

Provision of Foreigner Work Permits to Foreign Employers

January 2024 LABOR UPDATE

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On 28 December 2023, the Ministry of Labour and Vocational Training (the “MLVT”) issued Instruction No. 110/23 on the provision of foreigner work permits to foreign employers (the “**Instruction**”). The Instruction aims to clarify the procedures and conditions in relation to foreigners who are employers and seek to obtain a work permit in order to comply with Labor Law and Prakas No. 195 on Employment Cards and Work Permits issued by the MLVT on 20 August 2014.

The Instruction specifies two situations in which a foreign employer must obtain a work permit:

- (1) A foreign employer whose name is specified on the company’s patent certificate; and
- (2) A foreign employee who stands for the company patent certificate or who is self-employed.

However, a foreigner who is a shareholder of and¹ a member of the Board of Directors in the Company and who does not have a visa-of-stay² in the Kingdom of Cambodia, is not required to obtain a foreigner work permit.

The application for a foreigner work permit must be submitted via the MLVT’s official website www.fwcms.mlvt.gov.kh and be accompanied by copies of the following documents:

- a. a valid passport;
- b. the latest patent certificate of the company or sole proprietorship;
- c. a certificate of physical check-up; and
- d. a 4x6 photo.

On a separate note, under Guideline No. 517 on Penalties for Owners or Directors of Factories, Enterprises and Establishments that Use Foreign Labor without a Work Permit and Employment Book issued by the MLVT on 17 January 2023, a foreigner who is working or doing any business without a valid work permit is liable to a fine of between KHR12,600,000 and KHR63,000,000 (approx. US\$3,150

¹ The Instruction refers to persons who are both shareholders and directors. In our view, a director that is not a shareholder and who does not have a “visa-of-stay” would also not be required to obtain a foreigner work permit.

² The visa-of-stay for employment or business purpose generally refer to visa type “E” or “K”.

to US\$15,750) based on the number of foreign employees without a work permit.

Should you need further information or legal support, please feel free to contact us at: info@hbslaw.asia.

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