



A summary of laws and policies concerning migrant workers during July-September 2020

1. Ministry of Public Health issues guidelines on the sale of health insurance cards among migrant workers whose permits to stay have expired but are unable to return to their home countries due to the Coronavirus 2019 or Covid-19 pandemic

In pursuance to the cabinet resolution on 24 March 2020 to extend a reprieve offered by the cabinet resolution on 20 August 2020 to until 30 September 2020, given the continuing precarious situation of Covid-19 pandemic and the extension of the declaration of the State of Emergency, the cabinet has issued another resolution to review the cabinet resolution on 24 March 2020 and to extend its effect to until 30 November 2020.

An issue discussed during the meetings of the Policy Committee on the Management of Foreign Workers' Employment is about the extension of the validity of medical certificate from 60 to 90 days as part of the reprieve. In practice, there are some problems as some authorities including the Immigration Bureau insists the medical certificates expire only within 60 days and there is no policy to extend its validity period. As a result, the employers and migrant workers have to undergo a new medical examination causing them more burden even though they now suffer from the lack of income and are unable to operate their businesses as usual due to disease control measures imposed by the government. In addition, some migrant workers have purchased health insurance cards which are valid for three months while applying to extend their work permits and they can only get registered under the Social Security system after the work permits have been reissued to them. But since the government has postponed the process, many workers have yet to receive the work permits which are needed to get registered under the Social Security system. Now, the health insurance they purchased is only valid for three months. This has left some migrant workers without any health insurance making them more vulnerable in the wake of Covid-19 pandemic.

To address the issue, the Ministry of Public Health has issued guidelines on the sale of health insurance cards among migrant workers whose permits to stay have expired but are unable to return to their home countries due to the Coronavirus 2019 or Covid-19 pandemic on 17 July 2020 as follows;

1. **The medical certificate issued by medical facilities to migrant workers who have had medical examination to renew their work permits pursuant to the cabinet resolution on 20 August 2019 shall be valid until 30 November 2020.**

2. Health insurance can be available for purchase by migrant workers who have been allowed to continue their stay in Thailand and a health insurance card valid for three months will be sold at 500 baht and the previous medical certificate can be used for purchasing the health insurance.

2. Notification of the Ministry of Interior to extend the right to stay in Thailand and to report residential information (every 90 days) of foreigners affected by the Covid-19 pandemic

Foreigners of various kinds of visas have their stay in the Kingdom extended, although they have to report themselves to the authorities pursuant to the Immigration Act. The Notification of the Ministry of Interior on the permission for some migrants to continue their stay in the Kingdom as a special case on 7 April 2020 and the Notification of the Ministry of Interior on the permission for some migrants to continue their stay in the Kingdom as a special case (no. 2) on 23 April 2020. This will help to extend their right to stay which would initially have ended on 31 July 2020.

Given the gravity of the Coronavirus 2019 or Covid-19 pandemic as the number of new infections continues to rise around the world, and given the border closure which causes difficulty to international travel and the impact on foreigners to get in and out of Thailand and the continued stay of some foreigners in the Kingdom, it has been agreed that these foreigners will be given a special favor to continue staying in the Kingdom as a special case and as temporarily until 31 October 2020. It was initially extended from 1 August 2020 to 26 September 2020 per the Notification on 23 July 2020. But as the situation has not got better, another Notification by the Ministry of Interior has been issued on 30 September 2020 to extend the right to stay and require the report of residential information (every 90 days) until 31 October 2020.

3. Cabinet resolution on 29 July 2020 regarding the draft action plan on special public health zone

The cabinet has issued a resolution on 29 July 2020 approving the draft action plan on special public health zone including the border public health zone and special zone (for migrant population) with detail as follows;

The approval of the draft action plan on special public health zone phase 1 2019 - 2022 as guidelines for the management of public health in special public health zone making it appropriate to each local area. This is to ensure response to the exact problems and to promote participation of concerned agencies

to help to mobilize and develop the quality of life of people in the same direction. It aims to enhance health of people living in the special public health zone ensuring their comprehensive access to necessary health services and the integrated management mechanism to support sustainable implementation. This will encompass four aspects of public health work including

- (1) marine public health
- (2) Eastern Economic Corridor (EEC)
- (3) border public health and
- (4) migrant population zone.

The special public health zone for migrant population will focus on the situation/problem of the health of migrant workers, their legal rights and status, migrant workers' lack of health insurance, impacts on national security and safety.

The action plan lists issues for further development including;

- Develop the model health insurance for migrant workers
- Increase access to public health services
- Promote public health system for migrant population

There will be seven target provinces including Tak, Ranong, Samut Sakhon, Samut Prakan, Bangkok, Pathum Thani, and Rayong, with the budget of 27.22 million baht.

4. Cabinet resolution on Guidelines for the Management of Foreign Workers' Employment from three nations (Cambodia, Laos and Myanmar) amidst the Coronavirus 2019 pandemic

On 4 August 2020, the cabinet approves the Guidelines for the Management of Foreign Workers' Employment from three nations (Cambodia, Laos and Myanmar) amidst the Coronavirus 2019 pandemic in which the migrant workers who have been affected by measures for the prevention of Covid-19 pandemic and are unable to return to their home countries, shall be given the right to stay and work in Thailand as a special case including the following target groups;

- (1) Migrant workers from Cambodia, Laos and Myanmar who have entered to work pursuant to the Memorandum of Understanding on Labour Cooperation (MoU) and with an employment agreement for the period of four years. They shall be allowed to continue their stay in the Kingdom and there are employers who need to employ migrants.
- (2) Migrant workers from Cambodia, Laos and Myanmar who have entered to work pursuant to the Memorandum of Understanding on Labour Cooperation (MoU) and with an

employment agreement, but their work permits have been terminated given the termination of their employment or their inability to find a new employers within the period of time prescribed by law including Sections 50, 53 and 55 of the Royal Ordinance for the Management of Foreign Workers' Employment B.E. 2560 and its amendment. They shall be allowed to continue their stay in the Kingdom and there are employers who need to employ migrants.

- (3) Migrant workers from Cambodia, Laos and Myanmar and their dependents including their children who have undergone the nationality verification process and been issued with personal documents including passports, travel document or Certificate of Identity. They have been permitted to stay in the Kingdom and their work permits have expired since 30 September 2019 and 30 June 2020. But their employers have yet to submit a name list of migrant workers to be employed pursuant to the cabinet resolution on 20 August 2019. They shall be allowed to continue their stay in the Kingdom and there are employers who need to employ migrants.
- (4) Migrant workers from Cambodia and Myanmar who have entered the country to work as commuter or seasonal migrant workers and their term of employment has expired and their right to stay at the border has also ceased. They shall be allowed to continue their stay in the Kingdom and there are employers who need to employ migrants.

They are required to follow these steps;

1. The migrant workers are **required to apply for work permit** with the Office of Employment within **31 October 2020**. They will be charged **1,450 baht** for the work permit which will be valid until 31 March 2022.
2. They have to **undergo the health examination and to obtain health insurance**. The migrant workers are required to have the examination only at public hospital and will be charged **500 baht** for medical examination. For workers in sea fisheries, they will be charged **550 baht** for the examination. In order to obtain health insurance and access to Social Security, the migrant workers are required to complete the medical examination and obtain work permits within 31 January 2021.
3. They have to **get visa stamps**. The migrant workers can twice apply for visas valid for one year. In the first year, they shall be allowed to stay until **31 March 2021, and second year until 31 March 2022**. They will be charged for **1,900 baht** for each visa and the migrant workers are required to have the visa stamps within 31 January 2021 and for the second time within 31 March 2021.

4. The migrant workers are required to apply for a non-Thai ID card, aka 'Pink Card' at the civil registration office in each province. The application can start from 1 February 2021 - 31 March 2021 with a fee of 80 baht.

5. Notification of the Ministry of Labour on the criteria, methods and conditions for the reduction of contributions of employers and insured persons in the wake of the Covid-19 pandemic

The Notifications of the Ministry of Labour and the Ministry of Interior have been issued pursuant to the cabinet resolution to elaborate on the employment conditions as follows;

- Can do any job, except the same jobs which are the prohibitions for the MoU migrant workers
- Cannot change employer, except when it can be established that the change is warranted due to the violations of the previous employers or the expenses of the workers shall be borne by the previous employers. The workers are held liable for expenses including fees for work permit, medical examination, health insurance, and visas. Once all the conditions are met, the worker has to move to work for the new employer within 30 days.
- The conditions that will terminate the work permits and the right to stay before its term include having not gone through the medical examination, failure to obtain visas or failure to apply for Pink Cards within the prescribed period and failure to change to a new employer within the prescribed period. They can be convicted and sentenced to prison for their negligence or petty crime and can be ordered to travel outside the country before completing the application for their Pink Cards.

For migrant workers employed as commuter or seasonal migrant workers, they have to apply for the initial work permit within 15 August-31 October 2020 and it has to be renewed every three months. They will be charged 325 baht for work permit valid for three months. They are also required to obtain a medical examination from a public hospital and will be charged 500 baht for medical examination and 500 baht for health insurance valid for three months.

This cabinet resolution enables the migrant workers who have been affected during the Covid-19 pandemic and have not been able to renew their work permits or to work legally including those whose work permits have expired and those laid off by their employers or are unable to work during the pandemic, to work with their new employers legally.

Nevertheless, since this cabinet resolution was issued when the State of Emergency was imposed and given a lack of guidelines and understanding among local authorities, only a few of migrant workers have acted in compliance and benefitted from this resolution.

The Ministry of Labour has issued the Notification of the Ministry of Labour to reduce the contributions paid to the Social Security Fund for the period of September-November 2020 to support and address the suffering of employers and insured persons who have been affected by the Covid-19 pandemic which is a dangerous communicable disease according to the Communicable Diseases Act 2013. This happens as the State of Emergency has been extended in all vicinities of the Kingdom to control and prevent the spread of Coronavirus 2019 and to preempt a new spread of infection which may exacerbate Thailand's economy. It is deemed fit for the contributions made by the employers and insured persons shall be reduced with detail as follows;

This Notification helps to reduce the expense of the workers to be paid to the Social Security Fund from previously 5% deduction of their wage to 2% for the period of three months. This can help the workers to have more income at their disposal to take care of themselves and to substitute the loss of income during the business shutdown.

1. **Reduction of contributions to the Social Security Fund for employers and insured persons** pursuant to Section 33. Their contributions to the Social Security Fund for September-November 2020 will be reduced and **will be paid at 2% of the wage of the insured persons by both parties.**
2. **The insured persons pursuant to Section 39** (self-insured, after the termination of the status of insured persons pursuant to Section 33) **shall pay less at the rate of 96 baht/month** for their contributions to the Social Security Fund during September-November 2020.
3. **If they have paid the contributions more than what is provided** for in this Notification, **the employers or the insured persons can file a request to get reimbursed for the extra contributions** they have paid at the Social Security Office in Bangkok, or its provincial chapters.

6. The cabinet resolution of 22 September 2020 on the Draft Ministerial Regulation no... (B.E.) issued by virtue of the Immigration Act 1979 (with the addition of the Coronavirus 2019 (COVID-19) as a disease for immigration prohibition pursuant to Sections 12 (4) and 44 (2) of the Immigration Act 1979

During the cabinet meeting on 22 September 2020, the Draft Ministerial Regulation no... (B.E.) issued by virtue of the Immigration Act 1979 by adding Coronavirus as another disease for immigration prohibition and the prohibition for applying for residency in Thailand.

It was proposed by the Ministry of Interior that at present, Thailand has declared Coronavirus 2019 (COVID-19) the 14th dangerous communicable disease per the Communicable Diseases Act 2013 with an aim to curb the spread of the disease, to be able to contain the disease effectively and to mitigate social and economic impact since the disease is a severe condition which can spread to other persons quickly contributing to the growth of the pandemic.

The Coronavirus 2019 (COVID-19) in Thailand has the potential to develop into a pandemic since the infection continues to rise around the world and countries have started to ease up their restriction and disease control measures.

The National Communicable Disease Committee therefore proposes to have Coronavirus 2019 (COVID-19) added as a disease for immigration prohibition pursuant to Sections 12 (4) and 44 (2) of the Immigration Act 1979 in order to prevent the disease from spreading in Thailand and to ensure effective prevention and control of the disease in response to the spread of the disease.

The Ministry of Interior therefore deems it fit to designate Coronavirus 2019 (COVID-19) a disease that can be cited as a reason to bar the entry of a person who has such disease into the Kingdom pursuant to Sections 12 (4) and 44 (2) of the Immigration Act 1979 by revising the Ministerial Regulation no. 14 (1992) issued by virtue of the Immigration Act 1979.

This is to prevent and control those infected with Coronavirus 2019 from entering the country or from applying for residency in Thailand. The migrant workers are thereby required to undergo a medical examination before applying for a visa. And in the future, foreigners shall be required to have the Coronavirus 2019 test before entering the country. As a result, the migrant workers who want to enter Thailand via the MoU in the future are required to have additional medical examination including the Coronavirus 2019 test. Given the unaffordable costs of Coronavirus 2019 test at present, this may affect expenses for travel to Thailand. Also, in the future, once the Covid-19 vaccine is available, any migrant workers could be required to have it before entering to work in Thailand.