



## A brief review of laws and policies concerning migrant workers, April-June 2020

### The number of migrant workers as of May 2020

Categories/Nationalities	Myanmar	Laos	Cambodia	Vietnam	Total
Import MoU	526,957	198,221	303,325	304	1,028,807
Special MoU	1,001,994	50,593	213,424		1,266,011
Existing nationality verification workers	7,336	138	303	2	7,779
Border employment	9,447	0	13,908		23,355
Total	1,545,734	248,952	530,960	306	2,325,952

Source: Office of Foreign Workers Administration, Department of Employment, May 2020

### Extended stay for the four-year MoU migrant works and border employment workers

The government has issued the Notifications of the Ministry of Interior and Ministry of Labor by virtue of the cabinet resolution on 5 May 2020 to allow migrant workers imported via the MoU who have completed their four-year-stint of work in Thailand to continue staying in the country until 31 May 2020. As the government has later extended the imposition of the Emergency Decree, the MoU has called a meeting with concerned authorities including the Immigration Bureau, the Office of the Permanent Secretary for Interior's Foreign Affairs Division and the Department of Provincial Administration on Thursday 21 May 2020. A decision was reached at the meeting to extend the stay and the right to work in the Kingdom for migrant workers who have been recruited via the MoU made between the Thai government and its counterparts to until 31 July 2020. It was later approved by the cabinet on 2 June. Therefore, migrant workers who have been recruited via the MoU system and the migrant workers with border passes shall be allowed to temporarily stay in the Kingdom until 31 March as follows;

Two groups of migrant workers are the targets of this decision including;

1) Migrant workers from Cambodia, Laos and Myanmar who have been recruited via the Memorandum of Understanding (MoU) or the employment contracts between the government of the Kingdom of Thailand and the government of the Kingdom of Cambodia, the government of Lao People's Democratic Republic and the government of Republic of the Union of Myanmar. After completing their work for four years, they were unable to leave the country before or on 31 July 2020 as a result of restrictions imposed to stem the Covid-19 pandemic.

2) Migrant workers from Cambodia and Myanmar who are holders of border passes and are allowed to work in the Kingdom per Section 64 of the Royal Ordinance Concerning the Management of Foreign Workers' Employment 2017. This includes workers whose permission to stay in the border area has expired, but they were unable to cross the border to their countries of origin before or on 31 July 2020 as a result of restrictions imposed to stem the Covid-19 pandemic.

The government has decided to extend the stay of the migrant workers recruited via the MoU made between the Thai government and the governments of contractual parties to allow them to continue working and staying temporarily from 1 June 2020 to 31 July 2020. After 31 July 2020, the migrant workers are supposed to leave the Kingdom within the time specified in the concerned Notifications of the Ministry of Interior

**Table: Leniency to allow migrant workers to temporarily stay in the Kingdom in the wake of the Covid-19 outbreak**

Categories	Cabinet resolution	Relevant orders	Allowed to stay until
Four-year MoU	2 June 2020 cabinet resolution	Notification of Ministry of Interior, dated 5 June 2020	Allowed to extend stay and to work until 31 July 2020, after which repatriation is required within 15 days.
Border employment	2 June 2020 cabinet resolution	Notification of Ministry of Interior, dated 5 June 2020	Allowed to extend stay and to work until 31 July 2020, after which repatriation is required within 7 days.

Special MoU (whose name list has been submitted)	15 April 2020 cabinet resolution	Notification of Ministry of Interior, dated 29 April 2020	Allowed to extend stay and to work until 30 Nov 2020, during which time, one is required to complete renewal of permits.
All types of visa holders	21 April 2020 cabinet resolution	Notification of Ministry of Interior, dated 23 April 2020	Allowed to extend stay and to work until 31 July 20, after which one is required to apply for visas or to return.

## Repatriation of migrant workers

As a result of the mass layoff and shutdown of workplaces in the wake of the Covid-19 outbreak, a large number of migrant workers have been left jobless and they want to return to their countries of origin. The 5/2020 meeting was therefore held by the Operation Center on the Entry and Exit of the Country and the Oversight for Thai Nationals Living Abroad on 13 May 2020 which agreed make a recommendation for the meeting of the Centre for Covid-19 Situation Administration (CCSA) on 15 May 2020, chaired by the Prime Minister. The CCSA meeting agreed to allow migrant workers from Myanmar to travel to the provinces at the Thailand-Myanmar border and to return to Myanmar. The process has begun since 22 May 2020.

On 18 May 2020, the Myanmar Embassy in Thailand met with the Thai Minister of Foreign Affairs and concerned authorities to facilitate the repatriation of migrant workers from Myanmar who want to return to their hometown safely when the curfew ban was still imposed to prevent them from leaving their homes during 23.00-04:00. The meeting yielded the following result.

The repatriation of migrant workers from Myanmar shall commence on 22 May 2020. Chartered bus services would be provided from Mor Chit-Mae Sot, leaving Mor Chit at 22:00 and 23:00. Ten buses would be offered every day, and each could carry not more than 21 passengers. Each bus costs 22000 THB, about 1,048 THB per person. Five buses would leave at a time. Their safety would be ensured as the busses would be led by police vehicle from Mor Chit-Mae Sot. Each passenger is allowed to carry with them no more than 20 kilograms of luggage.

The migrant workers are required to register online and buy tickets from the Embassy of Myanmar in Thailand. The Embassy shall announce names of the those who reserve the tickets 48 hours before the schedule. The passengers are required to collect the tickets at the Labor Protection Temporary Office in Samut Sakhon, before 17:00.

For migrant workers from Myanmar who want to travel to Mae Sai or Ranong, they are allowed to board public busses, and are required to follow the same procedure as well.

MWG has made an urgent recommendation to the government regarding the travel through the Border Checkpoint of migrant workers from Myanmar, Laos and Cambodia urging them to invoke Section 17 of the Immigration Act 1979 with approval from the cabinet to allow the migrant workers to waiver Re-Entry visa fees to help retain the privilege entitled to the migrant workers who decide to return to their country and will come back to work in Thailand when the situation gets better, by giving them a waiver to the Re-Entry visa fees, the government can also help the employers and the migrant workers to ensure they can resume their work during the recovery period after the lift of lockdown in Thailand. It can also help to minimize problems that may stem from their working here illegally and helps to promote safe migration which can help to combat the use of forced labor and trafficking in person

### **Notification of the Department of Employment regarding criteria for the employment of migrant workers as laborers and retail salespersons**

By virtue of the Department of Employment's Notification of the Ministry of Labor regarding prohibited jobs for migrant workers on 1 April 2020, the Director General of the Department of Employment is required to issue a Notification to impose criteria concerning the employment of migrant workers as laborers and retail salespersons which are prohibited jobs for migrant workers in all vicinities of the Kingdom. The migrant workers are only allowed to take on such jobs provided that they work for their employers and they have entered the Kingdom legally according to the Immigration law via the MoU made between the Thai government and foreign governments. The prohibited jobs are listed in the appendix to the Notification of the Ministry of Labor.

The Department of Employment therefore issues the Notification of the Department of Employment on the criteria concerning the employment of migrant workers as laborers and retail salespersons which has come into force since 20 June 2020 to set out the conditions within which migrant workers can be employed as laborers and retail salespersons. The employers who want to employ migrant workers as retail salespersons must be an entrepreneur who is registered with the Ministry of Commerce per the commercial registration law. For a store which is not commercially registered, the employers must be able to produce permits, certifications or documents issued by the authorities to allow them to conduct commercial business. And the employers who want to employ migrant workers as retail salespersons have to act in compliance with the principle of proportionality including;

1. In order to be employed as laborers, the workers must have been recruited via the MoU system. If they have previously been employed in other kinds of work, they have to seek the change of work to be laborers. For example, if they want to become home workers or retail salespersons, they have to change the type of their work to laborers first in order to do so.

2. To be employed as retail salespersons, the migrant workers must have been recruited via the MoU system and must be able to communicate in Thai. Their employers must be commercially registered. If they are exempted from commercial registration, they must be able to produce permits, certifications or documents issued by the authorities to allow them to conduct commercial business. If their previous work permits are for laborers or other types of work, they have to seek change or addition to include the registration as retail salespersons whereby their employers must have the following qualifications;

1) The employers must have commercial registration certificates (subject to personal income tax) or are a legal entity (subject to corporate income tax) or have submitted tax return in the previous fiscal year (2019) or have been issued with other documents in lieu of the commercial registration certificates

2) The employers who are granted income tax exemption or have paid 0 THB and have the right to employ not more than one migrant worker.

3) The employers who have paid taxes in the last fiscal year (2019).

3.1) Having paid taxes for 1-50,000 THB, eligible to employ up to three MOU workers as retail salespersons

3.2) Having paid taxes for 50,001 THB, but not more than 100,000 THB, eligible to employ one additional MOU worker

3.3) Having paid taxes for 100,001 THB, but not more than 150,000 THB, eligible to employ one additional MOU worker

3.4) Having paid taxes for 150,001 THB, but not more than 200,000 THB, eligible to employ one additional MOU worker

3.5) Having paid taxes for 200,001 THB, but not more than 250,000 THB, eligible to employ one additional MOU worker

3.6) Having paid taxes for 250,001 THB, but not more than 300,000 THB, eligible to employ one additional MOU worker

3.7) Having paid taxes for 300,001 THB, but not more than 350,000 THB, eligible to employ one additional MOU worker

3.8) Having paid taxes for 350,001 THB, but not more than 400,000 THB, eligible to employ one additional MOU worker

4) The employers who are allowed to employ up to 10 migrant workers as retail salespersons must have paid taxes for in the previous fiscal year not less than 350,001 THB.

5) If the employers have employed up to 10 migrant workers already, and want to employ more, they are required to employ additionally 30 Thai workers in order to have the right to employ one more migrant worker as retail salesperson.

6) If the employers want to employ one more migrant worker as retail salesperson, they are required to employ ten more Thai workers.

7) An employer who has employed up to 220 Thai workers is eligible to employ not more than 20 migrant workers as retail salespersons.

8) When the two criteria are combined, namely (1) the amount of taxes paid and (2) the number of Thai workers employed, if an employer is able to act in compliance of both criteria, they shall have the right to employ up to 30 migrant workers as retail salespersons (having paid taxes for at least 350,001 THB and having employed 220 Thai workers).

In order to recruit migrant workers whose work permits allow them to work as laborers or retail salespersons, to work as construction workers or other jobs listed in Appendix 3 including agriculture / livestock / fishery / forestry / shoemaking / hat making / dressmaking / sculpture or pottery / knife making / mattress or blanket making / bricklaying / carpentry / construction work, an application has to be filed with the Provincial Employment Officer to change the type of work on the back of the work permit cards or the Bangkok Employment Office in Areas 1-10. The permission must be obtained prior to having them do such jobs.

## **An increase of funeral benefits for persons insured in social security system**

The Ministry of Labor has issued the Notification on the funeral benefits for a deceased insured person whose death has not been due to work related injuries or harm 2020 by virtue of the Social Security Act 1990. An amendment has been made to the Social Security Act (no. 2) 1994 to increase funeral benefits for a deceased insured person whose death has not been due to work related injuries or harm from 40,000 to 50,000 THB which can be used to cover the expense of the funeral services. It has come into effect since 2 July 2020. To apply for the benefits, the funeral service manager is required to produce the following documents;

- Benefits request form (SSO 2-01/M40)
- A copy of death certificate of the insured person
- Documents from the crematoriums or mosques certifying that the person is the funeral service manager
- A copy of ID card or other cards issued by the authorities of the insured person and the funeral service manager
- A copy of House Registrations of the insured person and the funeral service manager

As to death benefits, the payment shall be made to the person intended to be the recipients as indicated in the documents made by the insured person or the employee. If no such documents have been made, the money shall be equally shared among the parents, the spouses, and the children as follows;

- If prior to their death, the insured person have paid contributions for at least 36 months but not more than 120 months, the death benefit shall be paid equivalent to the average of two months of salary.
- If prior to their death, the insured person have paid contributions for at least 120 months, the death benefit shall be paid equivalent to the average of six months of salary.
- The payment shall be made to the descendants and the request for the money can be made within two years.

## Extension of the operation the Myanmar's The Temporary Data Collection Center

The cabinet approved the request to extend the operation of the Myanmar's Temporary Data Collection Center in Samut Sakhon for one more year with the following essence;

The cabinet approved the request to extend the operation of the Myanmar's Temporary Data Collection Center in Samut Sakhon whose permit was to expire on 16 March 2020 for one more year. The Ministry of Foreign Affairs, Ministry of Labor (Department of Employment) and the Provincial Authority of Samut Sakhon (Provincial Internal Security Operations Command and the Samut Sakhon Employment Office) shall take the lead to coordinate with the Myanmar authorities to execute the decisions made during the meeting of the National Security Council (NSC) and concerned authorities. The Samut Sakhon Communicable Disease Committee shall set out the dates for the operation the Center and other concerned procedure to ensure compliances with measures in response to the Covid-19 outbreak. The Center shall continue its operation in compliance with the decision reached by the cabinet since 5 March 2019.

The Data Center aims to collect information about Myanmar workers who want to apply for passports. Their target group is Myanmar workers. The Data Center is supposed to last for one year with 13 staff members from the Republic of the Union of Myanmar (with no request for diplomatic immunity). It is located at Talad Thalay Thai, Tambon Than Chin, Myuang District, Samut Sakhon. No fee is imposed for the request of its services (except for the collection of passports which incurs 1,050 THB)

### Places to collect passports:

1. The Embassy of the Republic of the Union of Myanmar in Thailand
2. Passport Service Center at the three border checkpoints including Thakilek Myawaddy and Kaw Thaung