

Corporate Immigration 2020

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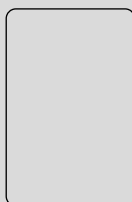
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Corporate Immigration 2020

Contributing editors**Lindsey Barras and Sharan Kundi**

PwC LLP

Lexology Getting The Deal Through is delighted to publish the ninth edition of *Corporate Immigration*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Lindsey Barras and Sharan Kundi of PwC LLP, for their continued assistance with this volume.



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Contents

Introduction	5	Ireland	80
Lindsey Barras and Sharan Kundi PwC LLP		Aoife Kilmurray and Lindsay Tester PricewaterhouseCoopers Ireland	
European immigration – time of change?	6	Israel	88
Stephanie Odumosu and Stephan Judge PwC LLP		Dan Gross and Kobi Neeman Dardik Gross & Co Law Firm	
Australia	10	Italy	93
Rachel Drew Holding Redlich		Davide Marco Mangano and Paolo Lucarini PwC	
Austria	17	Japan	100
Ewald Oberhammer and Petra Pardatscher Oberhammer Rechtsanwälte GmbH		Ichiro Kawakami and Jia Ee PwC Tax Japan	
Belgium	25	Kenya	106
Pascale Moreau, Bart Elias, Marc Mostin, Kris Haveneers, Julia Tverdochlebova and Buidi Mundadi PwC Legal		Steve Okello, Robert Aswani and Josphat Muchiri PricewaterhouseCoopers Limited	
Bermuda	32	Malaysia	111
Fozeia Rana-Fahy MJM Limited		Tan Su Ning Skrine	
Brazil	38	Netherlands	117
Fernando Loeser, Enrique Tello Hadad, Eduardo Urrutia Depassier and Aline de Oliveira Moreira Loeser, Blanchet e Hadad Advogados		Yvette van Gernerden, Mirella den Drijver and Hugo Vijge PwC	
Canada	43	Nigeria	123
Janet L Bomza and Melodie Molina PwC Law LLP		Adekunle Obebe Bloomfield Law Practice	
Chile	56	Norway	127
Luis Parada DLA Piper		Christel Reksten and Rita Cecilie Kjexrud Advokatfirmaet PricewaterhouseCoopers AS	
France	62	Panama	133
William Phillips and Barbara Moreira PwC Société d'avocats		José A Brenes, Dolores Cadavid and Rehut Maimon Anzola Robles & Asociados	
Germany	69	Slovenia	141
Inga Mayer and Kim Allison Turner-Fehlau PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft		Martin Šafar and Polona Boršnak Law firm Šafar & Partners, Ltd	
Ghana	75	South Africa	148
George Kwatia and Constance Assibey-Bonsu PricewaterhouseCoopers (Ghana) Limited		Stephen Marlin and Natalie Mclean PwC South Africa	

Spain	156
Luisa Moreno García, José Ignacio Rodríguez Domingo and Naum Danielov Kostov PwC	
Sweden	164
Patrik Nyström and Henrik Lundh Risinggård PwC Sweden	
Tanzania	170
Joseph Lyimo and Johnpaul Thadei PwC Tanzania	
Thailand	175
Ruengrit Pooprasert and Chotika Lurponglukana Veritas Law	
United Arab Emirates	182
Anir Chatterji PwC Legal Middle East LLP	
United Kingdom	189
Andrea Als and Nadia Idries PwC LLP	
United States	197
Mark C Dey, Monika Szabo and Sheila Snyder PwC Law LLP	

Thailand

Ruengrit Pooprasert and Chotika Lurpongkukana

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GENERAL FRAMEWORK

Legislation

1 | What primary and secondary legislation governs immigration in your jurisdiction?

The main legislation governing immigration requirements and restrictions in Thailand are the Foreigners' Working Management Emergency Decree BE 2560 of 2017, as amended (the FWM Emergency Decree), which manages all matters relating to foreign employment and work conduct in Thailand, and the Immigration Act BE 2522 of 1979, as amended (the Immigration Act), which regulates the entry and stay of foreigners in Thailand. Secondary legislation includes the regulations and notifications promulgated by virtue of the main legislation.

International agreements

2 | Has your jurisdiction concluded any international agreements affecting immigration (eg, free trade agreements or free movement accords)?

Thailand has concluded both multilateral and bilateral trade agreements affecting the free movement of natural persons, including the General Agreement on Trade in Services and the Thailand–Australia Free Trade Agreement. Thailand is also a member of the Asia-Pacific Economic Cooperation (APEC), under which it accommodates the ease of travel of businesspersons within APEC countries.

Regulatory authorities

3 | Which government authorities regulate immigration and what is the extent of their enforcement powers? Can the decisions of these authorities be appealed?

The Minister of Interior is authorised under the Immigration Act to have control over the execution of the Immigration Act. The Minister also has the power to appoint competent officials and issue ministerial regulations prescribing fees and expenses, among other things. In addition, under the Immigration Act, the Immigration Commission is appointed to specifically handle immigration matters, which include:

- revoking the permission for temporary stay or residency in Thailand;
- considering appeals;
- permitting foreigners to enter and take up residency in Thailand, including those already in Thailand temporarily and those who previously had residency;
- prescribing criteria for qualifications of any foreigners applying for residency in Thailand, keeping national security and other related conditions in mind, and prescribing regulations for any declaration of financial status;
- giving advice, suggestions and opinions to the Minister of Interior on the formulation of regulations concerning duties and standards

- for checkpoint officials or other officials in maintaining national security or in the issuance of other ministerial regulations; and
- giving opinions on immigration matters as assigned by the Council of Ministers or by the Minister of Interior.

The Minister of Labour is authorised under the FWM Emergency Decree with similar powers as those of the Minister of Interior under the Immigration Act. The registrars and the official appointed under the FWM Emergency Decree will be the main government authorities responsible for foreigners' work permission. The registrars and the officials are empowered to:

- consider applications for, and grant and renew, work permission;
- revoke work permission;
- consider changes to applications, in terms of the type of work, the employer, the location or working conditions of the work permission and grant the approval thereof;
- summons or order, in writing, any person concerned to give explanations and furnish documents or any other evidence for assisting considerations of applications;
- enter the place of business of any company employing foreign workers, or using seconded foreign workers, to conduct an inspection in the execution of the FWM Emergency Decree (during working hours only);
- conduct a search where there is reasonable cause to suspect that a foreigner is working unlawfully or to find and assist a foreigner who has become injured from any act in violation of the FWM Emergency Decree; and
- seize or attach documents or evidence pertinent to a case of suspected illegal working, or other offence in violation of the FWM Emergency Decree.

Depending on whose decision is being appealed, decisions issued under the Immigration Act or the FWM Emergency Decree by the competent officers can be appealed to the Minister empowered thereunder within 30 days of the decision being notified.

Government policy

4 | In broad terms what is your government's policy towards business immigration?

Foreign labour is a key driver of the Thai economy, which grew by 4.1 per cent in 2018 (the highest growth in six years), and the government's policy towards business immigration reflects this. Based on statistics made publicly available in April 2019, the total non-Thai workforce in Thailand is approximately 3 million, which constitutes approximately 10 per cent of the country's labour force. Thailand welcomes foreign workers subject to the criteria and requirements of Thai immigration and foreign employment law. Some occupations are reserved for Thais only; foreign nationals, for instance, are prohibited

from engaging in work that involves national security and in occupations that would otherwise limit the employment opportunities of Thais. While primary consideration is for the development of the country, exemptions to the applicable restrictions are made to help meet demand for skilled labour and prevent skills shortages. Foreign business immigration applications are considered in terms of necessity and suitability. Decisions are rendered on a case-by-case basis, and permission is granted based on the criteria and requirements set by law.

SHORT-TERM TRANSFERS

Visas

5 | In what circumstances is a visa necessary for short-term travellers? How are short-term visas obtained?

A short-term visa is required in the following circumstances:

- when visiting Thailand as a tourist;
- when transiting through Thailand;
- for non-immigration purposes; and
- for diplomatic or consular missions and performing official duties.

A foreign traveller on a tourist visa is not permitted to work in Thailand. Applications for a tourist visa must be made at the relevant Royal Thai Embassy or Consulate-General abroad prior to entering Thailand. A foreign traveller on a tourist visa is permitted to remain in Thailand continually for a period not exceeding 60 days from the date of arrival. Some foreign travellers of countries that have entered into an agreement with Thailand are permitted to stay in Thailand without a visa for a period not exceeding 30 days from the date of arrival. Also, some foreign travellers who are citizens of countries agreed by the Thai government are able to apply for a visa on arrival upon entering Thailand for tourism purposes for a period not exceeding 15 days.

Foreign nationals travelling for non-immigration purposes must enter Thailand only for the performance of business or work, investment (as approved by the relevant ministry or department), education or observation, official duties or other activities as permitted by law. The process for obtaining a non-immigrant visa varies depending on the type of visa required and the purpose of the visit. Normally, the foreign traveller must apply for a non-immigrant visa at the Royal Thai Embassy or Consulate-General abroad before entering Thailand. The foreign traveller who has been granted a non-immigrant visa is not permitted to work in Thailand until a work permit has been issued. Non-immigrant visa holders are granted a permit to stay in Thailand for an initial period of 90 days.

For diplomatic or consular missions and for performing official duties, a diplomatic visa is required for foreign nationals holding a diplomatic passport. Applications for visas must be made at the relevant Royal Thai Embassy or Consulate-General abroad prior to entering Thailand. Some foreign travellers who are citizens of countries that have entered into a bilateral agreement with Thailand are exempt from applying for a visa. Foreign travellers with this type of visa are permitted to stay in Thailand for a period not exceeding 90 days from the date of arrival.

Restrictions

6 | What are the main restrictions on a business visitor?

Foreign travellers arriving in Thailand for business purposes must not engage in work, which is defined as entering into employment or a profession, whether or not there is an employer, excluding the operations of a foreign business licence holder as defined under the Foreign Business Act 1999. Examples of foreign business operations that do not require a work permit include foreigners who occasionally enter Thailand to attend, organise or present meetings, provide opinions,

give lectures, participate in training sessions, seminars, tours, art or cultural exhibitions or sports competitions, as well as foreigners who enter Thailand to engage in business or investment, who are experts or specialists, who have skills that will help improve the country or who are representatives of a foreign entity that has been granted a foreign business licence under the Foreign Business Act.

Short-term training

7 | Is work authorisation or immigration permission needed to give or receive short-term training?

It depends on the purpose of the training. If a foreign traveller occasionally joins the training and he or she is not required to engage in work by entering into employment or a profession, whether or not there is an employer, such foreign traveller may enter Thailand without having to apply for a non-immigrant visa and work permit. However, if the training requires the foreign traveller to engage in work by entering into employment or a profession, whether or not there is an employer, such foreign traveller may be considered as arriving in Thailand for work, which does require a non-immigrant visa and work permit.

Transit

8 | Are transit visas required to travel through your country? How are these obtained? Are they only required for certain nationals?

A transit visa is required prior to entry into Thailand for certain activities, including participation in sports competitions and for persons in charge of (or the crew of) a conveyance arriving at a terminal, port or station in Thailand. Applications for transit visas can be made at the relevant Royal Thai Embassy or Consulate-General abroad. Transit visas are normally valid for three months from the date of issuance. Foreign travellers with this type of visa are permitted to stay in Thailand for a period not exceeding 30 days from the date of arrival. Foreign travellers transiting at an airport in Thailand for a connecting flight within 12 hours of arrival are not required to obtain a transit visa.

Visa waivers and fast-track entry

9 | Are any visa waiver or fast-track entry programmes available?

Visas are waived for tourists arriving from countries that have entered into an agreement with Thailand. A foreign business traveller holding an APEC Business Card can visit other APEC member states for multiple short-term stays of up to 90 days without the need to obtain a business visa, subject to certain criteria and conditions.

Fast-track entry is also available for a managerial-level officer of a company that is granted investment by the Board of Investment of Thailand (BOI). An investor planning to use the fast-track lane upon arrival at Thailand must inform the BOI seven days prior to arrival.

LONG-TERM TRANSFERS

Categories

10 | What are the main work and business permit categories used by companies to transfer skilled staff?

To enable the transfer of skilled staff to Thailand, one of the following types of visa is required:

- 90-day non-immigrant visa to conduct business or work;
- one-year non-immigrant visa to conduct business or work; or
- three-year non-immigrant visa to conduct business.

A non-immigrant visa grants the holder permission to enter and stay in Thailand for a limited period of time and is for business purposes only. If the foreign traveller wishes to work in Thailand, he or she must also obtain a work permit.

Procedures

11 | What are the procedures for obtaining these permissions? At what stage can work begin?

Any employer who wishes to employ a foreign worker must apply for a letter of approval from the Thai Ministry of Labour, prior to the foreign worker's arrival in Thailand. Upon the employer's receipt of such letter of approval, the foreign worker must apply for a non-immigrant visa at the relevant Thai embassy or Consulate-General in the country where such foreign worker resides. The foreign worker will initially receive a 90-day non-immigrant visa for the purpose of coming to Thailand and applying for a work permit. The work permit application must be completed within 90 days, according to the period granted by the non-immigrant visa. The period of permission to work will be in accordance with the period granted under the non-immigrant visa. The foreign worker whose application for a work permit is granted will be required to collect the work permit within 30 days.

If the foreign worker wishes to extend the period of permission to work, he or she must apply for a one-year non-immigrant visa. After this is granted, an application can then be submitted to extend the work permit to enable the foreign worker to work for one year, according to the one-year non-immigrant visa. The foreign worker may only commence work after the work permit is obtained. However, if the foreign worker requires permission to work under Thailand's investment promotion laws, he or she may engage in authorised work while the application is being processed.

Period of stay

12 | What are the general maximum (and minimum) periods of stay granted under the main categories for company transfers?

There is no minimum period of stay for transferred foreign workers. The maximum period of stay for each entry of each foreign worker must not exceed 90 days consecutively. If the foreign worker is granted a one-year non-immigrant visa, he or she may stay in Thailand for more than 90 days consecutively; however, he or she is still required to report his or her current address to the local immigration office every 90 days.

Alternatively, the foreign worker may opt to leave Thailand and then re-enter, upon which the 90-day period of stay is recounted. If the non-immigrant visa does not permit multiple entries into Thailand, then leaving and re-entering Thailand will require a re-entry permit, otherwise, the non-immigrant visa will expire immediately upon such foreign worker leaving the country.

Processing time

13 | How long does it typically take to process the main categories?

The whole process of applying for a 90-day non-immigrant visa and temporary work permit takes approximately 10 to 15 days. It takes another 30 days or so to apply for an extension of stay and work permit, depending on the relevant official's workload. Work permit issuance does not exceed 15 working days after a completed application and supporting documents have been received by the authority.

Staff benefits

14 | Is it necessary to obtain any benefits or facilities for staff to secure a work permit?

No. There is no requirement under Thai immigration or foreign employment law to provide any benefits or facilities to transferred staff to secure a work permit. Whether or not to extend such benefits and facilities depends on each company's internal policies and procedures. Each employer is, however, required to provide transferred staff with the minimum benefits and welfare specified under other applicable laws, such as the labour protection law.

Assessment criteria

15 | Do the immigration authorities follow objective criteria, or do they exercise discretion according to subjective criteria?

Thai immigration authorities follow objective criteria that are specified under immigration law. However, in certain complicated cases, they do have the right to exercise sole discretion. For example, if they ask specific questions of an applicant, then they may request additional documentation for the purposes of verification.

While the immigration authorities do have the right to exercise sole discretion and apply certain subjective criteria, such discretion must always be used in the interests of national security or in consideration of either employment opportunities for Thais or demand for foreign labour as necessary for the development of the country.

High net worth individuals and investors

16 | Is there a special route for high net worth individuals or investors?

Yes. Foreign investors meeting certain criteria have access to a special 'one-stop service' route when applying for a visa and work permit. General investors whose office or work is located in Bangkok and who invest a minimum of 2 million baht may receive approval for one year. Foreign investors investing a minimum of 10 million baht may receive approval for two years. Foreign executives or experts working for a company with a registered capital or total assets of a minimum of 30 million baht may also have access to the one-stop service route, for which the entire application process takes just three hours to complete.

17 | Is there a special route (including fast track) for high net worth individuals for a residence permission route into your jurisdiction?

Yes. Thai immigration law provides annual quotas for foreign nationals taking up residency in Thailand, which shall not exceed 100 persons from each country per year. However, if a foreign national transfers a minimum of 10 million baht in a foreign currency for the purpose of investment in Thailand, he or she may be permitted to take up residence in Thailand regardless of the provided annual quota.

Highly skilled individuals

18 | Is there a special route for highly skilled individuals?

Yes. Similar to high net worth individuals and investors, if a highly skilled foreign national meets any of the following criteria, he or she has access to a special one-stop service route when applying for a work permit or extension of visa:

- foreign executives or experts obtaining privileges under the Investment Promotion Act 1977, the Petroleum Act 1971 or the Industrial Estate Authority of Thailand Act 1979;
- researchers and developers in the fields of science and technology;

- officials of branch offices of overseas banks, foreign banking offices of overseas banks, provincial foreign banking offices of overseas banks or representative offices of foreign banks certified by the Bank of Thailand; or
- foreign nationals working for a branch of an overseas enterprise.

Any foreign national who satisfies the above criteria is able to apply for a work permit or extension of visa at a one-stop service centre, for which the entire process takes just three hours to complete.

In addition, in 2018, the Thai government launched the SMART Visa programme, which allows foreigners and their dependants to stay and work in Thailand on special conditions. The following foreigners are qualified to obtain a SMART visa subject to the specific qualifications prescribed by the BOI:

- talented or highly skilled experts;
- senior executives;
- investors; and
- start-up individuals.

Qualifications are verified by designated agencies or government entities. Individuals who are granted a SMART visa are not required to apply for a work permit to work in the endorsed positions or companies.

Ancestry and descent

19 | Is there a special route for foreign nationals based on ancestry or descent?

No.

Minimum salary

20 | Is there a minimum salary requirement for the main categories for company transfers?

Yes. This depends on the nationality and the country of origin of the transferred foreign national. The specified minimum salaries of each nationality and country of origin are as follows:

- 50,000 baht per month for foreign nationals from Australia, Canada, the EU, Japan and the United States;
- 45,000 baht per month for foreign nationals from Hong Kong, Korea, Singapore and Taiwan;
- 35,000 baht per month for foreign nationals from Asian countries (except Cambodia, Hong Kong, Korea, Laos, Myanmar, Singapore, Taiwan and Vietnam), Central America, Eastern Europe, Mexico, Russia, South Africa and South America; and
- 25,000 baht per month for foreign nationals from all African countries (except South Africa), Cambodia, Laos, Myanmar and Vietnam.

Resident labour market test

21 | Is there a quota system or resident labour market test?

Under Thai law, work permit issuance must always be in the interests of national security or in consideration of either employment opportunities for Thais or demand for foreign labour as necessary for the development of the country. To meet such criteria, the law specifies qualifications for both foreign nationals and persons who wish to have foreign nationals work in Thailand, which the authorities must always follow when considering work permit issuance.

Generally, the law prohibits foreign nationals from engaging in occupations reserved for Thai people. Any company that wishes to hire a foreign worker must have a paid-up registered capital of a minimum of 2 million baht in the case of a Thai-registered company, or, in the case of a foreign company operating a business in Thailand, inject funds into

Thailand of not less than 3 million baht, and maintain a minimum ratio of four Thais for every foreign worker.

For Thai companies, an additional foreign worker may be hired for every capital increase of 2 million baht, subject always to the condition that the minimum ratio of Thais to foreign workers is met. In every case, the reason for not hiring a Thai person must be specified.

However, in certain cases, exemptions apply that allow employers to hire foreign workers as appropriate and necessary. For instance, foreign workers may be hired for a special project to perform work that requires specific expertise, which has an exact end date. In addition, if an employer has been granted an investment certificate under investment promotion law, then such employer may enjoy the privilege of hiring foreign employees at a ratio greater than the 4:1 minimum of Thais to foreigners.

Shortage occupations

22 | Is there a special route for shortage occupations?

No.

Other eligibility requirements

23 | Are there any other main eligibility requirements to qualify for work permission in your jurisdiction?

There are no other main eligibility requirements to qualify for permission to work in Thailand. However, the foreign national must still demonstrate the knowledge and skills that are required to perform the work stated in his or her work permit application. Copies of educational certificates (or determination forms duly filled out, if there are no educational certificates), as well as copies of professional or occupational licences (if the work is prescribed by law), must be submitted together with the foreign national's work permit application.

Third-party contractors

24 | What is the process for third-party contractors to obtain work permission?

There is no process for any third-party contractor to obtain work permission on behalf of another company in Thailand. The foreign national is only permitted to perform work at the location specified on his or her work permit.

Recognition of foreign qualifications

25 | Is an equivalency assessment or recognition of skills and qualifications required to obtain immigration permission?

The foreign national must possess the requisite knowledge and skills to perform the work stated in his or her work permit application. Such foreign national is required to submit his or her educational certificates and professional or occupational licences (if any) as evidence. An equivalency assessment is not required.

EXTENSIONS AND VARIATIONS

Short-term to long-term status

26 | Can a short-term visa be converted in-country into longer-term authorisations? If so, what is the process?

Yes. Foreign nationals entering Thailand on a tourist or transit visa can apply to convert such tourist or transit visa into a non-immigrant visa. The relevant application form (and other required documents) must be submitted to an authorised immigration office in Thailand. The application must be submitted 15 days before the existing visa expires. A foreign national holding an expired visa cannot apply for visa conversion. If the

application has been correctly submitted but the responsible officer is of the opinion that the visa conversion process cannot be completed before the expiry date of the existing visa, then such foreign national must apply for an extension of stay.

Long-term extension

27 | Can long-term immigration permission be extended?

Yes. Extensions of stay are granted based on necessity and on the reason provided in the foreign national's application. The actual length of the extension of stay is at the discretion of the immigration authorities. In any case, extensions of stay shall not exceed one year.

Foreign nationals who wish to extend their stay in Thailand must apply for an extension of stay at the relevant immigration office within 30 days of the date of expiry of their current visa. The law does not specify how many times a foreign national may apply for an extension of stay, as approval is at the discretion of the immigration authorities.

If a foreign national holds a one-year non-immigrant visa, he or she is permitted to stay in Thailand for 90 consecutive days, after which, the foreign national must either report his or her current address to the local immigration office or leave Thailand before the 90-day period lapses.

Exit and re-entry

28 | What are the rules on and implications of exit and re-entry for work permits?

If the holder of a single-entry non-immigrant visa wishes to exit and re-enter Thailand, then he or she must apply for a re-entry permit; otherwise, the existing single-entry non-immigrant visa will expire and the work permit will not be effective (work permit validity depends on the holder's non-immigrant visa). Consequently, the foreign national will have to go through the entire visa and work permit application process again.

An application for a re-entry permit may be submitted to the local immigration office or to the immigration authorities at any Thai international airport before leaving Thailand. There are two types of re-entry permit: single re-entry permits and multiple re-entry permits. A single re-entry permit allows the foreign national to leave Thailand and return on the same visa one time only. A multiple re-entry permit allows the foreign national to leave Thailand and return as many times as he or she wishes, without having to apply for a re-entry permit, according to the validity of the existing visa.

Permanent residency and citizenship

29 | How can immigrants qualify for permanent residency or citizenship?

Foreign nationals who wish to take up permanent residence in Thailand must receive authorisation from the Immigration Commission and the approval of the Ministry of Interior. Foreign nationals who are eligible to apply for a Thai residence certificate must:

- hold a non-immigrant visa and have been granted yearly permission to stay in Thailand for at least three years in total;
- pass the relevant background checks;
- present evidence of assets, education, income, professional qualifications or family status with a Thai national, depending on the application; and
- be able to communicate in and understand the Thai language.

A Thai residence certificate allows the foreign national to live permanently in Thailand without needing to reapply for an extension of stay every year. However, a foreign national who is granted a Thai residence certificate is still obliged to report his or her current address to the local immigration office every 90 days, or may opt to leave Thailand with a re-entry permit.

Foreign nationals who have been granted a Thai residence certificate and have lived in Thailand for five years may be eligible to request Thai citizenship, if they:

- have reached legal maturity, both under Thai law and under the law of their country of origin;
- pass the relevant background checks;
- have a certain level of income and present evidence that they have paid Thai income tax for at least three years, or present evidence that they have paid a certain amount of Thai income tax;
- are able to communicate in and understand the Thai language; and
- are able to sing the Thai national anthem and the King's song.

End of employment

30 | Must immigration permission be cancelled at the end of employment in your jurisdiction?

Any foreign national whose employment ends, or whose employer changes, or any other cause resulting in a change to the reason of stay as specified in the original application, is required to inform the authorities at the immigration office where he or she applied for his or her non-immigrant visa. The employer must notify the registrar of the Department of Employment within 15 days of the end of the foreign national's employment. The non-immigrant visa of the foreign national (and the work permit granted according to such visa) expires automatically upon termination of employment, and the foreign national is required by law to leave Thailand on the same day. It is the foreign national's sole responsibility to apply for a seven-day extension of stay (counting from the date of termination), should additional time be required to arrange for repatriation.

Under Thai law, employment ends upon the expiry or termination of employment whether by redundancy or resignation. Any relocation of employment is also considered as a termination of employment. If the employment of the foreign national is not terminated but there are changes to the foreign national's employment conditions (such as to the location of the place of work or the work to be performed), then the employer must apply for an amendment of the foreign national's work permit to reflect such change.

Employee restrictions

31 | Are there any specific restrictions on a holder of employment permission?

The holder of employment permission in Thailand may not perform work for any employer or at any location other than that specified on his or her work permit. The holder of employment permission may be promoted and receive incremental increases in salary; however, if such promotion results in a change to the actual nature of his or her work, the authorities must be notified so that it may be reflected on the work permit.

DEPENDANTS

Eligibility

32 | Who qualifies as a dependant?

Dependants of persons entitled to stay in Thailand are as follows:

- spouse of a Thai citizen;
- spouse of a foreign citizen permitted to stay in Thailand whether on a Thai residence certificate or a non-immigrant visa;
- single children of no more than 20 years of age, or more than 20 years of age if parental support is considered to be necessary; and
- parents.

Under Thai law, the classification of 'spouse' does not include civil or cohabitation partners; only factual and legal marriages are considered to be established partnerships under the law in Thailand.

Conditions and restrictions

33 | Are dependants automatically allowed to work or attend school?

Dependants must also apply for permission to stay either on a Thai residence certificate or a non-immigrant visa or as a dependant of a foreign national entitled to stay in Thailand. If they wish to work in Thailand, they must apply for a work permit.

If children seek permission to stay long-term in Thailand to study, they must apply for a Thai residence certificate or a non-immigrant visa.

Access to social benefits

34 | What social benefits are dependants entitled to?

Dependants residing in Thailand are not entitled to any social benefits per se; however, if they are entitled to work, they are eligible for the minimum benefits and welfare that are provided under Thai labour laws (ie, social security, workmen's compensation, etc).

OTHER REQUIREMENTS, RESTRICTIONS AND PENALTIES

Criminal convictions

35 | Are prior criminal convictions a barrier to obtaining immigration permission?

Any foreign national having been imprisoned by judgment of a Thai court or by judgment of a foreign court or by lawful injunction (excluding punishments for petty offences or offences committed through negligence) are prohibited from entering Thailand. The results of criminal record checks are sometimes required to be submitted together with visa and work permit applications.

Penalties for non-compliance

36 | What are the penalties for companies and individuals for non-compliance with immigration law? How are these applied in practice?

Criminal penalties are incurred by companies and individuals as a result of non-compliance with Thai immigration and labour law, depending on the type of non-compliance. Criminal penalties that may be incurred are as follows:

- foreign nationals who engage in work without a work permit are liable to a fine ranging from 5,000 to 50,000 baht;
- employers or foreign nationals who fail to notify the authorities of the employment, workplace and nature of the work within 15 days of the date that the employment commences, and each time there is any change in the employment, are subject to a maximum fine of 20,000 baht;
- foreign nationals who do not have their work permit with them while working are liable to a fine of up to 5,000 baht; and
- any company that employs a foreign national without a work permit is liable to a fine ranging from 10,000 to 100,000 baht for each foreign worker. Repeat offenders are subject to imprisonment for a term not exceeding one year, or to a fine ranging from 50,000 to 200,000 baht for each foreign worker, or to both. The employer shall also be prohibited from employing any foreign worker for a period of three years from the date of the final court judgment.



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Language requirements

37 | Are there any minimum language requirements for migrants?

Migrants who wish to take up residency in Thailand or apply for Thai citizenship must be able to communicate and understand the Thai language. The test is by oral examination in the form of an interview with the authorities.

Medical screening

38 | Is medical screening required to obtain immigration permission?

Foreign nationals who are deemed to be of unsound mind or who have the following communicable diseases are prohibited from entering or taking up residence in Thailand:

- leprosy;
- tuberculosis;
- drug addiction;
- alcoholism;
- elephantiasis; and
- tertiary syphilis.

In addition, foreign nationals who have not been, or who refuse to be, vaccinated against smallpox or any other disease are also prohibited from entering Thailand.

Secondment

39 | Is there a specific procedure for employees on secondment to a client site in your jurisdiction?

Foreign nationals who are employed in Thailand may only perform work at the location specified on their work permit. If the foreign national is required to perform work at another location (ie, on a client's site), then such location must be specified on the foreign national's work permit. If the client's site is not specified on the work permit, the employer can later apply to add the client's site as an additional workplace of the foreign national.

UPDATE AND TRENDS**Key developments of the past year**

40 | Are there any emerging trends or hot topics in corporate immigration regulation in your jurisdiction?

After the FWM Emergency Decree was amended to reduce the administrative burden of the previous application process on employers and foreign employees, it received less criticism than the previous system and is now seen as providing more realistic measures to enforce the applicable law. With the goal of enhancing the economy, as well as the development of Thailand's targeted industries, the new one-stop service route was designed to streamline and accelerate applications for visa and work permission for highly skilled workers in these targeted industries. This programme smooths the path for such workers to stay and work in Thailand under specific conditions, with a more favourable application route than the general route.

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