.
3	Auction	Work related to valuation and auction of property or goods, including real estate, livestock, and agricultural products.
4	Cutting or polishing diamonds or gemstones	All or part of the cutting into shape and polishing diamonds or gemstones or precious stones with machines, as well as repair and modification of diamonds or gemstones or precious stones.
5	Hair cutting, hair perming or beautifying	Hair cutting, hair perm, hair washing, hair dyeing, hair styling and hair design services for both men and women, makeup, cosmetic work, individual feature enhancement, facial massage, manicure and beauty enhancement for customers in various ways, but not including the following: (1) providing services or supporting or general facilitation, such as equipment preparation and cleaning, foot washing, etc; (2) Makeup, hairdressing, or hair design, for which the worker travels from abroad to work in a film production with permission to make a foreign movie in Thailand under the law on movies and videos.
6	Handweaving of cloth	Weaving cloth and carpets with hand loom, as well as spinning cotton or silk yarn with a spinning machine, reeling two or more yarns

		onto a tube without twisting, reeling yarn from one tube to another, reeling yarn to prepare for weaving, inspecting defects in cloth or fabric, and repairing cloth or fabric
7	Mat weaving or making wares using reeds, rattan, jute, straw, bamboo, bamboo pulp, grass, chicken feather, coconut leaf stalk, fiber, wire or other materials	Weaving mats or making wares using reeds, rattan, jute, straw, bamboo, bamboo pulp, grass, chicken feather, coconut leaf stalk, fiber, wire or other materials by hand or using a loom or a weaver that is not a machine, as well as repair and modification works
8	Making Saa paper by hand	Processing Saa barks through various steps until it results in sheets of paper as thick or thin as needed to make umbrellas, to be used as wrapping paper and for other uses
9	Making lacquerware	Weaving bamboo strips into containers or other wares, then coating with a type of traditional lacquer to make them solid and the surface smooth, then polishing, and carving and decorating them with patterns and colors through various techniques
10	Making Thai musical instruments	Making Thai traditional musical instruments, including strings, drums, winds and others, from materials by hand or machine, as well as decoration, repair and modification works
11	Making nielloware	Making metal products, and decorating the surface using lead enamel to create patterns
12	Making goldware, silverware or copper-alloy ware	Making wares or decorations by bending, hammering or cutting gold, silver, copper alloy or other precious metals into various shapes, as well as soldering or welding to piece several parts together and carving patterns onto the surface, and polishing up
13	Making copper-tin alloy ware polished with stone powder	Cutting, hammering, bending or pressing metals, mostly brass and copper, into wares or decorations, then polishing with stone powder by hand or machine, as well as decoration, repair and modification
14	Making Thai dolls	Making Thai dolls, cast or stuffed by hand or machine, as well as decoration, repair and modification
15	Making alms bowl	Shaping metal sheets, mostly cast iron, by bending, hammering, polishing into an alms bowl or making alms bowls by casting metals

		into molds, and then coating or smoking and polishing, as well as repair work
16	Making silk products by hand	Using silk to make or using silk with other materials in making clothes, costumes, hats, wares and decorations, by hand or machine
17	Making Buddha images	Making Buddha images by casting, welding, sculpting, carving, reprinting, pressing, and other methods, as well as surface decoration and repair of Buddha images
18	Making paper or cloth umbrellas	Making umbrellas using paper or cloth by hand, as well as repair and modification
19	Brokerage or agency work, except for brokerage or agency work in international trade or investment	Working as an intermediary or contact between two parties to make deals on insurance, trading commodities, trading or renting and letting property, or trading or participating in business services, and receiving a commission in return, except for the work related to international trade or investment
20	Thai massage	Examination, diagnosis, treatment, healing, prevention of diseases, nourishing and restoring health using knowledge of the arts of Thai massage following Thai traditional medical practice according to the law on Thai traditional medicine profession
21	Cigarette rolling by hand	Cigarette rolling work starting from cutting or slicing tobacco leaves, then rolling into the leaf sheets, dry banana leaf or rolling papers, and packing tightly, then cutting both ends of the cigarette evenly
22	Tour guides or tour operations	<p>1. Tour guide work means to bring tourists, whether individually or in groups, to travel to various locations, and provide advice and information for tourists;</p> <p>2. Tour operations means to bring tourists to travel for sightseeing or for other purposes, and provide one or more services or facilities, i.e., accommodation, food, guide or any other services</p>
23	Peddling	Bringing goods to sell at various locations by carrying or bearing on the shoulder or loading in trolleys, bicycles, motorcycles or motor vehicles, or in paddling or rowing boats or motor boats.

24	Manual typesetting of Thai characters	Bringing Thai characters of various sizes to arrange on a stick to form texts with spaces and lengths of lines exactly matching the original, then sliding it down the loading rails and into the proof paper printer; changing cases when there are mistakes. When printing is finished, separate the letters and put them into each corresponding slot in the storage.
25	Pulling or twisting silk yarn by hand	Using hands to pull and twist two or more silk yarns out of silk worms; connecting silk yarns that are broken during pulling and twisting; keeping silk yarns that have been pulled and twisted in a basket or a container; then reeling silk yarns on a reeler made of bamboo or reeling them into skeins.
26	Clerical or secretarial work	<p>1 Clerical work means work involving shorthand writing, typing, teletyping, punching cards, tape punching, receiving-paying money, collecting money, calculation of production costs, calculation of wages and working hours, factotum, dispatch carrier, answering phone calls, taking in or sending out things, overseeing stock of goods, warehouse inventory, weighing, letter correspondence, accounting, general administration, receiving and sending documents, personnel, insurance, public relations, reception, booking travel tickets, library, filing documents, statistics, survey, enumeration, editing and coding, proofreading, printing, photocopying, copying documents, addressing documents, and other jobs In the role of clerks or staff in the clerical level as determined by the establishment</p> <p>2 Secretarial work means work involving recording of statements, reports or accounts with shorthand, typing accounts from notes written in shorthand or from a dictation recorder, making appointments for the superior and reminding the superior when an appointment is due, welcoming those who come to meet the superior, inquiring, answering questions and making contact via telephone, presenting personal and important letters and mails as well as letters and documents from various departments sent to the superior, drafting correspondence letters,</p>

		filing documents, as well as supervising staff and other tasks as assigned by the superior
27	<p>Legal services or services in legal proceedings, except for the following work:</p> <p>(A) Performing duties of arbitration;</p> <p>(B) Providing assistance or representation in the arbitral proceedings in the event that the law applicable to the dispute being considered by the arbitrator is not Thai law.</p>	<p>Providing services in legal counselling, litigation and others such as representing as a lawyer in all types of cases, acting on behalf of clients in legal matters, drafting contracts or making legal documents, etc.</p> <p>Except for the following work:</p> <p>(A) Performing duties of an arbitrator in an arbitration case;</p> <p>(B) Any work performed for the Arbitral Tribunal or the parties to the dispute in order to assist or facilitate the arbitral proceedings to be completed successfully or the work to either defend or to act on behalf of either party in the event that the law applicable to the dispute being considered by the arbitrator is not Thai law, and shall include the following work:</p> <ol style="list-style-type: none"> 1. Liaison for cases, research, compile, and provide opinion on facts and legal issues to the arbitral tribunal or the parties; 2. Take notes during the hearing using shorthand or other techniques in the same manner; 3. Presentation of opinions as an expert 4. Works involving special technology used in recording sound, images and evidence produced in the hearing

List 2 Occupations prohibited to foreign workers with a condition that foreign workers are allowed to do the work in accordance with international agreements or obligations to which Thailand is bound under the provisions of law

No.	Occupations	Definition
1	<p>Controlling, auditing, performing or providing accounting services, except for the following work:</p> <p>(A) Occasional internal audit work;</p> <p>(B) Work as per international agreements or obligations to which Thailand is bound, for</p>	<p>Providing accounting services for individuals, juristic persons, groups of persons, foundations, associations, enterprises, private agencies, state enterprises, or government agencies, as follows:</p> <ol style="list-style-type: none"> 1. All or partial accounting work; 2. Audit, internal audit, due diligence/cash monitoring;

	<p>which the Professional Council provides a certification of qualifications;</p>	<p>3. Keeping financial records on behalf of an organization, management of financial matters for an organization or customers;</p> <p>4. Reception, exchange, and payment of money in banks and offices;</p> <p>5. Use of computer, various electronic devices, programmes, software, for calculation, recording and processing of accounting and financial data;</p> <p>6. Other services related to accounting in various branches, such as bookkeeping, auditing, administrative accounting, setting an accounting system, tax accounting, and education and accounting technology, as well as consultancy, development and training;</p> <p>7. Supervision of works in 1 – 6;</p> <p>This shall include the performance of duties in one or more of the following capacities:</p> <p>(1) Independent service provider;</p> <p>(2) Owners, executives, employees, or staff at all levels of the accounting service agency or an organization, whether it be persons, juristic persons, groups of persons, enterprises, private agencies, state enterprises, or government agencies;</p> <p>Except for the following work:</p> <p>(A) Occasional internal audit;</p> <p>(B) Work as per international agreements or obligations to which Thailand is bound, for which the Council of Accounting Profession is to certify qualifications.</p>
2	<p>(2) Work in engineering – civil engineering related to consultancy, project planning, designing and calculating, organizing, researching, testing project, construction supervision, or providing advise, except those who are registered as a professional engineer under the ASEAN Mutual Recognition Arrangement (MRA) as well as other international agreements related to cross-border engineering services or licensees of engineering</p>	<p>Civil engineering work relating to consultancy, project planning, design and calculation, supervision of construction or production, inspection, facilitating system set up, researching, testing, except (1) those who are registered as a professional engineer under the ASEAN Mutual Recognition Arrangement (MRA) as well as (2) other international agreements related to cross-border engineering services or (3) licensees of engineering practice in the field of civil engineering under the law on engineers, who are allowed to work under specified conditions.</p>

	practice in the field of civil engineering under the law on engineers	
3	(3) Work in architectural profession related to project study, design, management and construction supervision, inspection or consulting work, except for professional architects under the ASEAN Mutual Recognition Arrangement (MRA) for architectural services as well as other international agreements on cross-border architectural services from the Council of Architects or licensees of architectural practice under the law on architects;	Work in the architectural profession involving project studies, design, management and supervision of construction, inspection, consultancy, except for professional architects under the ASEAN Mutual Recognition Arrangement (MRA) for architectural services as well as other international agreements on cross-border architectural services from the Council of Architects or licensees of architectural practice under the law on architects, who are allowed to work under the conditions prescribed by the Council of Architects.

List 3 Occupations prohibited to foreign workers with a condition that foreign workers are allowed to do the craftwork or semi-craftwork only when working for an employer

No.	Occupations	Definition
1	Agriculture, animal husbandry, forestry or fishery	<p>1. Agriculture means work that requires knowledge or skills in cultivation of grains, vegetables, horticulture, perennials, shrubs and others;</p> <p>2. Animal husbandry means work that requires knowledge or skills about animal breeding, animal conservation, taking care of animals, and catching animals to obtain meat, milk, fur, hide, silk, honey, etc.;</p> <p>3. Forestry means work that requires knowledge or skills in cultivation of seedlings, planting trees, forest conservation, exploitation of forests, and processing wood into charcoal, or extracting crude oil from wood, or others;</p> <p>4. Fishery means work that requires knowledge or skills relating to fishing, aquaculture, taking care of aquatic animals, processing aquatic animals, as well as any actions that support fisheries.</p>

2	Masonry, carpentry, or construction work	<p>1. Masonry means work that requires knowledge or skills in constructing, assembling, installing and repairing a base or foundation, walls and other structures with bricks, stones or similar materials;</p> <p>2. Carpentry means work that requires knowledge or skills in cutting, shaping, assembling, installing, maintaining and repairing structures and structural components made of wood, measuring, assembling and modifying components of buildings, both interior and exterior, such as walls, doors, door and window frames, ceiling and wall panels;</p> <p>3. Building construction means work that requires knowledge or skills in building, installing, maintaining and repairing buildings and other structures, for example, making concrete model, pouring concrete, retouching the concrete surface, making metal reinforcement, erecting concrete structures supplemented with various materials, roofing, terrazzo flooring, flooring and walling with tiles or mosaics, plastering on walls and ceilings, installing insulating materials on walls, floors and ceilings, cutting and assembling glass panes into windows or doors, painting, installing drain and water pipe systems, installing sanitary ware, electrical wiring inside buildings or other structures</p>
3	Making mattress or quilt	Work that requires knowledge or skills in making mattress or quilts from various materials by hand or machine as well as repair and modification
4	Making knives	Work that requires knowledge or skills in making all types of knives from metal using hand-controlled tools, as well as repair and modification of knives
5	Making shoes	Work that requires knowledge or skills in making all types of shoes from various materials, as well as repair and modification of shoes
6	Making hats	Work that requires knowledge or skills in making hats for men, women, and children from all kinds of materials, as well as repair and modification of hats

7	Making costumes	Work that requires knowledge or skills in designing and sewing men's and women's clothes from start to finish, or other works related to costume making, as well as alteration, modification or fixing of clothes
8	Making pottery	Work that requires knowledge or skills in making pottery, starting from preparing clay and molds, sculpting and compacting clay into molds, coating, drawing decorative patterns, drying and burning, either whole or part of this work

List 4 Occupations prohibited to foreign workers with a condition that foreigners are allowed to do the work only when working for an employer and being permitted to enter Thailand by the law on immigration under the memorandum of agreement or memorandum of understanding made by the Thai government with foreign governments

No.	Occupations	Definition
1	Labour	Manual work and usually simple work which requires mainly physical strength
2	Front shop sales	Selling goods at a wholesale or retail establishment as well as selling goods at stalls or shops located in markets or roadside

