

Newsletter No 11

90 Days Reporting for Foreigner

May 2009

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Overview

In case that a foreigner stays in Thailand for a longer period than 90 days, he or his representative has to send a written notice to the Immigration Bureau upon completion of every 90 days period to inform the authority about his place of stay according to the Immigration Act B.E. 2522 (1997) Section 37(5).

“Section 37(5): If the foreigner stays in the Kingdom longer than 90 days, such foreigner must notify the competent official at the immigration Division, in writing concerning his place of stay, as soon as possible upon expiration of 90 days. The foreigner is required to do so every 90 days. Where there is an Immigration Office, the foreigner may notify a competent Immigration Official of that office.”

The foreigner or his representative can inform the Immigration Bureau 7 days before or after the exact date. If he fails to report in time, he has to report by himself and he will be subject to a fine not exceeding Baht 5,000 and a daily fine not exceeding Baht 200 until complete rectification according to Section 76.

“Section 76: Any foreigner failing to comply with Section 37(2), (3), (4) or (5) shall be liable to a fine not exceeding Baht 5,000 and a daily fine of not exceeding Baht 200 until complete rectification.”

However, in practice, the actual fine will be Baht 2,000 if the he reports by himself. In case he is being caught while trying to leave the Kingdom the fine will be Baht 4,000.

Furthermore, given the safety of foreigners from every countries and the safety of the Kingdom, the Immigration Act provides the following regulations governing the stay of foreigners:

1. The foreigner shall stay at the place reported to the immigration authority, except where it is with a reasonable cause, not possible to stay at the said place, in which

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case the change of the place of stay must be reported to the immigration authority within 24 hours from the time of moving, according to Section 37 (2):

“Section 37 (2): Shall stay at the place as indicated to the competent official. Where there is proper reason that he cannot stay at the place as indicated to the competent official, he shall notify the competent official of the change resident, within 24 hours from the time of removing to said place.”

2. If the foreigner changes his place of stay he has to report to the police authority at the police station of the locality in which he stays within 24 hours from the time of removal. He has to report to new police station of the locality of stay, if that place is not located in the area of the same police department as the former one within 24 hours from the time of arrival according to Section 37 (3):

“Section 37(3): Shall notify the Police official of the local police station where such foreigner resides, within 24 hours from the time of removal. In the case of a change in residence in which new residence is not located the same area with the police station for that area within 24hours from the time of arrival.”

3. In case the foreigner travels to any other province and will stay longer than 24 hours, he shall report to the police authority at the police station of that locality within 48 hours from the time of arrival according to Section 37 (4).

“Section 37(4): If the foreigner travels to any province and will stay there longer than 24 hours, such foreigner must notify the police official of the police station for that area within 48 hours from the time of arrival.”

NOTE: However, there is the Police Department Regulations effective since May 30, 1979 stating an exemption for reporting according to Section 37 (3) and (4). This exemption is effected toward foreigners who receives permission to stay temporarily under certain purposes of stay as follows:

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- (a) Diplomatic or consular mission.
 - (b) Official duties
 - (c) Tourism**
 - (d) Sports
 - (e) Business
 - (f) Investment, which has been approved by the ministries or departments concerned.
 - (g) Investment or other affairs connected with an investment under the law governing investment promotion.
 - (h) Traveling through Thailand to another country.
 - (i) Crewmembers.
 - (j) Study or observation
 - (k) Scientific research or teaching in a research or educational institution in the Kingdom.
 - (l) Performance of skilled or expert work.
4. The householder, owner or possessor of the place or the manager of the hotel must report to the immigration authority of the immigration office situated in the locality in which the house or hotel is situated within 24 hours from the time the said foreigner moves in according to Section 38.

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“Section 38: The house-master, the owner or the possessor of the residence or the hotel manager where the foreigner, receiving permission to stay temporarily in the Kingdom has stayed, must notify the competent official of the Immigration Office located in the same area with that house, dwelling place or hotel, within 24 hours from the time of arrival of the foreigner concerned. If there is no Immigration Office located in that area, the local official for that area must be notified.”

If the host does not report to the officer in the said period, he will be liable to a fine of Baht 4,000, even though the law states in Section 77 that he shall be liable to a fine not exceeding Baht 2,000, or if the said person is the manager of the hotel he shall be liable to a fine ranging from Baht 2,000 to Baht 10,000.

“Section 77: Whoever fails to comply with Section 38, shall be liable to a fine not exceeding Baht 2,000, but if the said person is the manager of the hotel he shall be liable to a fine ranging from Baht 2,000 to Baht 10,000.”

Conclusion

The Act as of today is still not yet amended. The Press Release is an announcement stating that there were some considerations, concerns and efforts. The proposed amendment is not the law, therefore unenforceable.

Accordingly, in any case, if you are permitted to stay in the Kingdom temporarily and stay the Kingdom longer than 90 days, you have to report to the Immigration Bureau for each and every 90 days period.

Moreover, if you stay at the place differ from the place you inform the Immigration Bureau (the address you write in the Custom Card submitted to Immigration Officer

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upon your arrival), the law states that you should also report to the Immigration Bureau.

Regarding the later changes of place of stay (changing place or travel to other provinces) if you qualify for an exemption (i.e. tourism, business, investment, investment under the law governing investment promotion, etc.), you do not need to report your current place of stay to local police official.

As it seems, the reporting regulations put lots of burden to the foreigners. Despite the fact that the Immigration Bureau is acting quite seriously on 90 days reporting regulation, other regulations mentioned above should not be overlooked since they are still effective. However, in case of emergency and other necessary purposes, it might be helpful if the Immigration Bureau has the foreigner's contact information.

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Attachment: 1

Translation of the Immigration Bureau Press Release Regarding the 90 days reporting to the Immigration Bureau On October 30th, 1998 at 15:00 p.m.

Since the announcement of the Penalty Committee of the Immigration regarding the adjustment of the Penalty fee for any person who is at fault according to the immigration Act 37(2),(3),(4)and (5), in case where foreigner does not report to the place, and time according to the law, they will be subject to fine of :

- (a) Bakt 2,000 if he personally reports to the authority (Bakt 1,000 was the previous rate)*
- (b) Bakt 4,000 and daily fine of Bath 200 for each day the exceeding time limit if he is caught by the authorities (the old rate was Bakt 2,000 and daily fine of Bakt 100)*

This announcement is effective as of October 1,1998.

Before this announcement was made, the BOI organised a seminar for foreigners who are doing business or residing in Thailand. During this seminar, the representative of the immigration Bureau made the announcement to all the participants. Since then there have been many foreigners reporting to the Immigration Bureau. Some of the foreign communities are able to comply with the law but a majority still cannot

Therefore some of them were fined at the new rate and this caused a lot of dissatisfaction among the foreigners who blamed the Immigration Bureau for not notifying them before hand. However, in reality, this Act has been enforced by the bureau since the date it promulgated as an Act. In addition the foreigners should know this law already since there is a warning written on the Arrival/Departure Card that everybody has in their passport. (Note number 5 of the TMG).

However, there is certain number of foreigners, investors who are residing in Thailand confused by this Act. They have made many inquiries to several places regarding the enforcement of this Act. The Deputy secretary of the Broad of Trade, the Japanese Chamber of Commerce, the Taiwanese Business Community and Canadian Chamber of Commerce arranged a meeting with the General Commissioner of the Immigration Bureau for the purpose of clarification.

General Commissioner of the Immigration has been notified of the matter and would like to clarify as follows :

- 1. The Immigration Bureau understands the problem foreigners have regarding this Act and would like to reduce the problem by taking the following actions:*

The Immigration Bureau has already written an urgent memo to the Penalty Committee requesting the reduction of the fine so that the one who does not report will not have to be subjected to such a huge amount.

Supply the new rules for reporting to the Immigration so that it will not be so much of a burden for the foreigner and at the same time compromising the security of the country. The Immigration has submitted the following regulations

Foreigners residing in Thailand more than one year have to report once a year. This is a change from the previous 90 days counting from the date that the foreigner arrives in Thailand.

If any foreigner change his/her address they should report to the Immigration the new address within 72 hours counting from the time of moving.

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For foreigners who stay in Thailand not more than a year or within one year, it will be the duty of the owner of the condominium, apartment, guesthouse and hotel to report to the Immigration within 24 hours counting from the time of moving in.

2. *Any foreigner who complies with the law, has to report to the Immigration every 90 days.*
3. *In the case where any foreigner does not comply with the law, they should wait for the agreement between the Immigration Bureau and its Penalty Committee. The Immigration Bureau has already submitted its suggestion for changes in this Act for the new revised amount of fine as an urgent matter and it should be corrected as soon as possible. However, the office in charge of this matter cannot use his/her judgement in reducing the fine.
If you report to the Immigration officers, they will proceed according to the present amount of fine. If they don't, the officers will be neglecting their duties and charged with negligence.*

Apart from this press release, the Immigration Bureau has already explained to all the Chambers for example, Taiwanese, Japanese and Canadian to help eliminating the confusion.

If there is a case of any body try to abuse the Immigration Bureau's authority to check on any foreigners regarding this 90 days please inform the Immigration so that legal action can be done from the Immigration bureau.

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Attachment: 2

ตม. ๔๗
TM. 47

แบบการแจ้งอยู่เกินกว่า ๙๐ วัน ของบุคคลต่างด้าว

FORM FOR ALIEN TO NOTIFY OF STAYING LONGER THAN 90 DAYS

เขียนที่.....
WRITTEN AT

วันที่.....เดือน.....พ.ศ.....
DATE MONTH YEAR

เรียน พนักงานเจ้าหน้าที่ตรวจคนเข้าเมือง.....
TO: THE IMMIGRATION OFFICER

ด้วยข้าพเจ้า.....
(FULL NAME IN BLOCK LETTERS)

สัญชาติ.....ประเภทวีซ่า TOURIST
NATIONALITY VISA NON-IMM.

เดินทางเข้ามาเมื่อวันที่.....เดือน.....พ.ศ.....โดยพาหนะ.....
ENTERED THAILAND ON MONTH YEAR BY

หนังสือเดินทางเลขที่.....ตามบัตรขาเข้าเลขที่.....
PASSPORT NO. ARRIVAL CARD NO.

บัดนี้ ได้อยู่ในราชอาณาจักรไทย ครบ ๙๐ วันแล้ว และพำนักอยู่ที่.....
I HAVE NOW BEEN STAYING IN THAILAND FOR 90 DAYS AND MY PRESENT ADDRESS IS

ซอย/ถนน.....ตำบล.....อำเภอ.....
LANE/ROAD TAMBOL AMPHUR

จังหวัด.....โทรศัพท์.....
PROVINCE PHONE

ลงชื่อ.....
SIGNATURE

หมายเหตุ คนต่างด้าวต้องแจ้งกองตรวจคนเข้าเมืองทุกกระยะ ๙๐ วัน
NOTICE: ALIEN MUST NOTIFY THE IMMIGRATION OFFICE EVERY 90 DAYS

ใบรับแจ้งการอยู่เกิน ๙๐ วัน ของบุคคลต่างด้าว RECEIPT OF NOTIFICATION

สำหรับเจ้าหน้าที่ FOR OFFICIAL USE ONLY

ข้าพเจ้า.....ตำแหน่ง.....
I TITLE

ได้รับแจ้งการอยู่ในราชอาณาจักรไทยครบ ๙๐ วัน ของ.....
HAVE RECEIVED NOTIFICATION OF STAYING IN THAILAND FOR 90 DAYS FROM

สัญชาติ.....ไว้แล้ว เมื่อวันที่.....เดือน.....พ.ศ.....
NATIONALITY ON DATE MONTH YEAR

เวลา.....น.
HOUR

ลงชื่อ.....ผู้รับแจ้ง
SIGNATURE IMMIGRATION OFFICER

(๑๐๐,๐๐๐ พ. โรงพิมพ์ตำรวจ ก.พ. ๒๕๔๔)

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We hope that the information provided in this newsletter was helpful for you.

If you have any further questions please do not hesitate to contact us.

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