



A summary of laws and policies concerning migrant workers during
January – March 2021

Statistics of migrant workers of January 2021

Countries Types	Myanmar	Cambodia	Laos	Total
MoU	410,859	217,845	156,706	782,653 (including Vietnam 243)
Existing nationality verification group	266	23	21	310
Special MoU (20 Aug 19 Cabinet Resolution)	769,394	142,474	37,241	949,109
Pink Card (4 Aug 20 Cabinet Resolution)	133,049	55,376	13,253	201,678
Border Employment (4 Aug 20 Cabinet Resolution)	21,443	16,996	-	38,439
Total	1,335,011	432,714	204,221	<u>1,972,189</u>

Statistics of migrant workers registered per 29 December 2020 cabinet resolution

Nationality Type	Burmese	Cambodian	Laotian	Total
With Employer	352,544	63,482	180,476	596,502
Without Employer	31,533	3,626	23,203	58,362
Total	384,077	67,108	203,679	<u>654,864</u>

The 26 January 2021 cabinet resolution on the review of management of foreign workers during the new surge of COVID-19 pandemic and the management of detainees

The cabinet approves a new plan on the review of the management of foreign workers during the new surge of COVID-19 pandemic and the management of detainees which has impacts on the management of foreign workers and how it is expected that their health checkup and visa renewal will not be completed within the deadline. There is also a proposal to defer deportation of convicted detainees or those pending the justice process. Due to measures imposed to prevent the transfer of migrant workers, the deportation has been slower than normal. The Ministry of Labour has issued a plan for the management of 2,335,671 migrant workers categorized into **three groups as follows**;

1) The pink card holders, 1,400,387 of them including (1.1) 1,162,443 migrant workers benefiting from the 20 August 2019 cabinet resolution and have their deadlines for their health checkup and visa renewal extended for another six months to until 30 September 2021, and (1.2) 237,944 migrant workers benefiting from the 4 August 2020 cabinet resolution and have their deadlines for their health checkup and visa renewal extended for another six months to until 31 July 2021.

2) 434,784 MoU migrant workers including (2.1) 119,094 migrant workers benefiting from the 10 November 2020 cabinet resolution and (2.2) 315,690 MoU migrant workers already completing a two-year stint and have their deadlines for their health checkup and visa renewal extended for another six months to until 30 June 2022.

3) Migrant workers benefiting from the 29 December 2020 cabinet resolution who are in the process of getting registered and whose number is expected to be around 500,000. The collection of their biometrics data and the identity verification process of aliens for national security are going on along with the COVID-19 tests which have to be completed within 16 April 2021. The Immigration Bureau will pass on the biometrics data to the Department of Employment which shall issue them their work permits.

Private medical facilities certified by the Department of Medical Science are allowed to offer COVID-19 tests due to the government's rapid response to contain COVID-19 pandemic and there is an insufficient number of public medical facilities to conduct the tests within 16 April 2021. The COVID-19 test price is fixed at not more than 2,300 baht by the Department of Medical Science.

About 500 detainees (from Cambodia, Laos and Myanmar) awaiting their deportation are allowed to take on labour work and housework until 13 February 2566 to reduce expense to care for them, albeit they shall be deported upon the deadline.

The cabinet resolutions have been meted out to address problems of each group of migrant workers who have failed to complete their health checkup and visa renewal within the deadline including migrant workers whose passports and Certificates of Identity were going to expire and were unable to renew or reapply for their documents in time due to the border closure and the cease of the operation of the Passport Service Center for Myanmar Migrant Workers in Samut Sakhon in the wake of COVID-19 pandemic. The extension of the deadline concerning their health checkup and visa renewal can address the problem temporarily. But as long as no measures are meted out to help them reapply for new passports, the problems of these migrant workers will remain unsolved.

In addition, the cabinet resolutions will allow migrant workers pending their deportation to go outside and work within 2 years to address crowded situation in the detention and the inability to deport migrant workers to the sending countries at the moment.

Notification of the Ministry of Interior pursuant to the 26 January 2021 cabinet resolution

After the cabinet resolution to review the management of foreign workers on 26 January 2021, the Ministry of Interior has issued its **5 Notifications to implement the cabinet resolution** including;

- 1) Notification of the Ministry of Interior to allow the alien detainees to continue living in the Kingdom in a special circumstance pending deportation during COVID-19 pandemic pursuant to the cabinet resolution on 26 January 2021

The Notification has been issued to allow the migrant workers detained in the Immigration Detention Centers pending deportation to continue living and working in Thailand until 13 February 2021 provided that their employers have to apply for bail of the workers. They are prohibited from travelling outside the confined area, however, and from changing their employers. Upon the termination of employment, the employers shall bring the workers to the Immigration Bureau within five days.

- 2) Notification of the Ministry of Interior to allow the aliens to continue living in the Kingdom in a special circumstance including those from Cambodia, Laos and Myanmar during COVID-19 pandemic pursuant to the cabinet resolution on 26 January 2021

The Notification has been issued to cater to 3 groups of migrant workers including MoU migrant workers who have completed their four-year stint of employment, MoU migrant workers who have completed their two-year stint of employment and special MoU migrant workers pursuant to the 20 August 2019 cabinet resolution. The first two groups of migrant workers shall be allowed to continue living in the Kingdom in a special circumstance for another 6 months after the expiry of their visas, although they are required to complete their health checkup and visa renewal 6 months prior to their extended period while the migrant workers pursuant to the 20 August 2019 cabinet resolution whose passports have expired are required to reapply for their new passports to apply for visas covering the next phase of their living in Thailand.

- 3) Notification of the Ministry of Interior no. 2 on 21 August 2020 to allow the aliens to continue living in the Kingdom in a special circumstance including those from Cambodia, Laos and Myanmar in the midst of the COVID-19 pandemic.

The Notification has been issued to implement the 4 August 2020 cabinet resolution concerning 2 groups of migrant workers including those who have applied for their first year of visas (whose visas will expire on 31 March 2021), they shall have their deadlines for their health checkup and visa renewal extended to until 30 September 2021, and those have yet applied for their first year of visa who are required to complete their health checkup and visa renewal within 31 July 2021 and their first year visas shall be valid until 30 September 2021. They are required to apply for their second year of visa before it runs out and to apply for pink cards within 30 September 2021.

- 4) Notification of the Ministry of Interior to allow the aliens to continue living in the Kingdom in a special circumstance including those from Cambodia, Laos and Myanmar and to work pursuant to Section 64 of the Royal Ordinance Concerning the Management of Foreign Workers' Employment 2017 and its amendment in the midst of the COVID-19 pandemic (no. 2)

This Notification caters to migrant workers recruited to work by virtue of Section 64 of the Royal Ordinance Concerning the Management of Foreign Workers' Employment (border employment). They shall have their deadlines for their health checkup and visa renewal extended to until 31 July 2021.

- 5) Notification of the Ministry of Interior to allow certain groups of aliens to continue living in the Kingdom in a special circumstance during COVID-19 pandemic pursuant to the cabinet resolution on 29 December 2020 (non.2)

This Notification has been issued to cater to workers registered by virtue of the 29 December 2020 cabinet resolution which require the migrant workers to register online within 13 February 2021 and to have COVID-19 tests per the procedure determined by the Ministry of Public Health and to buy health insurance from

the medical facilities determined by the MoPH as well as to have their biometrics data collected as determined by the Immigration Bureau within 16 April 2021. They are also required to have the tests pursuant to the Ministerial Regulation on Prohibited Diseases of Aliens in the Kingdom 2020 within 18 October 2021 and to apply for pink cards within 30 December 2021.

Notification of the Ministry of Labour pursuant to the 26 January 2021 cabinet resolution

After the cabinet resolution on 26 January 2021 has been made, the Ministry of Labour has issued the Notification of the Ministry of Labour to implement the management of migrant workers pursuant to the cabinet resolution as follows;

- 1) Notification Ministry of Labour to allow aliens to work in the Kingdom in a special circumstance including those from Cambodia, Laos and Myanmar who are detainees in the Kingdom in a special circumstance pending deportation in the midst of the COVID-19 pandemic pursuant to the cabinet resolution on 26 January 2021

This Notification has been issued to cater to the application for work permits of migrant workers detained at Immigration Detention Centers. They shall be allowed to work until 13 February 2023. Their employers are required to submit a name list and the officials will have the workers go through health checkup and buy health insurance with the expense made possible by advance payment from the employers. Then they can apply for work permits on behalf of the migrant workers at the local chapters of the Employment Office. The application for work permit can then be used to bail out the migrant workers from the Immigration Bureau with no charge. Then the migrant workers can apply for pink cards specifically issued for this group of migrant workers who are only allowed to take on labor work and housework. They shall be prohibited from working for other employers or to take on other kinds of work except the jobs they are permitted to do.

- 2) Notification Ministry of Labour to allow aliens to work in the Kingdom in a special circumstance including those from Cambodia, Laos and Myanmar in the midst of the COVID-19 pandemic (no. 2)

This Notification sets out direction for treatment of migrant workers benefiting from the 4 August 2020 cabinet resolution. The aliens are allowed to use the application for work permit and its receipt in lieu of their work permit until they are issued the work permit. They can do so within 30 September 2021 and they are required to complete their health checkup and visa application within the deadline prescribed by the Notification of the Ministry of Interior.

- 3) Notification Ministry of Labour to allow aliens to work in the Kingdom in a special circumstance including those from Cambodia, Laos and Myanmar for those recruited to work in the Kingdom by virtue of Section 64 of the Royal Ordinance Concerning the Management of Foreign Workers' Employment 2017 (no. 2)

The migrant workers recruited pursuant to Section 64 are allowed to have their health checkup and buy health insurance within 31 July 2021. The documents can then be used to apply for work permits which will be valid from 1 August 2021 onward.

- 4) Notification Ministry of Labour to allow aliens to work in the Kingdom in a special circumstance including those from Cambodia, Laos and Myanmar during COVID-19 pandemic pursuant to the cabinet resolution on 26 January 2021

This Notification sets out direction for treatment of migrant workers benefiting from the 29 December 2020 cabinet resolution to get registered and to have their COVID-19 tests as well as to have their biometrics data collected within 16 April 2021. For migrant workers who are yet have employers are required to have their personal profile processed or to apply for TR38/1 form at the local Civil Registration offices within 16 June 2021. The employers can then complete the rest of the process within 13 September 2021. Then they can apply for pink cards within 30 December 2021, and for migrant workers with employers within 28 February 2023.

Notification of the Ministry of Public Health on health checkup and health insurance of migrant workers during the new surge of COVID-19 pandemic in 2021

The MoPH has asked the Provincial Public Health Authorities, the Department of Medical Science, and the Bangkok Medical Service Department to formulate a plan for conducting COVID-19 tests and health checkup of migrant workers and their dependents from Cambodia, Laos and Myanmar in the areas under their jurisdiction. The COVID-19 tests of migrant workers and their dependents from Cambodia, Laos and Myanmar have to be conducted in compliance with the standards set out by the Department of Medical Science and the COVID-19 test criteria of the Department of Disease Control (DDC), MoPH. Medical facilities authorized to conduct the tests and health checkup must meet requirements set out by the Department of Medical Science. For those who have had COVID-19 tests, they can have their health checkup and buy health insurance within 7 days and if they are found to test positive, they are entitled to medical services right after their purchase of the health insurance.

Nevertheless, the MoPH Notification appears inconsistent with the cabinet resolutions, the Notifications of the Ministry of Interior and the Notifications of the Ministry of Labour which allow the migrant workers to have health checkup and submit their medical certificates within 18 October 2021. This Notification, however, requires the workers to have their health checkup and buy health insurance within 7 days after their COVID-19 tests. This has caused confusion and misunderstanding among the workers and their employers and it can incur rather expensive financial burden and may cause some migrant workers to miss out on the health insurance system making their legal living and working even more challenging.