

AMENDMENT TO EMERGENCY DECREE ON FOREIGN EMPLOYEE MANAGEMENT

On 27th March 2018 the Government of Thailand published the Emergency Decree on Foreign Employee Management (No. 2) B.E. 2561 (“ED2”) to amend the Emergency Decree on Foreign Employee Management B.E. 2560 (“ED1”) effective from 28th March 2018. The ED1 needed amendment because the requirements and obligations of employment agents, employers and foreign employees under the ED1 were too complicated and imposed too severe penalties as the same level as penalties for human trafficking resulting in panic and negative implications on household employers and those in agricultural and industrial sectors of all sizes resulting further in negative impacts on the economy and the society. ED2 requires fewer permits and licenses and only as necessary. It simplifies procedures for control and supervision of recruitment and employment of foreign employees and work of foreign employees. It also reduces the extremely high penalties under ED1.

The major changes under ED2 are listed below.

1. The following foreigners can now work in Thailand without a work permit: (1) foreigners who enter Thailand occasionally to organize or attend meetings, conferences, seminars, art exhibitions, or other activities to be prescribed by the Cabinet, (2) foreigners who are investors or operators of businesses, experts, or highly-skilled professionals and (3) foreigners who are representatives of a company holding a foreign business license under the foreign business law of Thailand.
2. A foreigner work in Thailand on urgent and necessary basis for a period of 15 days but he must notify DE officials. If the work cannot be completed within 15 days, a request for an extension of 15 days is possible. A foreigner who works in Thailand on an urgent and necessary basis without notifying the DE officials is subject to a fine up to THB50,000.
3. An employer must notify the DE officials of the name, nationality and nature of work of foreign employee within 15 days from the date of employment and also notify the DE officials within 15 days after the end of the employment. An employee must notify the DE officials of the information about his employer, place of work and nature of work within 15 days from the employment date and notify the DE officials every time he changes employer. An employer or an employee who fails to notify the DE officials of employment information is subject to a fine up to THB20,000.
4. An application for a work permit can be filed by an electronic means.
5. The penalty for working without a work permit is a reduced to a fine from THB5,000 to THB50,000. After the fine is paid, the foreign offender will be repatriated to home country. Several penalties under ED1 have been reduced substantially.



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