

# **Thailand revises definition of “*work*” for foreigners; 90 day residence reporting to be permitted online**

*by*

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*Background:* All foreigners who desire to work in Thailand must hold a valid work permit to authorize their employment by a named employer, to carry out specified duties. This is except for accredited diplomats, and those employed by the United Nations and associated agencies. The principal statute in this area is the Foreign Employment Act of 2008. The Act defines “*work*” very widely – it is engaging in mental or physical effort, paid or unpaid. A regulation issued under the Act sets out 39 categories of employment prohibited to foreigners. In general, a work permit may be issued for one year renewable. A work permit may be issued for two years renewable, where the employer has Board of Investment sponsorship. As an alternative to the one year/two year work permit procedure, an application can be made to the Ministry of Labour for a 15 day exemption from the requirement to obtain a work permit, to enter Thailand to perform “*urgent and necessary work*.” Such application still requires the submission of certain documents to the MOL, and is considered on a case-by-case basis.

All foreigners present in Thailand must report to the Immigration Bureau every 90 days to confirm their current address. This rule does not apply to those who hold Residence Permits. The 90 days is backdated to the date of last entry into Thailand. Currently, reporting may be done in person, or by post. In default, a fine is payable.

*Certain activities to be no longer considered “work”:* On 6 March 2015, the Department of Employment issued an announcement declaring that certain activities would no longer be classified as “*work*”, and therefore not requiring the issue of a work permit. The categories are as follows:

1. Attending a meeting or seminar
2. Attending an exhibition or trade fair
3. Visiting a business or engaging in business negotiations
4. Attending special or academic lectures
5. Attending technical training or seminars
6. Purchase of goods at a trade fair
7. Attending a meeting of directors of his/her own company

*90 day reporting to be permitted online:* The Immigration Bureau has set up and is in the process of testing a designated website, to which 90 day online reporting of current address by foreigners may be made. At present it is not fully clear how this will operate. Further details are awaited.

*Comment:* The removal from the definition of “*work*” of certain activities that will in future no require the issue of a work permit, is to be welcomed. Note that the regulation does not go as far as some may argue that it could have done. For example, attending a shareholders’ meeting, or speaking at a conference, would still be treated as “*work*” and require the possession of a work permit or a 15 day exemption. A foreign-resident condominium unit owner attending a meeting

of the Condominium Juristic Person, may be deemed to be engaging in “work.” But the changes are a welcome move in the right direction.

As to 90 day reporting of address, the practical inconvenience of this is something that has been commented on by organisations representing foreign businesses. It would be far easier for foreigners to have a duty to report a change of address within 90 days of its occurrence, rather than having to report every 90 days. Nevertheless, a change to an online reporting system would be more convenient, and is to be welcomed.

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