

## **Alien Working Act, B.E. 2551**

The Alien Working Act, B.E. 2551, which came into force on 23 February 2008, repealed and replaced the Alien Working Act, B.E. 2521, as amended.

Work is defined broadly to include any work involving physical strength or knowledge whether or not done for money or other remuneration. Work by aliens may only be done in accordance with regulations issued by the Ministry of Labor and may only be done with a work permit, except that no work permit is required for an alien in Thailand temporarily under the immigration laws to do necessary and urgent work for a period of up to 15 days. An alien applying for a work permit must be either a resident or authorized to enter Thailand temporarily, in each case under applicable immigration laws, and not an alien with a tourist or transit visa.

For purposes of limiting the number of aliens employed as other than craftsmen or experts, the Minister of Labor, with the approval of the Council of Ministers, may impose a fee on employers employing such aliens.

Employees with work permits must contribute to the Alien Out-of-Kingdom Repatriation Fund, and employers must make the appropriate deductions to effect such contributions, in each case in accordance with ministerial regulations. An alien leaving Thailand using his own funds may receive a refund of amounts contributed to the Alien Out-of-Kingdom Repatriation Fund; provided that the request for a refund must be made within two years of the alien's departure from Thailand. The Alien Out-of-Kingdom Repatriation Fund will be used, among other things, to pay expenses required to deport aliens who do not use their own funds to leave Thailand.

Work permits may be issued for up to two years (or in the case of work permits issued in connection with the Law Governing Investment Promotion or other similar laws, for the period of time the alien is permitted to work under such laws). Work permits may be renewed for additional two year periods, but the period of time an alien is permitted to work is not to exceed four consecutive years unless otherwise permitted by the Council of Ministers. Work permits have no effect on the duration of stay permitted under the immigration laws. An alien with a work permit is required to keep the work permit on his person or at his place of

employment during working hours and may only work in accordance with the limitations and conditions set forth in the work permit.

An alien working without a work permit is subject to imprisonment for a period of up to five years and/or a fine from 2,000 baht to 100,000 baht. If an alien accused of working without a work permit agrees to leave Thailand within 30 days, he may settle the matter with only a fine. An alien with a work permit failing to comply with certain provisions of the Alien Working Act is subject to a fine of up to 10,000 baht. An employer hiring an alien without a work permit is subject to a fine from 10,000 baht to 100,000 baht per alien, and an employer hiring an alien outside the scope of his work permit is subject to a fine of up to 10,000 baht per alien.

The Alien Working Act does not apply to members of diplomatic or consular delegations and certain related persons, certain persons related to the United Nations, certain persons working in Thailand pursuant to an agreement between Thailand and a foreign government or international agency, certain persons stipulated by Royal Decree and certain persons authorized by the Council of Ministers.

This summary was prepared by Chaninat and Leeds Thailand attorneys.