

## Emergency Decree on Foreigner Employment Administration Comes into Force

The Emergency Decree on Foreigner Employment Administration B.E. 2560 (A.D. 2017) (the “**Emergency Decree**”) was issued on 17<sup>th</sup> June 2017 and was published in the Royal Gazette on 22<sup>nd</sup> June 2017 and came into force on and from **23<sup>rd</sup> June 2017**. It repealed the Foreigner Employment Act B.E. 2551 (A.D. 2008) and the Emergency Decree on Bringing Foreigners to Work in the Kingdom B.E. 2559 (A.D. 2016). Its main objective is to have clear and complete requirements and procedures for protection of foreign employees and to create labor, economic and social security on an urgent basis. It establishes the Committee on Foreigner Employment Administration Policy consisting of 20 members from the public sector and 8 members from the private sector. The Committee has power and duty to prepare policies and strategies for administration of foreigner employment and supervise their implementation.

The Emergency Decree also establishes the Foreigner Employment Administration Fund. The official fees received under the Emergency Decree and other assets of the Fund are not included in the State revenues. The Fund must use its money mainly for helping foreign workers whose rights are violated under the labour law, for sending them back to their home countries and for supporting projects or work plans related to employment administration, welfares, education, public health and protection of foreign workers.

The employer who wants to hire a foreigner must obtain permission from the Department of Employment and place a guarantee. If the employer terminates employment of a foreign worker or if he resigns or if his employment contract expires, the employer must arrange for him to return to his home country within 7 days and send a report to the Department of Employment within 7 days.

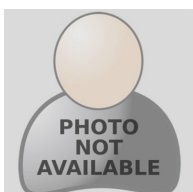
One of most controversial issues under the Emergency Decree is the harsh penalties, imposed on the employer and the foreigner, such as a fine of THB400,000 to THB800,000 against the employer for hiring a foreigner without a work permit and imprisonment up to 5 years and/or a fine up to THB100,000 against a foreigner for working without a work permit.

In response to the heavy criticism from the public and the exodus of over 30,000 foreign workers leaving Thailand within a week after 23<sup>rd</sup> June 2017, on 4<sup>th</sup> July 2017, the National Council for Peace and Order (the “**NCPO**”) issued its Order No. 33/2560 to defer the enforcement of Sections 101, 102, 119 and 122 of the Emergency Decree and they will not be enforced until 1<sup>st</sup> January 2018. The Order is effective retroactively from 23<sup>rd</sup> June 2017.

### AUTHOR



**Kowit Somwaiya**  
Managing Partner | **Bangkok**  
kowit.somwaiya@lawplusltd.com



- | **Bangkok**

LawPlus Ltd.  
Unit 1401, 14th Floor, Abdulrahim Place 990  
Rama IV Road, Bangkok 10500, Thailand  
Tel: +662 636 0662  
Fax: +662 636 0663

LawPlus Myanmar Ltd.  
Unit No. 520, 5th Floor, Hledan Centre  
Corner of Pyay Road and Hledan Road, Kamayut Township,  
Yangon, Myanmar  
Tel: +95 (0)92 6111 7006  
and +95 (0)92 6098 9752