

Tentative Translation*

**FOREIGNERS' WORKING MANAGEMENT EMERGENCY DECREE,
B.E. 2560 (2017)**

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 17th Day of June B.E. 2560;

Being the 2nd Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on foreigners' working and the law on the bringing of foreigners for working with employers in the country;

Whereas this Emergency Decree contains certain provisions relating to the restriction of rights and liberties of the people, in respect of which section 26 in conjunction with section 28, section 33, section 34, section 38 and section 40 of the Constitution of the Kingdom of Thailand so permits by virtue of the provisions of law;

Whereas this Emergency Decree is, in essence, concerned with foreigners' working management to achieve orderliness and efficiency by laying down rules governing the bringing of foreigners for working with employers in the country as well as the working of foreigners and setting up the Foreigners' Working Management Policy Commission empowered to lay down policies on and exercise supervision of foreigners' working management and, in this regard, this Emergency Decree contains certain provisions which have the effect of restricting a person's rights and liberties to or of life and the body, a person's liberty of dwelling, a person's liberty to write, print and publicise, a person right to property and a person's liberty to engage in an occupation,

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in a manner that restrictions on rights and liberties are made to the extent necessary for the purpose of foreigners' working management to achieve orderliness and efficiency;

Be it, therefore, by virtue of the provisions of section 172 of the Constitution of the Kingdom of Thailand, enacted by the King, as follows.

Section 1. This Emergency Decree is called the "Foreigners' Working Management Emergency Decree, B.E. 2560 (2017)".

Section 2.¹ This Emergency Decree shall come into force on the day following the date of its publication in the Government Gazette.

Section 3. The following shall be repealed:

- (1) the Foreigners' Working Act, B.E. 2551 (2008);
- (2) the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016).

Section 4. This Emergency Decree shall not apply to the performance of duties in the Kingdom by foreigners only in the capacity as the following:

- (1) members of a diplomatic mission;
- (2) members of a consular mission;
- (3) representatives of a Member State to, and personnel of, the United Nations and specialised agencies;
- (4) private servants travelling from a foreign country to be in the ordinary service to the persons under (1), (2) or (3);
- (5) persons performing duties or missions under an agreement concluded by the Government of Thailand with a foreign Government or an international organisation;
- (6) persons performing duties or missions for educational, cultural, artistic, sportive or other purposes as prescribed in the Ministerial Regulation;
- (7) persons granted entry upon permission by the Council of the for performing a particular duty or mission, with or without condition.

¹ Published in Government Gazette, Vol. 134, Part 65a, dated 22nd June 2017.

Section 5. In this Emergency Decree:

“bringing a foreigner for working” means any operation performed for bringing a foreigner, who is permitted to enter the Kingdom under the law on immigration, under a memorandum of agreement or memorandum of understanding made by the Government of Thailand with a foreign Government or under the Government’s policy on employment, for working with an employer in the country, whether it is performed for fees or remuneration or not;

“work” means the use of physical strength or knowledge for engaging in an occupation or a job with or without an intention to obtain wages or any other benefit, except the work prescribed in the Notification of the Minister;

“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;

“office” means an office of the person granted permission for bringing foreigners for working;

“fee” means money or other benefits given in return for the bringing of foreigners for working;

“expenses” means expenses incurred in the bringing of foreigners for working;

“Fund” means the Foreigners’ Working Management Fund;

“Fund Committee” means the Committee of the Foreigners’ Working Management Fund;

“Commission” means the Foreigners’ Working Management Policy Commission;

“competent official” means a person appointed by the Minister for performing activities under this Emergency Decree;

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“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 Emergency Decree;

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

“Minister” means the Minister having charge and control of the execution of this Emergency Decree.

Section 6. The Minister of Labour shall have charge and control of the execution of this Emergency Decree and shall have the powers to appoint competent officials and issue Ministerial Regulations prescribing fees not exceeding the rates annexed hereto, exempting fees and prescribing other matters or issue Notifications, in the execution of this Emergency Decree.

Such Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I GENERAL PROVISIONS

Section 7. The Minister, with the approval of the Commission, may issue a Notification prescribing any work to be the work prohibited from being carried out by foreigners in any particular locality and at any particular time, provided that the prohibition may be, to any extent whatsoever, absolute or subject to any conditions.

In issuing the Notification under paragraph one, regard shall be had to national security, occupation opportunities of Thai people and the need of foreign labour which is necessary for national development.

Section 8. A foreigner shall not carry out any work prescribed in the Notification issued under section 7 paragraph one or carry out any work without a work permit.

Section 9. Any person shall not take a foreigner into any work prescribed in the Notification issued under section 7 paragraph one or take a foreigner into any work when the foreigner has no work permit.

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Section 10. The provisions of section 7 shall not apply to the foreigners' working under section 62, section 63 and section 64.

In the case where an agreement to which or under which Thailand is a party or is bound by the obligation therein provides that foreigners may carry out the work prescribed in the Notification issued under section 7 paragraph one, such foreigners must also be permitted to work in accordance with the provisions and conditions of such agreement.

Section 11. The Minister, with the approval of the Commission, may issue a Notification prescribing fees collectible from employers who employ foreigners for working in the prescribed categories of work in the Kingdom.

Any person intending to employ foreigners under paragraph one must obtain permission from the Director-General and make payment of fees before making a contract of employment, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Any person who fails to comply with the provisions of paragraph two shall be liable to pay additional money in the amount one time the amount of the fee required to be paid.

Section 12. Subject to section 59 paragraph one, section 63 paragraph one and section 64 paragraph two, the Minister, with the approval of the Council of Ministers, may issue a Notification prescribing any particular type of work which requires a quota for taking foreigners for working. For this purpose, the Minister may prescribe any conditions therefor.

Section 13. Upon the Notification under section 12, any person who intends to employ foreigners for any work under section 12 shall submit to the Director-General an application for permission therefor.

The application for permission and the granting of permission shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 14. For the purposes of maintaining national safety, public safety or national economic security or preventing a public disaster, the Minister with the approval of the Council of Ministers may grant the following persons permission to work in the Kingdom subject

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to any conditions or may grant them exemption from compliance with this Emergency Decree in any particular case:

- (1) the person granted permission for bringing foreigners for working or the employer bringing foreigners for working in the country;
- (2) a foreigner entering the Kingdom for working therein.

Section 15. For the purpose of maintaining the security of the Kingdom and public safety, the Minister of Interior with the approval of the Council of Ministers may issue a Notification prescribing residential areas for persons granted permission for working, in respect of any particular class or locality.

Section 16. All cases resulting from disputes between the person granted permission for bringing foreigners for working and the foreigner, the person granted permission for bringing foreigners for working and the employer or the employer and the foreigner in connection with rights or duties under this Emergency Decree or in connection with labour relation shall fall within the jurisdiction of the Labour Court.

CHAPTER II

FOREIGNERS' WORKING MANAGEMENT POLICY COMMISSION

Section 17. There shall be a commission called the "Foreigners' Working Management Policy Commission", consisting of the Minister of Labour as Chairperson, Permanent Secretary for Labour as Vice Chairperson, Permanent Secretary for Defence, Permanent Secretary for Finance, Permanent Secretary for Foreign Affairs, Permanent Secretary for Social Development and Human Security, Permanent Secretary for Agriculture and Co-operatives, Permanent Secretary for Interior, Permanent Secretary for Public Health, Permanent Secretary for Industry, Secretary-General of the National Economic and Social Development Board, Secretary-General of the National Security Council, Director of the National Intelligence Agency, Commander-in-Chief of the Royal Thai Army, Commander-in-Chief of the Royal Thai Navy, Commissioner-General of the Royal Thai Police, Director-General of the Department of Labor Protection and Welfare, Secretary-General of the Internal Security Operations Command, President of the Thai Chamber of Commerce and President of the Federation of Thai Industries as *ex officio* members, not more

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than two representatives of employees' organisations appointed by the Minister upon nomination by the Director-General and qualified persons appointed by the Minister from those possessing knowledge or experience in labour, industry, law and human rights, provided that one person shall be appointed from each field, as members.

The Director-General shall be a member and secretary and the Director of the Office of Foreign Workers Administration, Department of Employment, shall be a member and assistant secretary.

Section 18. A member representing an employees' organisation and a qualified member must possess the qualifications and must not be under the prohibitions as follows:

- (1) being of Thai nationality;
- (2) not being a bankrupt or having been a dishonest bankrupt;
- (3) not being an incompetent person or a quasi-incompetent person;
- (4) not having been sentenced by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence;
- (5) not being a holder of a political position, a member of a local assembly or a local administrator, an executive member or a holder of any position responsible for the administration of a political party, an adviser to a political party or an official of a political party;
- (6) not having been sentenced or ordered by the Court to the effect that property shall vest in the State by reason of unusual wealthiness or an unusual increase of property.

Section 19. A member representing an employees' organisation and a qualified member shall hold office for a term of three years.

While members representing employees' organisations and qualified members vacate office for any reason and the appointment of new members representing employees' organisations and new qualified members has not yet been made, the Commission shall consist of the total existing members.

A member representing an employees' organisation and a qualified member, who vacates office upon the expiration of the term, may be re-appointed but may not serve for more than two consecutive terms.

Section 20. In addition to the vacation of office upon the expiration of the term, a member representing an employees' organisation and a qualified member vacate office upon:

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- (1) death;
- (2) resignation;
- (3) being removed by the Minister on the ground of neglect of duties, misbehavior or lack of competence;
- (4) being disqualified or being under any prohibition under section 18.

Section 21. The Commission has the powers and duties in connection with the formulation of policies and the oversight of foreigners' working management as follows:

- (1) to formulate policies and strategies on foreigners' working management by laying down measures and directions to be pursued in solving problems concerning foreigners' working and laying down directions and goals for foreigners' working management;
- (2) to consider and recommend reviews, revision and development of rules for the management and resolution of problems concerning foreigners' working to ensure that they are appropriate to attending situations;
- (3) to report annual operations to the Council of Ministers and disseminate the same to the public;
- (4) to perform any other activities as provided by law to be the powers and duties of the Commission or as entrusted by the Council of Ministers.

The policies prepared under (1) shall be submitted to the Council of Ministers for consideration and approval and, upon their approval by the Council of Ministers, all State agencies shall pursue and supervise operations in the implementation of such policies.

Section 22. The Commission has the power to appoint a sub-committee for considering or performing any particular act as entrusted by the Commission.

CHAPTER III BRINGING FOREIGNERS FOR WORKING WITH EMPLOYERS IN THE COUNTRY

PART I GENERAL PROVISIONS

Section 23. The provisions of this Chapter shall not apply to:

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(1) procurement of employment under the law on procurement of employment and protection of job seekers;

(2) procurement of employment under the law on maritime labour.

Section 24. The bringing of foreigners for working with employers in the country which is carried out by persons granted permission for bringing foreigners for working or by employers shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 25. No person shall advertise the bringing of foreigners for working with employers in the country unless such person is the person granted permission for bringing foreigners for working.

PART II

OPERATION OF BUSINESS INVOLVING THE BRINGING OF FOREIGNERS FOR WORKING WITH EMPLOYERS IN THE COUNTRY

Section 26. No person shall operate the business involving the bringing of foreigners for working with employers in the country unless permission is granted by the Director-General.

The application for permission and the granting of permission under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

A permit for bringing foreigners for working shall be in accordance with the form prescribed in the Notification of the Director-General.

Section 27. A person applying for permission for bringing foreigners for working with employers in the country must be a limited company or a public limited company and possess the qualifications and must not be under any prohibitions as follows:

(1) having such paid-up registered capital as prescribed in the Notification of the Director-General, provided that it shall not be less than one million Baht;

(2) having the capital belonging to shareholders of Thai nationality in the amount of not less than three-fourths of the total capital and having shareholders of Thai nationality in the number of not less than three-fourths of the total number of shareholders, except in the case where there is a treaty to which or under which Thailand is a party or is bound by the obligation therein as concluded between the Government of Thailand and a foreign Government, in which case the provisions and conditions of such treaty or obligation shall govern;

(3) having an office situated in a proper, open and definite location, provided that it is not a prohibited place as prescribed in the Notification of the Director-General;

(4) not being a person granted permission for bringing foreigners for working, not being a person whose permit for bringing foreigners for working is suspended or not having had a permit for bringing foreigners for working revoked under this Emergency Decree;

(5) not being a permit grantee, not being a person whose permit is suspended or not having had a permit revoked, under the law on procurement of employment and protection of job seekers;

(6) not being an employment permit grantee, not being a person whose employment permit is suspended or not having had an employment permit revoked, under the law on maritime labour;

(7) having a manager who is a director authorised to represent the juristic person and who has qualifications and is under no prohibitions as follows:

(a) being of Thai nationality;

(b) being of not lower than twenty years of age;

(c) not being a director, partner or manager of a juristic person that is the person granted permission for bringing foreigners for working or at the time when such juristic person has had the permit for bringing foreigners for working revoked under this Emergency Decree;

(d) not being a director, partner or manager of a juristic person that is the permit grantee or at the time when such juristic person has had the permit revoked under the law on procurement of employment and protection of job seekers;

(e) not being a director, partner or manager of a juristic person that is the grantee of a permit for procurement of employment or at the time when such juristic person has had the permit for procurement of employment revoked under the law on maritime labour;

(f) not being an incompetent person or a quasi-incompetent person;

(g) not being a person who has or had misconduct or moral impropriety;

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(h) not having been sentenced by a final judgment to a term of imprisonment in respect of an offence which, under the law, requires a dishonest act as an element thereof or in respect of an offence under this Emergency Decree, the law on procurement of employment and protection of job seekers, the law on maritime labour or the law on anti-human trafficking.

Section 28. The applicant must, before being granted permission by the Director-General, place with the Director-General the security as prescribed in the Ministerial Regulation, provided that it must not be less than five million Baht, as security for loss which may arise from the bringing of foreigners for working with employers in the country under this Emergency Decree.

In the case where the security placed by the person granted permission for bringing foreigners for working under paragraph one diminishes on account of its being expended under this Emergency Decree, the Director-General shall order, in writing, the person granted permission for bringing foreigners for working to place additional security until the specified amount is fully achieved within thirty days as from the date of receipt of the order.

The placement of security, the retention of security, the deduction of security, the change of security, the deduction of money out of the security in compensation for employers or foreigners in the case of loss arising from the bringing of foreigners for working with employers in the country, the demand of additional security, the placement of additional security and a request for a return of security shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 29. Upon obtaining permission from the Director-General under section 26, a person granted permission for bringing foreigners for working shall not operate the business as prescribed in the Notification of the Director-General.

Section 30. A permit for bringing foreigners for working under section 26 shall be valid for two years as from the date of issuance thereof.

The person granted permission for bringing foreigners for working who intends to apply for renewal of the permit for bringing foreigners for working shall submit an application not less than thirty days before the permit expires and, upon submission of such application, may continue to operate the business until being notified of the refusal by the Director-General.

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The application for renewal of a permit for bringing foreigners for working and the granting of permission shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 31. In the case where a permit for bringing foreigners for working is lost, destroyed or substantially damaged, the person granted permission for bringing foreigners for working must submit an application for receiving a substitute for the permit for bringing foreigners for working within fifteen days as from the date of the knowledge of such loss, destruction or damage.

The application for a substitute for a permit for bringing foreigners for working and the issuance of a substitute for a permit for bringing foreigners for working shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 32. The person granted permission for bringing foreigners for working must display the permit for bringing foreigners for working at an open and conspicuous place at the office indicated in the permit for bringing foreigners for working.

Section 33. The person granted permission for bringing foreigners for working shall not move the office or establish a temporary office which is not the place indicated in the permit for bringing foreigners for working unless permission is obtained from the Director-General.

The application for permission and the granting of permission shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 34. In the case of an intention to change a manager authorised to represent the juristic person, the person granted permission for bringing foreigners for working must obtain permission from the Director-General.

The application for permission and the granting of permission shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 35. The person granted permission for bringing foreigners for working must register employees who perform the duty in connection with the bringing of foreigners for working

with employers in the country, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General

The person granted permission for bringing foreigners for working must only allow employees registered under paragraph one to perform the duty in connection with the bringing of foreigners for working with employers in the country.

The person granted permission for bringing foreigners for working must display, at the office, the register of employees who perform the duty in connection with the bringing of foreigners for working with employers in the country, in order to enable employers or persons concerned to examine the status of such employees.

Any act in connection with the bringing of foreigners for working with employers in the country as done by an employee registered by the person granted permission for bringing foreigners for working shall also be deemed to be the act done by the person granted permission for bringing foreigners for working.

Section 36. Any employee who performs the duty in connection with the bringing of foreigners for working with employers in the country must not be under the prohibitions under section 27 (7) and must not be under the prohibitions as follows:

(1) being an employee who performs the duty in connection with the bringing of foreigners for working with employers in the country of any other person granted permission for bringing foreigners for working under this Emergency Decree;

(2) being an employment procurement agent or an employee who performs the duty in connection with procurement of employment under the law on procurement of employment and protection of job seekers or the law on maritime labour at the same time.

Section 37. The operation of the business of bringing foreigners for working with employers in the country shall terminate in any of the following cases:

(1) where the permit for bringing foreigners for working expires;

(2) where the permit for bringing foreigners for working is revoked;

(3) where renewal of the permit for bringing foreigners for working is rejected;

(4) where the person granted permission for bringing foreigners for working cancels the company's object involving the bringing of foreigners for working with employers in the country;

(5) where the company which is the person granted permission for bringing foreigners for working is dissolved.

Where there is any case under paragraph one and the person granted permission for bringing foreigners for working remains bound under contracts with employers, the person granted permission for bringing foreigners for working who yet has obligations under this Emergency Decree shall make the notification thereof to the employers without delay.

In the case under (4) and (5), the person granted permission for bringing foreigners for working shall make the notification to the Director-General and return the permit for bringing foreigners for working to the Director-General without delay.

Section 38. The security which the person granted permission for bringing foreigners for working has placed under section 28 shall not be subjected to legal execution as long as the person granted permission for bringing foreigners for working does not cease the operation of the business of bringing foreigners for working with employers in the country or remains liable to make compensation under this Emergency Decree after having ceased the operation of such business.

In the case where the person granted permission for bringing foreigners for working ceases the operation of the business of bringing foreigners for working with employers in the country and has no liability to make compensation under this Emergency Decree, the person granted permission for bringing foreigners for working shall submit to the Director-General an application for a return of the security. When it is revealed from an examination that the person granted permission for bringing foreigners for working has no liability to make compensation under this Emergency Decree, the Director-General shall, in writing, notify the person granted permission for bringing foreigners for working to take a return of the security.

The person granted permission for bringing foreigners for working shall take a return of the security within five years as from the date of receipt of the written notification from the Director-General. In the case where the person granted permission for bringing foreigners for working fails to take a return of the security within the specified time, such security shall vest in the State.

Section 39. The Manager authorised to represent the juristic person or the employee registered under section 35 must show his identification card to persons concerned when such person performs the work outside the office.

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The identification card of the Manager or the employee under paragraph one shall be in accordance with the form prescribed in the Notification of the Director-General and shall be valid for two years as from the date of issuance thereof.

The Manager or the employee under paragraph one must, in the case where the identification card is lost, destroyed or substantially damaged, submit an application for an identification card substitute within fifteen days as from the date of the knowledge of such loss, destruction or damage.

The application for an identification card, the issuance of an identification card and the issuance of an identification card substitute shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 40. The Manager authorised to represent the juristic person or the employee registered under section 35 who has ceased to be the Manager or the employee must return the identification card to the Director-General or the person granted permission for bringing foreigners for working, as the case may be, within seven days as from the date on which such person has ceased to be the Manager or such employee.

The person granted permission for bringing foreigners for working to whom an identification card has been returned under paragraph one must furnish such identification card to the Director-General within seven days as from the date of receipt thereof from the Manager of the employee under paragraph one.

Section 41. In bringing foreigners for working with employers in the country, the person granted permission for bringing foreigners for working must conclude a contract for bringing foreigners for working with employers in the country, with at least such details as prescribed in the Notification of the Director-General.

Section 42. In bringing foreigners for working with employers in the country, the person granted permission for bringing foreigners for working shall not demand or receive any money or any other property from employers except service charges and expenses as detailed in the particulars and at the rate prescribed in the Notification of the Director-General.

In bringing foreigners for working with employers in the country, the person granted permission for bringing foreigners for working shall not demand or receive any money or any other property from foreigners.

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In the case under paragraph one, when the person granted permission for bringing foreigners for working has received service charges or expenses from the employer, the person granted permission for bringing foreigners for working must issue a receipt of the service charges or expenses to the employer in accordance with the form prescribed in the Notification of the Director-General.

Section 43. In each month, the person granted permission for bringing foreigners for working must submit a report on the bringing of foreigners for working with employers in the country to the Director-General within the tenth day of the following month in accordance with the report form prescribed in the Notification of the Director-General.

Section 44. The person granted permission for bringing foreigners for working must use the name, words representing the name or any other word, in the operation of business, identified as “Company Bringing Foreigners for Working in the Country” and may also use other accompanying foreign expressions or letters bearing the identical connotation.

Section 45. Any person other than the person granted permission for bringing foreigners for working shall not use any name, word representing the name or any other word, in the course of business, identified as “Company Bringing Foreigners for Working in the Country” or use foreign words or letters bearing the similar connotation.

PART III

EMPLOYERS BRINGING FOREIGNERS FOR WORKING WITH THEM IN THE COUNTRY

Section 46. The employer, in the case of bringing a foreigner for working with him in the country, must obtain permission from the Director-General and the employer must place the security with the Director-General in security for loss which may arise from his bringing the foreigner for working with him in the country. In this regard, such security shall not be subjected to legal execution as long as the employer remains liable to make compensation under this Emergency Decree.

The application for permission and the granting of permission under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

The placement of security, the rate of security, the retention of security, the change of security, the deduction of security in the case of loss arising from the employer's bringing foreigners for working with him in the country, the demand of additional security, the placement of additional security and a request for a return of security shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 47. In the case where the security placed by the employer under section 46 diminishes on account of its being expended under this Emergency Decree and the employer remains bound by the responsibilities under this Emergency Decree, the Director-General shall order, in writing, the employer to place additional security until the specified amount is fully achieved within thirty days as from the date of receipt of the order.

Any employer who fails to place additional security within the time under paragraph one must be liable to payment of additional money at the rate of two percent per month until the additional security is placed in the full amount.

Section 48. In the case where an employer requests for a return of the security, the employer must have no liability to make compensation under this Emergency Decree. In this regard, upon an employer's request for a return of the security, the Director-General shall conduct an examination to his satisfaction that the employer has no liability to make compensation under this Emergency Decree and notify, in writing, the employer to take a return of the security.

In the case where the employer fails to take a return of the security within five years as from the date of receipt of the notification from the Director-General, such security shall vest in the State.

Section 49. An employer shall not demand or receive money or any other property from a foreigner in return for bringing the foreigner for working with him in the country.

PART IV
DUTIES AND RESPONSIBILITIES

Section 50. In the case where the employer granted permission under section 46 terminates employment of a foreigner for a justifiable reason, a foreigner resigns for any reason other than the employer's breach of the contract of employment or violation of law or a foreigner has worked with the employer until the expiration of the term under the contract of employment concluded with the employer in the country, the employer must notify the Director-General in accordance with the rules and procedures prescribed in the Notification of the Director-General and must repatriate such foreigner to the country of origin within seven days as from the date on which the foreigner ceases to work with the employer or the date of the expiration of the term under the contract, as the case may be, and the employer shall, upon repatriation of the foreigner to the country of origin, notify the Director-General in accordance with the form prescribed in the Notification of the Director-General within seven days as from the date on which the foreigner leaves the Kingdom.

Termination of employment of a foreigner for a justifiable reason under paragraph one means the termination of employment of a foreigner on account of the foreigner's commission of any of the acts entitling the employer to terminate the employment of the employee without prior notice under the Civil and Commercial Code.

Section 51. In the following cases, the employer must notify the Director-General in accordance with the rules and procedures prescribed in the Notification of the Director-General:

- (1) where the employer terminates employment of a foreigner without justifiable reason;
- (2) where the employer is unable to continue the operation of the business;
- (3) where a foreigner resigns on account of the employer's breach of the contract of employment or violation of the law.

In the case under paragraph one, if the foreigner intends to work with another employer, the other employer who intends to bring such foreigner for working with him must place the security under section 46 and obtain the Director-General's permission for bringing the foreigner for working with him. In this regard, such foreigner must work with the other employer within fifteen days as from the date of cessation of the working with the original employer.

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In the case where the foreigner fails to work with the other employer within the time specified under paragraph two, the original employer shall repatriate such foreigner to the country of origin within seven days as from the date of the expiration of such period and the employer shall notify the Director-General in accordance with the form prescribed in the Notification of the Director-General within seven days as from the date on which the foreigner leaves the Kingdom.

Section 52. In the case where the employer fails to repatriate the foreigner to the country of origin under section 50 paragraph one or section 51 paragraph three, the Director-General shall repatriate such foreigner to the country of origin, provided that expenses shall be deducted from the security placed by the employer under section 46.

Section 53. In the case where the person granted permission for bringing foreigners for working has brought a foreigner for working with an employer in the country under a contract for bringing foreigners for working with the employer in the country but the employer has refused to take such foreigner for working or the foreigner has not agreed to work with such employer or the foreigner has worked with the employer in the country under the contract for bringing foreigners for working with the employer in the country but the employer has terminated employment of such foreigner for a justifiable reason or the foreigner has resigned before the expiration of the term of the contract for bringing foreigners for working with the employer in the country for any reason other than the employer's breach of contract or violation of law, the employer shall notify the person granted permission for bringing foreigners for working within seven days as from the date on which the foreigner has ceased to work with the employer, the employer has terminated employment of the foreigner or the foreigner has resigned, as the case may be, and the person granted permission for bringing foreigners for working shall have the duty to repatriate such foreigner to the country of origin within seven days as from the date of receipt of the notification from the employer. In this regard, upon repatriation of the foreigner to the country of origin, the person granted permission for bringing foreigners for working shall notify the Director-General in accordance with the rules, procedures and form prescribed in the Notification of the Director-General within seven days as from the date on which the foreigner leaves the Kingdom.

In the case where the employer refuses to take a foreigner for working for any reason not attributable to the foreigner, the employer terminates employment of the foreigner

without any justifiable reason, the employer is unable to continue the operation of the business or the foreigner resigns on account of the employer's breach of the contract of employment or violation of law and such foreigner intends to work with another employer, the person granted permission for bringing foreigners for working may make an arrangement for the foreigner to work with another employer within fifteen days as from the date on which the employer refuses to take the foreigner for working or the date on which the employee ceases to work with the employer for such reason, provided that the foreigner may work with another employer for a period not exceeding that specified in the contract for bringing foreigners for working with employers in the country.

The person granted permission for bringing foreigners for working shall not demand or receive any money or any other property from a foreigner in return for making arrangement for the foreigner to work with another employer under paragraph two. In this instance, the other employer shall be responsible for service charges or expenses incurred in accordance with the particulars and rate prescribed in the Notification of the Director-General, and the person granted permission for bringing foreigners for working shall, upon receipt of such service charges or expenses, issue a receipt of the service charges or expenses to the other employer in accordance with the form prescribed in the Notification of the Director-General.

In the case where the foreigner does not intend to work with another employer under paragraph two, the person granted permission for bringing foreigners for working shall have the duty to repatriate such foreigner to the country of origin. In this regard, the provisions of paragraph one shall apply *mutatis mutandis*.

Section 54. In the case where the person granted permission for bringing foreigners for working fails to bring foreigners for working under a contract for bringing foreigners for working with the employer in the country, the person granted permission for bringing foreigners for working shall return all service charges and expenses collected from the employer to the employer within thirty days as from the date on which the employer makes a request for a return thereof.

Section 55. When a foreigner has worked with the employer until the expiration of the term of the contract for bringing foreigners for working with the employer in the country or has ceased to work with the employer, the employer must notify the person granted permission for bringing foreigners for working within seven days as from the date of the expiration of the term of the contract or the date on which the foreigner has ceased to work with the

employer, as the case may be, in order that the person granted permission for bringing foreigners for working shall repatriate the foreigner to the country of origin from which the foreigner has been brought to work with the employer in the country.

In the case where the person granted permission for bringing foreigners for working ceases to operate the business of bringing foreigners for working with employers in the country, employers shall, when foreigners have worked with employers until the expiration of the term of the contracts, notify the Director-General for the purpose of repatriating foreigners to countries of origin, provided that expenses shall be deducted from the security placed by the person granted permission for bringing foreigners for working under section 28.

Section 56. When a foreigner has been brought for working in accordance with the provisions of this Chapter and has been repatriated to the country of origin under the law on immigration or any other law, the agency in charge of repatriating the foreigner to the country of origin may demand the employer or the person granted permission for bringing foreigners for working to make, within the time specified, reimbursement of expenses incurred in the arrangement for the repatriation of the foreigner.

In the case where the employer under section 46 or the person granted permission for bringing foreigners for working under section 26 fails to make reimbursement of money within the time specified under paragraph one, the Director-General shall deduct such amount of money from the already placed security for the purpose of making payment to the agency in charge of repatriating the foreigner to the country of origin.

Section 57. A foreigner who suffers any injury in consequence of failure, by the employer or the person granted permission for bringing foreigners for working, to comply with section 50, section 51, section 53 or section 55, as the case may be, may submit an application to the Director-General for deducting the security placed under section 28 or section 46 in compensation for the injury arising from the failure to comply with such provisions.

Section 58. In the case where the person granted permission for bringing foreigners for working fails to comply with section 53, section 54 or section 55, the Director-General may deduct the security placed under section 28 for the purpose of returning service charges and expenses to the employer or making reimbursement of expenses incurred in the repatriation or other expenses, as are necessary, to the foreigner suffering injury in consequence of failure to

perform such duties or take such responsibilities and, upon deduction of such security, the Director-General shall notify it to the person granted permission for bringing foreigners for working without delay.

In the case where the person granted permission for bringing foreigners for working fails to repatriate the foreigner to the country of origin under section 53 or section 55, the Director-General shall proceed to repatriate such foreigner to the country of origin, provided that expenses incurred in the arrangement as to the foreigner's return journey as well as other expenses as are necessary shall be deducted from the security placed by the person granted permission for bringing foreigners for working under section 28.

CHAPTER IV FOREIGNERS' WORKING

Section 59. A foreigner may carry out the work not covered by the prohibitions in the Notification issued under the provisions of section 7 paragraph one upon permission from the Registrar, except in the case of a foreigner having entered the Kingdom temporarily under the law on immigration for carrying out such necessary and urgent work as prescribed in the Notification of the Director-General, which must be completed within fifteen days, provided that a foreigner may carry out such work upon written notification to the Registrar.

The application for work permission, the granting of work permission and the notification under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

The form of a work permit shall be as prescribed in the Notification of the Director-General.

Section 60. A foreigner who applies for work permission under section 59 must have a residence in the Kingdom or be granted permission for a temporary entry into the Kingdom under the law on immigration, such permission not being for an entry as a tourist or a transit traveller, and be under no prohibitions as prescribed in the Ministerial Regulation.

Section 61. Any person who intends to employ a foreigner residing outside the Kingdom to work for his business in the Kingdom shall submit an application for work permission to the Registrar and pay fees on behalf of the foreigner.

The application for work permission on behalf of a foreigner and the issuance of a work permit under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 62. When a foreigner is granted permission for working in the Kingdom under the law on investment promotion, the law on petroleum or any other law, the responsible agency under such law shall notify the Registrar without delay. The notification shall be as prescribed in the Notification of the Director-General.

The Registrar shall issue a work permit to the foreigner under paragraph one within seven days as from the date of receipt of the notification, in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

The form of a work permit shall be as prescribed in the Notification of the Director-General.

During the proceeding under paragraph two, the foreigner under paragraph one may work for the time being without being required to comply with section 68.

Section 63. A foreigner who may not apply for permission under section 59 for any of the following reasons may apply for permission from the Registrar for carrying out the work of the type prescribed by the Council of Ministers by publication in the Government Gazette with the recommendation of the Commission, having regard to national security and social impacts:

(1) being exiled under the law on exiling and granted lenient permission for engaging in an occupation at a particular place in lieu of an exile or awaiting an exile;

(2) entering or staying in the Kingdom without permission under the law on immigration but being granted permission to stay in the Kingdom temporarily for the purpose of awaiting a deportation from the Kingdom under the law on immigration;

(3) having nationality revoked under the Notification of the National Executive Council No. 337, dated 13th December B.E. 2515 (1972) or under any other law;

(4) having been born in the Kingdom without acquiring Thai nationality under the Notification of the National Executive Council No. 337, dated 13th December B.E. 2515 (1972)

(5) having been born in the Kingdom without acquiring Thai nationality under the law on nationality.

The application for work permission and the issuance of a work permit under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

The form of a work permit shall be as prescribed in the Notification of the Director-General.

Section 64. A foreigner who is a national of a country having a border adjacent to Thailand, in the case of entering the Kingdom with a border pass or an official document which has been issued to him by the country of origin and entitles his entry into the Kingdom, may be granted permission by the Registrar for working in the Kingdom temporarily for a period or a season and in a locality specified.

Localities, nationalities of foreigners and types or natures of work to which the provisions of paragraph one shall apply and the conditions for application thereto shall be as prescribed in the Notification of the Council of Ministers by publication in the Government Gazette.

The application for work permission and the issuance of a work permit under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

The form of a work permit shall be as prescribed in the Notification of the Director-General.

Section 65. A work permit issued under this Emergency Decree shall be valid for a period not exceeding two years as from the date of issuance thereof, except that a work permit issued to a foreigner under section 62 shall be valid for the same period as that for which permission has been granted for working under such particular law.

The period of validity of a work permit under paragraph one has no effect of extending the length of a stay in the Kingdom under the law on immigration.

Section 66. In the case where the person granted permission for working under section 62 is granted extension of the working period under such particular law, the responsible agency under such law shall, in writing, notify the extension thereof to the Registrar expeditiously

in accordance with the form prescribed in the Notification of the Director-General and the Registrar shall record such extension in the work permit.

Section 67. The person granted permission for working who intends to continue working shall submit an application for renewal of the work permit to the Registrar before the work permit expires.

Upon submission of the application under paragraph one, the applicant for renewal of such work permit may work for the time being until the Registrar gives an order refusing to grant renewal of the work permit.

Renewal of a work permit may be for each period not exceeding two years and may be made to the extent necessary and, in the case of a foreigner under section 63 (1) or (2), the totally consecutive period for which permission for working may be granted must not exceed four years unless otherwise determined by the Council of Ministers in each particular case.

The application for renewal of a work permit and the renewal thereof shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 68. The person granted permission for working must have a work permit with himself or at the working place during working hours in order to enable the same to be shown to the competent official or the Registrar at all times.

Section 69. If a work permit is lost, destroyed or substantially damaged, the person granted permission for working shall submit an application for a work permit substitute within fifteen days as from the date of the knowledge of such loss, destruction or damage.

The application for a work permit substitute and the issuance of a work permit substitute shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 70. The person granted permission for working shall not carry out the work of the type, with the employer, in a locality or on any working condition that is different from that specified in the work permit unless permission under section 71 is obtained.

Section 71. Any person granted permission for working, who intends to change or add the following particulars, must obtain permission from the Registrar:

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- (1) the type of work;
- (2) the employer;
- (3) the location;
- (4) working conditions.

The application for permission and the granting of permission under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 72. No person shall take into employment a foreigner who does not have a work permit with him.

Section 73. No person shall allow a foreigner to work in a manner different from the requirements specified in the work permit.

Section 74. The employer shall notify the Registrar within seven days as from the date on which the person granted permission for working leaves the work for any reason whatsoever.

The notification under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

CHAPTER V FOREIGNERS' WORKING MANAGEMENT FUND

Section 75. There shall be established within the Department of Employment a fund called the "Foreigners' Working Management Fund" as a revolving fund to be expended on the foreigners' working management.

Section 76. 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 the Kingdom under section 140;
- (2) the additional money under section 11 paragraph three;
- (3) the money or property donated;

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(4) fees collectible under this Emergency Decree, 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.

The money and property under paragraph one shall be remitted to the Fund without being required to be remitted to the Treasury as the State revenue.

Section 77. The money of the Fund shall be expended for the following objects:

(1) assisting foreigners who have an entry for working under this Emergency Decree 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 Emergency Decree.

The pursuit of activities under (1), (2), (3), (4), (5) and (6) shall be in accordance with the rules, procedures and conditions prescribed by the Fund Committee.

Section 78. There shall be a committee called the "Committee of the Foreigners' Working Management Fund" consisting of the Permanent Secretary for Labour as Chairperson, Director-General of the Department of Employment as Vice Chairperson, a representative of the Ministry of Foreign Affairs, a representative of the Comptroller-General's Department, a representative of the Bureau of the Budget and a representative of the Office of the Attorney-General as *ex officio* members and not more than five qualified persons appointed by the Minister from persons possessing expertise in labour, finance, economics, administration or law, provided that one person shall be from each field, as members.

The Director of the Foreign Workers Administration Bureau, Department of Employment, shall be a member and secretary.

The Fund Committee may appoint not more than two Government officials of the Department of Employment as assistant secretaries.

Section 79. A qualified member of the Fund Committee shall hold office for a term of four years.

A qualified member of the Fund Committee who vacates office upon the expiration of the term may be re-appointed but may not serve for more than two consecutive terms.

Section 80. In addition to the vacation of office upon the expiration of the term, a qualified member of the Fund Committee vacates office upon:

- (1) death;
- (2) resignation;
- (3) being a bankrupt;
- (4) being an incompetent or a quasi-incompetent person;
- (5) being removed by the Minister on the ground of neglect of duties, misbehaviour or lack of competence;
- (6) being sentenced by a final judgment to a term of imprisonment.

Section 81. The Fund Committee shall have the powers and duties as follows:

- (1) to lay down policies, supervise the management and monitor operations to ensure conformity with the objects of the Fund;
- (2) to prescribe rules, procedures and conditions for the disbursement of money of the Fund in accordance with the objects of the Fund;
- (3) to consider and approve the annual action plan;
- (4) to consider the allocation of the money of the Fund for expenditure in accordance with the objects of the Fund;
- (5) to issue Rules in connection with the receipt of money, the disbursement of money, the retention of money, the exploitation and internal audit of the Fund, with the approval of the Ministry of Finance;

(6) to issue Rules in connection with rules and procedures for the payment of money of the Fund for the management of foreigners' working and the disbursement of advance money for such operation.

Section 82. The Fund Committee has the power to appoint a sub-committee of the Fund for considering or performing any particular activity as entrusted by the Fund Committee.

Section 83. The Department of Employment shall prepare accounts of the Fund in conformity with correct accounting systems by reference to generally recognised accounting principles and submit the same to the auditor within sixty days as from the end of the accounting year.

Section 84. The Office of the Auditor-General or the independent auditor as approved by the Office of the Auditor-General shall be the auditor of the Fund.

Section 85. The auditor shall report audit results to the Fund Committee for submission to the Council of Ministers within one hundred twenty days as from the end of the accounting year and the Department of Employment shall disseminate financial statements certified by the auditor within fifteen days as from the date on which the Council of Ministers has the knowledge thereof.

CHAPTER VI ADMINISTRATIVE MEASURES

PART I

SUSPENSION OF PERMITS FOR BRINGING FOREIGNERS FOR WORKING, REVOCATION OF PERMITS FOR BRINGING FOREIGNERS FOR WORKING AND REVOCATION OF WORK PERMITS

Section 86. In the case where the person granted permission for bringing foreigners for working lacks any qualification or is under any prohibition under section 27 or fails to comply with or incorrectly complies with this Emergency Decree or a Ministerial Regulation or a

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Notification issued under this Emergency Decree, the Director-General shall order suspension of the permit for bringing foreigners for working for a period not exceeding one hundred twenty days and order the person granted permission for bringing foreigners for working to undertake correct compliance or take remedial action within the specified period of time.

Section 87. In the case where the person granted permission for bringing foreigners for working commits an offence under this Emergency Decree and is under legal proceedings, the Director-General shall order suspension of the permit for bringing foreigners for working until the case becomes final.

Section 88. The Director-General shall order revocation of a permit for bringing foreigners for working upon occurrence of the following events:

(1) the person granted permission for bringing foreigners for working fails to comply with or take remedial action required by the order of the Director-General under section 86;

(2) the person granted permission for bringing foreigners for working has had the permit for bringing foreigners for working suspended, with the period of one year not having elapsed, or has had the permit for bringing foreigners for working suspended on two occasions and there exists a ground for ordering another suspension thereof;

(3) the person granted permission for bringing foreigners for working has failed to comply with or incorrectly complied with the law of the country of origin or become involved with or aided and abetted such failure of compliance or incorrect compliance in the bringing of foreigners for working with employers in the country and the Director-General has given a written warning demanding correct compliance with the law of the country of origin or prohibiting involvement with such hitherto indicated incidences but the person granted permission for bringing foreigners for working fails to comply with the written warning of the Director-General within fifteen days as from the date of receipt thereof;

(4) the person granted permission for bringing foreigners for working violates section 89 paragraph two;

(5) the Director-General considers that the failure, by the person granted permission for bringing foreigners for working, to comply with or incorrect compliance with this Emergency Decree or a Ministerial Regulation or Notification issued under this Emergency Decree is a serious case;

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(6) the Director-General considers that the person granted permission for bringing foreigners for working is unable to comply with this Emergency Decree or a Ministerial Regulation or Notification issued under this Emergency Decree.

Section 89. An order for suspension of a permit for bringing foreigners for working and an order for revocation of a permit for bringing foreigners for working shall be in writing and notified to the person granted permission for bringing foreigners for working. In the case where the person granted permission for bringing foreigners for working is not found or the person granted permission for bringing foreigners for working refuses to receive the order, such order shall be posted at an open and conspicuous place at the office and it is deemed that the person granted permission for bringing foreigners for working has the knowledge of such order as from the date on which it is posted.

During suspension of the permit for bringing foreigners for working, the person granted permission for bringing foreigners for working shall not carry out any act in connection with the bringing of foreigners for working with employers in the country unless it is the act to be carried out in furtherance of the bringing of foreigners for working with employers in the country prior to the date of the suspension of the permit for bringing foreigners for working.

The person granted permission for bringing foreigners for working whose permit for bringing foreigners for working has been revoked must be responsible for the repatriation of foreigners who remain under his responsibility to countries of origin until the liability under this Emergency Decree is discharged and shall give the Director-General a report on foreigners who remain under his responsibility.

Section 90. In the case where it appears that the person granted permission for working violates this Emergency Decree or fails to comply with the conditions fixed for the permission, the Registrar shall have the power to order revocation of the work permit.

Section 91. The Director-General may publish a list of employers or persons granted permission for bringing foreigners for working upon whom punishment has been inflicted by reason of the violation of or failure to comply with this Emergency Decree.

PART II
APPEALS AGAINST ADMINISTRATIVE ORDERS

Section 92. In the case where the Director-General refuses to grant permission under section 26, refuses to grant renewal of a permit for bringing foreigners for working under section 30, refuses to grant permission for moving the office or for establishing a temporary office under section 33, refuses to grant permission for changing the Manager authorised to represent the juristic person under section 34 or makes deduction from the security or demand additional security under this Emergency Decree, the applicant for permission or the person granted permission for bringing foreigners for working has the right to appeal to the Minister within thirty days as from the date of receipt of the notification of the order in question.

A decision of the Minister shall be final.

Section 93. In the case where the Director-General refuses to grant permission under section 46 or makes deduction from the security or demands additional security under this Emergency Decree, the employer has the right to appeal to the Minister within thirty days as from the date of receipt of the notification of the order in question.

A decision of the Minister shall be final.

Section 94. The person granted permission for bringing foreigners for working whose permit for bringing foreigners for working has been suspended or whose permit for bringing foreigners for working has been revoked has the right to appeal to the Minister within thirty days as from the date of receipt of the notification of the order in question.

A decision of the Minister shall be final.

Section 95. In the case where the Registrar refuses to grant permission under section 59, section 61, section 63, section 64 or section 71 or refuses to grant renewal of a work permit under section 67 or revokes a work permit under section 90, the foreigner applying for work permission, the person applying for permission on behalf of the foreigner or the person granted permission for working, as the case may be, has the right to appeal to the Minister within thirty days as from the date of receipt of the notification of the order in question.

A decision of the Minister shall be final.

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Section 96. The Minister, upon receipt of the appeal under section 92, section 93, section 94 or section 95, shall consider the appeal and notify the appellant without delay but not later than thirty days as from the date of receipt thereof. If a necessary cause prevents completion of the consideration within such period of time, the appellant shall be given the notification thereof in writing before the expiration of such time. In this regard, the period for the consideration of the appeal may be extended for a period not exceeding thirty days as from the date of the expiration thereof.

In the case where the period of time specified in paragraph one has elapsed, it shall be deemed that the Minister has considered the appeal and affirmed the original order.

Section 97. The appeal under section 92, section 93, section 94 or section 95 shall not have the effect of staying the execution of the order except the case of the appeal of an order refusing to grant renewal of a work permit under section 67.

CHAPTER VII COMPETENT OFFICIALS

Section 98. In the performance of duties under this Emergency Decree, the Registrar and the competent official have the powers as follows:

- (1) to summons or order, in writing, any person concerned to give explanations and furnish documents or any other evidence for assisting the consideration;
- (2) to enter the place of business of bringing foreigners for working in the country during working hours for conducting an inspection in the execution of this Emergency Decree;
- (3) to enter a place of business taking foreigners from the person granted permission for bringing foreigners for working during working hours for conducting an inspection in the execution of this Emergency Decree;
- (4) to conduct a search in the case where there is a reasonable cause to suspect that a foreigner has been brought for working in the country or a foreigner has worked unlawfully or to conduct a search for finding and assisting a foreigner who has become an injured person from any act in violation of this Emergency Decree;

(5) to seize or attach documents or evidence pertinent to the working or the bringing of foreigners for working in the country, in the case where there is a reasonable cause to believe that an offence under this Emergency Decree has been committed.

A search under (4) requires a warrant of search except that, in the case where there is a reasonable cause to believe that a delay in securing a warrant of search is likely to result in the foreigner being attacked, moved or concealed or relevant evidence being moved, concealed, transformed or destroyed, a search may be conducted without warrant of search, provided that the provisions of the Criminal Procedure Code on searching shall be complied with.

In the performance of the duties under (2), (3), (4) and (5), persons concerned shall render reasonable assistance.

Section 99. The Registrar and the competent official must have an identification card in accordance with the form prescribed by the Minister by publication in the Government Gazette.

In the performance of duties under this Emergency Decree, the Registrar and the competent official must show the identification card to persons concerned.

Section 100. In the performance of duties under this Emergency Decree, the Registrar and the competent official shall be officials under the Penal Code.

For the purpose of arresting and suppressing offenders under this Emergency Decree, the Registrar or the competent official shall have the same powers and duties as those of an administrative or police official under the Criminal Procedure Code.

In the case where the competent official finds that any foreigner works without any work permit or works in a manner different from the requirements set forth in the work permit, thereby constituting the violation of this Emergency Decree, and the competent official has ordered the foreigner to report to the Police Station together with the competent official but such foreigner fails to comply with the order or seeks an escape, the competent official shall have the power to arrest such foreigner without any warrant of arrest and shall forthwith bring the arrested person to the office of the inquiry official.

CHAPTER VIII
PENALTIES

Section 101. Any foreigner, not being an injured person from the commission of an offence of human trafficking under the law on anti-human trafficking, who violates section 8 shall be liable to imprisonment for a term not exceeding five years or to a fine of two thousand to one hundred thousand Baht or to both.

In the case where a foreigner accused of having committed an offence under paragraph one agrees to leave the Kingdom within the time specified by the inquiry official which is not later than thirty days, the inquiry official may settle the case by requiring payment of a fine and, when action has been taken for the foreigner to leave the Kingdom, the case shall be deemed to have been extinguished under the Criminal Procedure Code.

Section 102. Any person who takes a foreigner for working in violation of section 9 shall be liable to a fine of four hundred thousand to eight hundred thousand Baht for each foreigner employed.

Section 103. Any person who brings a foreigner for working in the country without complying with the rules, procedures and conditions prescribed in the Ministerial Regulation issued under section 24 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 104. Any person who violates section 25 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 105. Any person who violates section 26 paragraph one shall be liable to imprisonment for a term of one year to three years or to a fine of two hundred thousand to six hundred thousand Baht or to both.

Section 106. Any person granted permission for bringing foreigners for working who violates section 29 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand Baht or to both.

Section 107. Any person granted permission for bringing foreigners for working who violates section 31 paragraph one, section 32, section 33 paragraph one, section 34 paragraph one, section 35 paragraph one or paragraph two, section 37 paragraph two or paragraph three, section 40 paragraph two, section 41, section 42 paragraph three, section 43 or section 44 shall be liable to a fine not exceeding twenty thousand Baht.

Section 108. Any person granted permission for bringing foreigners for working who violates section 35 paragraph three shall be liable to a fine not exceeding five thousand Baht.

Section 109. Any manager authorised to represent the juristic person or any employee registered under section 35 who fails to comply with section 39 paragraph one or paragraph three or section 40 paragraph one shall be liable to a fine not exceeding twenty thousand Baht.

Section 110. Any person, not being an employee performing the duty in connection with the bringing of foreigners for working with employers in the country and registered under section 35, who carries out any activity in connection with the bringing of foreigners for working with employers in the country shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both.

Section 111. Any person granted permission for bringing foreigners for working who violates section 42 paragraph one or paragraph two shall be liable to imprisonment for a term not exceeding one year and to a fine five times the money or other property demanded or received from employers or foreigners or service charges or expenses demanded in excess of the rate prescribed in the Notification of the Director-General.

Section 112. Any person who violates section 45 shall be liable to a fine of twenty thousand Baht and to another fine not exceeding five thousand Baht a day throughout the period in which the violation occurs.

Section 113. Any employer who brings a foreigner for working with him in the country without being granted permission under section 46 paragraph one shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand Baht for each foreigner brought for working or to both.

Section 114. Any employer who violates section 49 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand Baht for each foreigner from whom money or any property has been demanded or received or to both.

Section 115. Any employer who fails to give the notification to the Director-General when foreigners cease to work with him under section 50 paragraph one or section 51 paragraph one shall be liable to a fine not exceeding one hundred thousand Baht for each foreigner.

Any employer who fails to give the notification to the Director-General after the repatriation of foreigners to countries of origin under section 50 paragraph one or section 51 paragraph three shall be liable to a fine not exceeding ten thousand Baht for each foreigner.

Section 116. Any employers who fails to repatriate foreigners to countries of origin under section 50 paragraph one or section 51 paragraph three shall be liable to a fine not exceeding one hundred thousand Baht for each foreigner.

Section 117. Any person granted permission for bringing foreigners for working who fails to give the notification to the Director-General after the repatriation of foreigners who no longer work with employers to countries of origin under section 53 paragraph one shall be liable to a fine not exceeding one hundred thousand Baht for each foreigner.

Section 118. Any person granted permission for bringing foreigners for working who fails to repatriate foreigners who no longer work with employers to countries of origin under

section 53 paragraph one shall be liable to a fine not exceeding two hundred thousand Baht for each foreigner.

Section 119. Any foreigner who works without giving the written notification to the Registrar under section 59 paragraph one shall be liable to a fine of twenty thousand to one hundred thousand Baht.

Section 120. Any person granted permission for working who fails to comply with section 68 shall be liable to a fine not exceeding ten thousand Baht.

Section 121. Any person granted permission for working who carries out the work in violation of section 70 shall be liable to a fine not exceeding one hundred thousand Baht.

Section 122. Any person who violates section 72 shall be liable to a fine of four hundred thousand to eight hundred thousand Baht for each foreigner employed.

Section 123. Any person who violates section 73 shall be liable to a fine not exceeding four hundred thousand Baht for each foreigner.

Section 124. Any employer who fails to comply with section 74 shall be liable to a fine not exceeding one hundred thousand Baht.

Section 125. Any person who fails to appear for giving explanations or fails to furnish documents or evidence under section 98 (1) 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 126. Any person who obstructs the performance of duties under section 98 (2), (3), (4) or (5) shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand Baht or to both.

Section 127. Any person who fails to render assistance under section 98 paragraph three shall be liable to a fine not exceeding ten thousand Baht.

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Section 128. Any person who makes any deceitful representation to another person that he can bring foreigners for working with employers in the country or can procure foreign workers for employers and, through such deceit, obtains money or property or any other benefit from the deceived person shall be liable to imprisonment for a term of three to ten years or to a fine of six hundred thousand to one million Baht for each foreigner or to both.

If an offence under paragraph one is jointly committed by three persons upwards or by an organised criminal under the law on anti-human trafficking, the offender shall be liable to heavier penalty than that provided by law by one half.

Section 129. Any person who aids and abets the commission of an offence under section 128, whether the principal commits the offence outside the Kingdom or not, shall be liable to imprisonment for a term of one to three years or to a fine of two hundred thousand to six hundred thousand Baht or to both.

Section 130. In claiming the property or value lost on account of the commission of the offence under section 128 or section 129 on behalf of the injured person, the Public Prosecutor may make a claim together with the institution of a criminal action or may subsequently file a motion when such criminal action is under trial by the Court of First Instance, without precluding the injured person's right to file a motion for making an additional claim for lost property or value under the Criminal Procedure Code before the Court renders judgment.

In the case where no application is made for compensation for lost property or value under paragraph one, if the Court renders judgments punishing the accused, the Court may, in the criminal judgment, order the accused to compensate the injured person for the lost property or value as the Court deems appropriate. Such order does not prejudice the injured person's right to institute a civil action against the accused for claiming a deficient amount in relation to the lost property or value.

Section 131. Any person who withholds a work permit or an essential personal document of a foreigner 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 132. In the case where the offender is a juristic person, if the commission of the offence by such juristic person has resulted from the instruction or an action of any person

or failure to give an instruction or failure to take action required to be done as a duty of a director, a manager or any person responsible for the operation of such juristic person, such person shall also be liable to the penalty as provided for such offence.

Section 133. All offences under this Emergency Decree which are punishable only with a fine may be settled by the Director-General or *Changwat* Governor as follows:

- (1) offences occurring in Bangkok may be settled by the Director-General;
- (2) offences occurring in a particular Province may be settled by *Changwat* Governor.

In the case where there is an inquiry, if the inquiry official finds that any person has committed an offence under this Emergency Decree carrying the penalty in respect of which settlement is permissible and such person agrees to the settlement, the inquiry official shall refer the matter to the Director-General or *Changwat* Governor, as the case may be, within seven days as from the date of such person's agreement to the settlement.

Upon payment of a fine by the offender, in an amount required for the settlement, within the specified time not exceeding thirty days, the case shall be deemed to have been extinguished under the Criminal Procedure Code.

TRANSITORY PROVISIONS

Section 134. While the Notification under section 7 has not been issued, the Registrar may grant foreigners permission for engaging in any work except the work prescribed in the Royal Decree issued under section 6 of the Foreigners' Working Act, B.E. 2521 (1978).

Section 135. Any foreigner who has been granted a work permit or has been granted, as a matter of relaxation, permission for working under the Foreigners' Working Act, B.E. 2551 (2008) on the date prior to the date on which this Emergency Decree comes into force shall be deemed to have been granted a work permit or granted, as a matter of relaxation, permission for working under this Emergency Decree.

Work permits issued under the Notification of the National Executive Council No. 322, dated 13th December, B.E. 2515 (1972) shall continue to be valid until the expiry thereof.

Section 136. Any employer who has been granted permission for bringing foreigners for working with him in the country under the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016) may continue the bring of foreigners for working with him in the country.

Section 137. Any person who has been granted a permit for bringing foreigners for working with employers in the country under the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016) prior to the date on which this Emergency Decree comes into force shall be deemed to have been granted a permit for bringing foreigners for working under this Emergency Decree.

In the case where the person who has been granted a permit for bringing foreigners for working with employers in the country under paragraph one intends to bring foreigners for working with employers in the country after the date on which this Emergency Decree comes into force, such person must comply with this Emergency Decree before bringing foreigners for working with employers in the country.

Section 138. All applications submitted under the Foreigners' Working Act, B.E. 2551 (2008) and the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016) prior to the date on which this Emergency Decree comes into force shall be deemed to be the applications submitted under this Emergency Decree and the Director-General shall completely require supporting documents or evidence provided under this Emergency Decree.

Section 139. All appeals submitted under the Foreigners' Working Act, B.E. 2551 (2008) and the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016) prior to the date on which this Emergency Decree comes into force shall be deemed to be the appeals submitted under this Emergency Decree.

Section 140. All affairs, money, rights, liabilities, property and debts of the Fund for the Repatriation of Foreigners from the Kingdom under the Foreigners' Working Act, B.E. 2551 (2008) shall be transferred to the Foreigners' Working Management Fund under this Emergency Decree.

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Section 141. In the initial period, the Foreigners' Working Management Policy Commission shall consist of *ex officio* members under section 17 for performing duties under this Emergency Decree *pro tempore* until the appointment of members representing employees' organisations and qualified members is made under this Emergency Decree, provided that this shall not be later than one hundred twenty days as from the date on which this Emergency Decree comes into force.

Section 142. In the initial period, the Committee of the Foreigners' Working Management Fund shall consist of *ex officio* members under section 78 for performing duties under this Emergency Decree *pro tempore* until the appointment of qualified members is made under this Emergency Decree, provided that this shall not be later than one hundred twenty days as from the date on which this Emergency Decree comes into force.

Section 143. An employee whose wages have been deducted and remitted into the Fund for the Repatriation of Foreigners from the Kingdom under the Foreigners' Working Act, B.E. 2551 (2008) prior to the date on which this Emergency Decree comes into force and who has left the Kingdom at his own expenses shall be entitled to a return of the deducted money within two years as from the date of leaving the Kingdom. In the absence of a request for a return thereof within the specified time, such money shall vest in the Fund.

Section 144. All offences under the Foreigners' Working Act, B.E. 2551 (2008) which have occurred prior to the date on which this Emergency Decree comes into force and which are capable of settlement may be settled by the Settlement Committee appointed by the Minister of Labour under section 56 of the Foreigners' Working Act, B.E. 2551 (2008) prior to the date on which this Emergency Decree comes into force.

All offences under the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016) which have occurred prior to the date on which this Emergency Decree comes into force and which are capable of settlement may be settled by the Director-General of the Department of Employment or *Changwat* Governor as provided under section 61 of the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016).

Section 145. All by-laws or orders issued or given by virtue of the provisions of the Foreigners' Working Act, B.E. 2521 (1978), the Foreigners' Working Act, B.E. 2551 (2008) and the Emergency Decree on the Bringing of Foreigners for Working with Employers in the Country, B.E. 2559 (2016) as in force on the date prior to the date on which this Emergency comes into force shall remain in force insofar as they are not contrary to or inconsistent with this Emergency Decree until by-laws or orders issued under this Emergency Decree come into force.

Countersigned by:

General Prayut Chan-o-cha
Prime Minister

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RATES OF FEES

(1) Permits for bringing foreigners for working	20,000 Baht each
(2) Renewal of a permit for bringing foreigners for working	20,000 Baht each
(3) Substitutes for permits for bringing foreigners for working	10,000 Baht each
(4) Permission for moving the office or establishing a temporary office	5,000 Baht each
(5) Permission for changing the Manager authorised to represent the juristic person	5,000 Baht each
(6) Registration of employees performing the duty in connection with the bringing of foreigners for working with employers in the country	1,000 Baht per person
(7) Identification cards for the Manager or employees performing the duty in connection with the bringing of foreigners for working with employers in the country	1,000 Baht each
(8) Work permits	20,000 Baht each
(9) Renewal of work permits or extension of the working period	20,000 Baht each
(10) Work permit substitutes	3,000 Baht each
(11) Permission for changing or adding the type of work, employer, location or working conditions	5,000 Baht each
(12) Employment of foreigners	20,000 Baht for each foreigner
(13) Application fee	1,000 Baht each
(14) Certification of copies of documents	
(a) Thai language	50 Baht per page
(b) Foreign language	100 Baht per page
(15) Issuance of certificates	
(a) Thai language	500 Baht per page
(b) Foreign language	1,000 Baht per page
(16) Foreign language translation	1,000 Baht each
(17) Other fees	1,000 Baht each

In issuing Ministerial Regulations prescribing fees, different fees may be prescribed by reference to occupational lines or occupational lines together with work locations of foreigners.

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