

WORK PERMIT AND VISA ISSUES – ENABLING COMPETITIVENESS IN THE ECONOMY & BUILDING FOR THE FUTURE – SUMMARY OF KEY POINTS

The JFCCT has long recommended that major revisions should be made to the system of Work Permits and Visas, to recognise the objectives of:

- i) Ease of doing business.
- ii) Building capacity in the Thai economy through re-skilling, transfer of know-how and better to support overall economic competitiveness.
- iii) Moving towards being a knowledge-based economy, supporting a digital economy and key policies such as IHQ/ITC.
- iv) Supporting the development and enhancement of the services sector in general

The current legal, regulatory and administrative regimes have some policies and procedures which are hard to comply with, and appear out-dated, or where the real objectives are not clear.

Reference documents:

- (i) JFCCT letter dated 16 July 2014 Work Permit and Visa issues which has more detail.



WORK PERMIT VISA
- 16 July 2014-signe

or download at [JFCCT-Work Permit Visa](#)

- (ii) Modifications to Interpretation ‘work’ in seven specific examples – Depart of Employment announcement 6 March 2015 (see left hand side of table below).

1. A new business visa

(a) The definition of ‘work’ too broad and is based on inappropriate principles.

Whether a work permit (or WP-10) is required depends on whether ‘work’ is being done. Trying to support business engagement based on nebulous principles and definitions which produce grey areas and artificial distinctions is time consuming and costly. Interpretation principles currently used are:

- 1. If physical effort or knowledge is required in order to complete such activity/task
- 2. If it has little or no effect on the labor market in Thailand.

‘Expanded’	But what about?
i. Attendance at meetings, gatherings of information or seminars	Giving a paper, chairing a session?
ii. Attendance at exhibitions or trade exhibitions	Exhibiting, selling an item?
iii. Visit at business operations or attendance at business meetings	Presenting a paper or report, chairing?
iv. Participation to listen to special lectures and academic lectures	Chairing a session, giving part of a lecture; being on a panel? Speaking at length from the floor?
v. Participation to listen to lectures in any technical trainings and seminars	Chairing a session, giving part of a lecture?
vi. Purchasing of goods at trade exhibitions	Selling goods?
vii. Attendance at the alien company’s board meeting	Chairing, presenting a paper or report? Does the company have to have IHQ/ROH/ITC status? Does that make a difference?
Other – eg Data Centre work	Seems beyond scope of this announcement



Instead of relying on these definitions which have had re-interpretations, a broad business visa will meet the requirements (see below).

(b) Abolish the WP-10.

Where 'urgent and necessary' work is to be done, a WP-10 is needed for less than 15 day contexts. An immediate step (for less than 15 day contexts) would be to exempt all activities currently in the WP-10 list from the requirement to have a WP-10. As part of the overall proposal, abolishing the WP-10 is recommended.

(c) A simple **Business Visa** allowing at least 30 days for any business activity, such a Visa can be issued on arrival –VoA (in addition to availability at Thai missions abroad and on-line) and without cumbersome procedures. This would not support local employment but would allow for a wide range of business activities, including all kinds of activities at meetings, seminars, trade fairs and explorations. A Business Visa should not require a separate Work Permit for the range of business purposes proposed.

These changes require change to legislation (ie amend the law), not just re-interpretations.

4. Location of Work; 90 Day Reporting

(a) Location

A Work Permit should not be location based; the nature of how business is conducted generally has changed since that requirement was originally introduced. Location be removed as a component of the job description.

(b) 90 day reporting.

In our recommendation, only a change of residential or business address should need reporting, within say 30 days of the change and that time-based reporting should be abolished. A downloadable app as well as a good on-line system are needed.

2. Distinguishing between unskilled and skilled labour – major review?

As with other middle income and higher income economies, reliance on cheap foreign labour has had the effect that many citizens do not want to do certain tasks, and as a result, productivity and innovation are not necessarily being enhanced in the economy. Forcing less reliance on unskilled labour does not seem to be the answer. There is scope for a dual regime of different kinds of work passes. We seek an understanding of status of policy development.

3. Staff ratios and registered capital requirement

We seek a status update on harmonisation of Immigration Bureau policies with criteria used by the DoE.

<i>Immigration Office</i>	<i>DoE</i>
Registered capital of THB 2 m need for a one year extension	Registered capital of THB 2 m is needed for issuing 1 Work Permit.
Rep offices of international businesses, regional offices and MNC branch offices are exempt from the registered capital requirement and are allowed 1:1 Thai:Foreign ratio	Such offices are exempt from the registered capital requirement, and are allowed foreign staff as necessary; DoE no longer looks at Thai:Foreign staff ratio.

(a) Other background – specific benefits.

There are also some immigration promotions linked to amount invested.

<i>Immigration Office</i>	<i>DoE</i>
No less than 3 million baht of investment money transferred into Thailand is required to grant a one year extension of stay in Thailand (evidence of money transfer must be shown)	A company starting before 30 October 2002 that does not have evidence of more than a 3 million baht money transfer is required to show a bank statement dated in the past 6 months that has no less than 3 million baht of working capital

The amount of capital or amount invested should not be the basis for the ability to hire foreigners. Many companies do not need high paid-up capital. Service sector industries (a sector needing promotion) are generally not capital intensive and may not have high opex at least initially. Expenditure hurdles are an issue in the services sector.

5. Harmonised Validity between Work Permits and Visas

Wherever possible, unless there is a compelling reason for exceptional treatment, a Visa and Work Permit (where one is necessary) should expire at the same date and be of the same period. Currently there are situations of two-year Work Permits but one year Visas.



Joint Foreign Chambers of Commerce in Thailand

6. Chamber permits

One key role of chamber staff is to help promote trade and investment into and with Thailand. Currently, the Executive Directors of foreign chambers of commerce can obtain their work permit at the BOI Chamchuri Square center (one year only, this used to be 2 years). Other staff can get 1 year work permits but they need to apply for a 3-month visa O every 3 months because chambers of commerce are classified as NGOs. While this is correct technically, a new classification as “BOI partners” or “foreign investment partners” could make the situation much easier with two year work permit and 2 year non immigrant-B visa for all chamber staff..

7. Residency Permits

We recommend that these include an inherent general Work Permit or exempt the requirement for a work permit.

12 November 2015 (base document 16 July 2014)