

Employment Law and Safety at Work Booklet





About Asylum Access Thailand

Founded in 2007, Asylum Access Thailand (AAT) is a non-governmental organization and forms part of the Asylum Access family. We work to make human rights a reality for refugees. We believe all refugees deserve a fair chance at a new life.

AAT provides legal counsel and representation to refugees seeking asylum in refugee status determination proceedings conducted by the United Nations High Commissioner for Refugees (UNHCR) in Bangkok. Our clients come from over 40 different nationalities. While the majority are from Pakistan, Vietnam and Cambodia, we also see clients from Somalia, Sri Lanka, China, Afghanistan, Iraq and many other countries. To address the critical need for legal aid in dozens of languages, we train refugees as legal interpreters.

AAT also conducts collaborative community legal empowerment activities to enhance the capacity of refugees. Our activities include the management of Democratic Collective Action groups, Community-Based Social Support, and peer support to increase livelihood opportunities and delivery of Know Your Options training sessions.

AAT works in coalition with other Thai and Southeast Asian organizations, including Coalition for the Rights of Refugees and Stateless Persons (CRSP), Bangkok Asylum Seeker and Refugee Assistance Network (BASRAN) the Core Urban Refugee Network (CURN) and the Asia Pacific Refugee Rights Network (APRRN). Through these partnerships, we collectively advocate for changes in Thai law and policy that will create stronger protections for refugees and asylum seekers throughout the region.

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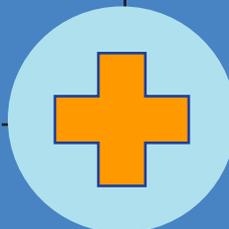
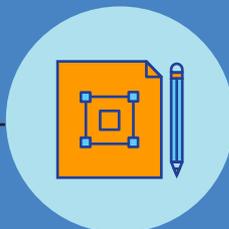


TABLE OF CONTENTS

1. Employment Law	1
1.1 Contract for services	2
1.2 Contract for work	3
2. Safety at Work	10
2.1 Construction work	11
2.2 Restaurant work	14
2.3 Garment factory work	16
2.4 Agriculture related work	17
2.5 Cleaning work	19
2.6 Other dangerous work	22

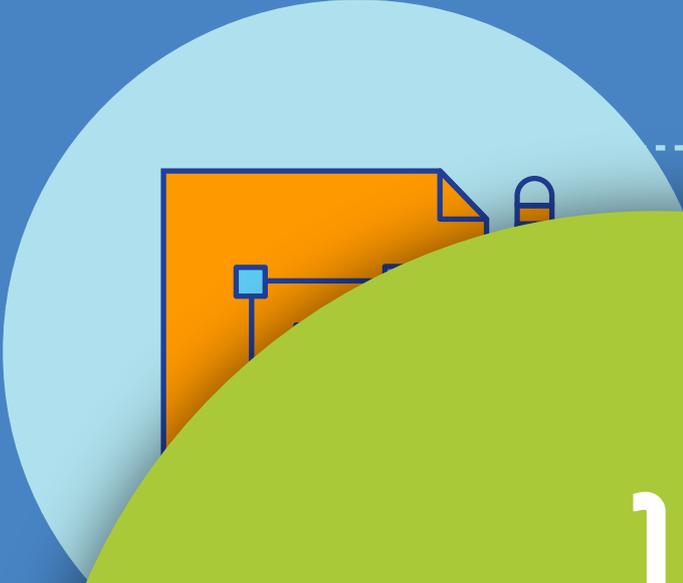
Disclaimer

This Employment Law and Safety at Work (ELS) Booklet is produced by AAT. The content of this ELS Booklet does not constitute legal advice and should not be relied upon as such. It is intended to provide general information in summary form, current at the time of publication. The information in this ELS Booklet is current as of August 2020. Information can change rapidly.

Please check directly with AAT if you have any questions.



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1

Employment LAW



Contract for services

This contract is an agreement between employer and employee to exchange services for remuneration as long as the activity is not contract to the public order or good moral. The contract can be written or verbal. Contracts for services can be for a fixed period of time or a non-definite period of time.

Example: A teacher signs a contract with a school to provide teaching class, a restaurant owner agrees to hire a waiter for 6 days a week.

Aspects of Contract for Services

Relationship

The contract for services initiates certain rights and obligations for both parties. The employee has a duty to render services while the employer has a duty to pay remuneration for such services. The remuneration has to be paid in a fixed period i.e. daily, weekly, monthly, or at the time of service.

Purpose

This type of contract is subject to the command of the employer who may increase regulation and liability of the employee.

Wage

The wage will be paid for the service required under the contract or the agreement.

Termination of the contract

For both written and verbal contract, if the contract for services does not specify any duration, either party can terminate the contract by giving the other party a written notice before or at the date the wage payment is due, to take effect on the following wage payment due date.

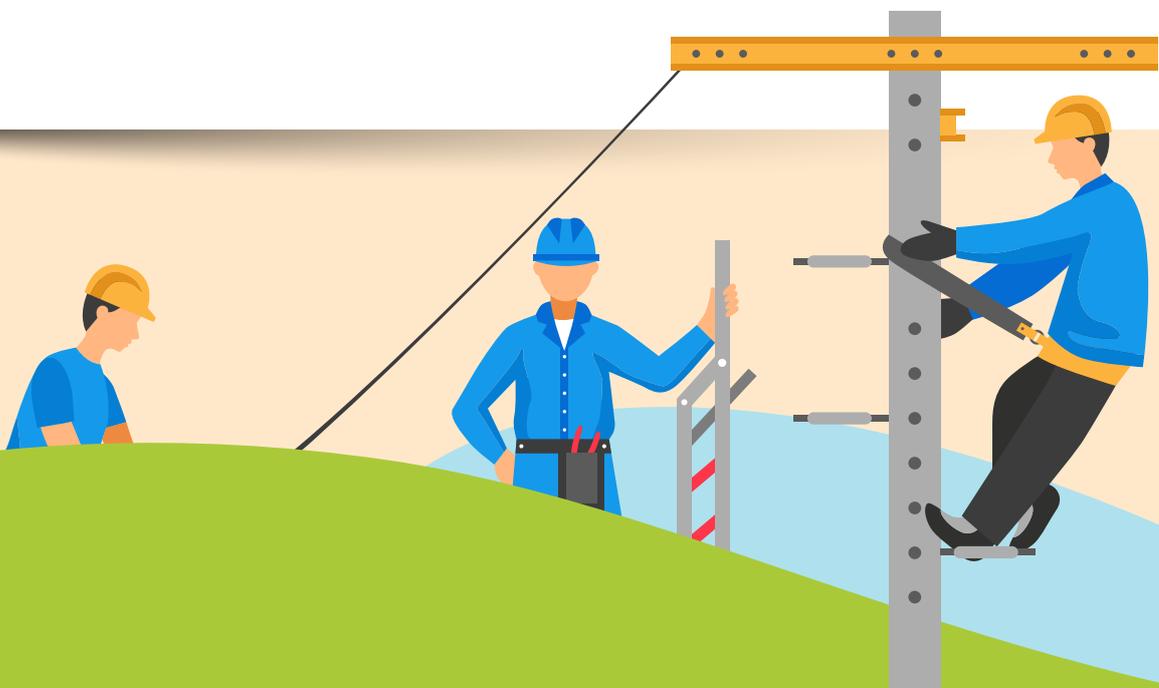
Severance pay

If the employer terminates the contract for services without the valid cause i.e. willfully causing damage to the employer, violating work rules, etc. as stipulated in the law, the employer has to provide the severance pay to the employee.

Contract for work

This is a type of contract for workers who are hired by the employer as independent contractors for specific jobs. i.e. the contract with a specific job description and time period.

Examples: packing vegetables and removing the green top of chillies.



Aspects of contract for work

Relationship

The contract for work is one whereby a service provider (perhaps an independent contractor) agrees to accomplish certain tasks for the hirer. The hirer agrees to pay the service provider for the result of the work or the deliverable. The hirer will not have authority to discipline the independent contractor.

Purpose

The contract for work would be mainly concerned with the completion of the final product or service, not the on-going process of providing services.

Level of independence

The contractor will be given with a significant degree of independence in completing tasks. The hirer may give general instructions but will not control or determine the number of working hours. So, the contractor will not be subject to disciplinary sanctions.

Wage

The service fee would be paid based on the successful results of work or service in lump sum or installments.

If the hirer does not only focus on the successful results of work but also closely manages the time and behavior of the hired despite the completion of the tasks by date and time agreed, it is possible that the relationship between employer and employee exists. This relationship is similar to the contract service to which Thai Labor Protection may apply.



Minimum Daily Wages

Even though a contract for work does not entail the same benefits with an employment contract,

“minimum wage is still something independent contractors should be entitled to”,

(Office of Labour Protection and Welfare, Area 3).



Effective January 1, 2020, the minimum wage shows in the below table.

Minimum wage	Area
336 baht (2 provinces)	Chon Buri and Phuket
335 baht (1 provinces)	Rayong
331 baht (6 provinces)	Bangkok, Nakhon Pathom, Nonthaburi, Pathum Thani, Samut Prakan and Samut Sakhon
330 baht (1 provinces)	Chachoengsao
325 baht (14 provinces)	Krabi, Khon Kaen, Chiang Mai, Trat, Nakhon Ratchasima, Ayutthaya, Phang-nga, Lop Buri, Songkhla, Saraburi, Suphan Buri, Surat Thani, Nong Khai and Ubon Ratchathani
324 baht (1 provinces)	Prachin Buri
323 baht (6 provinces)	Kalasin, Chanthaburi, Nakhon Nayok, Mukdahan, Sakhon Nakhon and Samut Songkhram
320 baht (21 provinces)	Kanchanaburi, Chainat, Nakhon Phanom, Nakhon Sawan, Nan, Bung Kan, Buri Ram, Prachuap Khiri Khan, Phatthalung, Phitsanulok, Phetchaburi, Phetchabun, Phayao, Yasothon, Roi-et, Loei, Sa Kaew, Surin, Ang Thong, Udon Thani and Uttaradit

Effective January 1, 2020, the minimum wage shows in the below table.

Minimum wage	Area
315 baht (22 provinces)	Kamphaeng Phet, Chaiyaphum, Chumphon, Chiang Rai, Trang, Tak, Nakhon Si Thammarat, Phichit, Phrae, Maha Sarakham, Mae Hong Son, Ranong, Ratchaburi, Lampang, Lamphun, Si Sa Ket, Sathun, Sing Buri, Sukhothai, Nong Bua Lamphu, Uthai Thani and Amnat Charoen
313 baht (3 provinces)	Narathiwat, Pattani and Yala

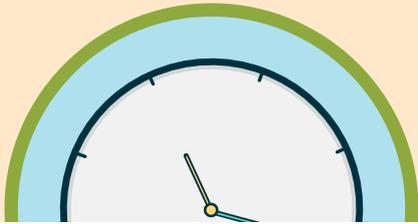
Source: Ministry of Labor (www.mol.go.th) as of January 2, 2020

Thailand's Civil and Commercial Code constitutes the following elements of contract for work:

Tools and materials:

- Tools or instruments which are necessary for the execution of the work are to be supplied by the contractor, (Section 588).
- If the materials are to be supplied by the employer, the contractor shall use them carefully and without waste. He shall return the surplus after work is completed, (Section 590).
- If the defect or the delay of the work originates from the nature of the material supplied by the hirer, or from instruction given by him, the contractor is not liable, unless the contractor gives notice of it, (Section 591).





Time of delivery

- If the work is delivered after the time fixed in the contract, or if no time was fixed, after reasonable time has elapsed, the employer is entitled to a reduction of wage or when time is of the essence of the contract to rescission, (Section 596).
- If the hirer has accepted the work without reservation, the contractor is not liable for the delay in delivery, (Section 597).
- In case of delay in delivery or of delivery of a defective work, the hirer is entitled to withhold the wage unless the contractor gives proper security, (Section 599).

Wage

- The wage is payable on taking delivery of the work. If the work is to be accepted in parts and the wage has been specified for the several parts, the wage for each part is payable at the time of its acceptance, (Section 602).
- If the materials have been supplied by the contractor, and the work is destroyed or damaged before due delivery, the contractor bears the loss provided that such loss is not caused by any act of the hirer. In such cases no wage is payable, (Section 603).
- If the materials have been supplied by the hirer and the work is destroyed or damaged before due delivery, the hirer bears the loss provided that such loss is caused by any act of the contractor. In such case, no wage is payable unless the loss is caused by any act of the hirer, (Section, 604).

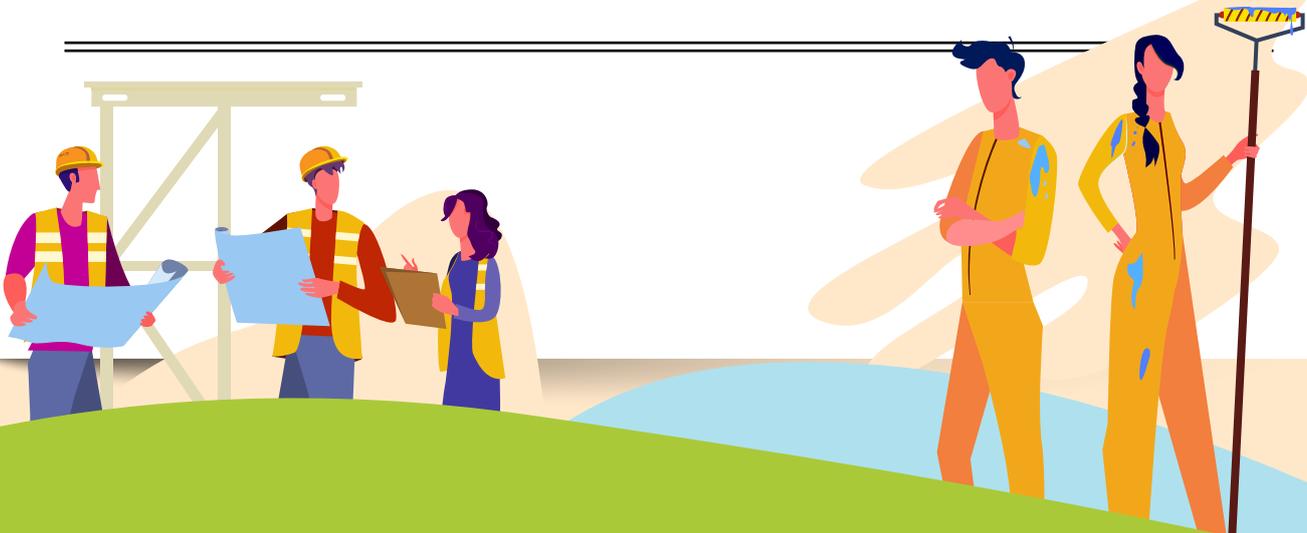


Termination of the contract for work

- As long as the work is not finished, the employer can terminate the contract on making compensation to the contractor for any injury resulting from the termination of the contract (Section 605).
 - It is important to note that the termination of the contract for work is an absolute right for the hirer. However, the hirer still needs to pay compensation to the contractor for any injury resulting from the termination of the contract.
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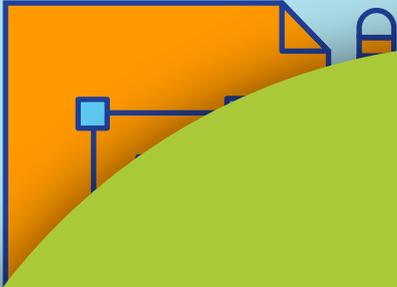
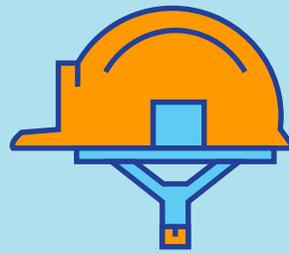
What to do if you have a dispute with your employer?

1. Try to negotiate with the employer or hirer for your rights under Thai legal system i.e. rights to the minimum wage per day.
2. If the negotiation is unsuccessful, you can seek advice from the AAT lawyer. AAT provides legal advice to the clients regarding the labour disputes both for contract for services and contract for work. Please contact the reception or paralegal for further information.
3. When reporting your case to AAT, please prepare as much information as you can i.e. name and the contact details of the employer, duration of work, place of work, relevant photo, etc.
4. In case a client reports to the lawyer about the unfair treatment for the contract for work or violation of contract for services, AAT is able to assist with negotiating with the hirer regarding wages, compensation, injury in accordance with the law.



2

Safety at Work



As Thailand does not grant the right to work for refugees and asylum seekers, refugees and asylum seekers in Thailand have limited access to fair and safe working conditions. Most of the jobs they do are considered dangerous, exploitative and in certain cases abusive. It is therefore important to promote knowledge of safety at work among refugee and asylum seekers in order to ensure their safe and decent working conditions.

Types of jobs

Construction work

According to the National Statistic Office of Thailand, the workers in construction sites face the highest risks of “major injuries and fatalities” when compared to workers in other industries. However, in most cases work-related accidents are preventable and avoidable by increasing awareness of potential risks and promoting work safety practice. Following are some practices you can follow to avoid potential work accidents.



1. How can I ensure my safety while working in the construction site?

- Create an awareness of danger and think of any activities that can be dangerous in your workplace.
- After identifying potential situations that may cause an accident, think of ways to control or prevent these situations.
- Take care of your work equipment by ensuring that your tools are well functioning. You should use the right tools for each task and keep all equipment clean and in good condition.
- Keep fingers, hands, etc, away from moving parts of the equipment.
- Wear specific personal safety equipment such as safety glasses, safety helmet, protective gloves, safety shoes or boots for heavy work and safety harness if you work at height.

2. How to protect my body at work?

Protect your eyes at work

- Use the appropriate eye protection such as goggles or glasses for work.
- Ensure that the eye protection equipment is in good conditions.



Protect your hands at work

- Ensure that machine guards are in place (cover the moving parts of the machine) and well functioning.
- Pay particular attention to moving objects or parts of the machine.
- Wear safety gloves.
- Carry the tools correctly



When using ladders

- Check the ladder conditions before using.
- Pick the right ladder for your work.
- Avoid moving ladder when surrounded by other people.

Dress properly

- Wear well-fitted clothes. Sleeves that are too long or flowing and clothes that are too loose can get caught in the machines or cause you to trip or fall.
- Wear closed-toed shoes because they can protect your toes from falling objects and protect your feet when stepping on sharp objects. Appropriate footwear can also prevent you from slipping from ladders and protect your muscles in the feet.
- Always wear a helmet to protect you from head injuries in case that there are objects falling or you slip on the floor. Wearing a helmet can increase your chances of survival in accidents.
- Those who have long hair, please tie or cover your hair.



When carrying tools...

- You should not carry tools up or down a ladder when it is difficult to firmly hold the tools.
- Tools should always be carefully handed from one employee to another, never tossed.
- Workers carrying large tools or equipment on their shoulders should pay close attention to clearances when turning and moving around the workplace.
- Pointed tools such as chisels and screwdrivers should never be carried in a worker's pocket. You had better carry them in a toolbox, pointed down in a tool belt or pocket tool pouch, or in the hand with the tip always held away from the body.
- Tools should always be kept away when not in use. Leaving tools lying around on an elevated structure such as a scaffold poses a significant risk to workers below. This risk increases in areas with heavy vibration.

Work safely with chemicals

- Carefully read the instructions before using any chemicals.
- Wear proper protective equipment.
- Always wash your hands after using chemicals. Don't touch your face or food without washing your hands after using chemicals.
- The chemical container must be tightly capped with a tight fitting lid or cap after use



Work safely with machines

- Understand the correct operating procedures and safety precautions and know the position of the stop switch.
- Ensure that the machine guards, barriers and safety devices are properly installed.
- Do not repair or clean the machine while operating.
- Those who have long hair, please tie or cover your hair. Long hair that is not secured can be extremely dangerous when it gets caught in moving machine parts. Workers can be pulled into machines, suffer from scalping and facial disfigurement.

Work safely with cranes

- The operator must be a person who is certified to work with cranes.
- Inspect the crane to ensure that it is in good working conditions.
- Think of dangers that could happen and have a plan before swing.
- Do not use cranes to transport people.
- Do not use cranes to drag or pull the load.

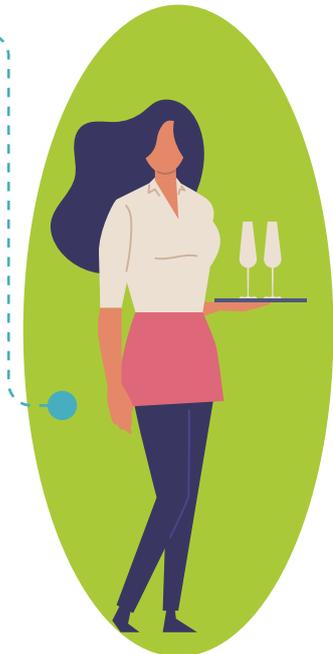
Work safely on high-rise buildings

- When working in a high-rise position, the scaffolding must be well equipped and there must be a safety belt.
- When approaching strip foundations, be aware of the trenches location. There are reports of accidents caused by collapsing of trenches in construction sites.
- Ensure to attach all equipment while working in a high area.

Restaurant work

1. How can I ensure my safety while working in the restaurant or the kitchen?

- Do not leave the stove unattended when you are frying, grilling or boiling food. If you leave the kitchen for even a short period of time, turn off the stove.
- If you are simmering, baking, roasting or boiling food, check it regularly, and use a timer to remind you that you're cooking.
- Keep anything that can catch fire — potholders, oven gloves, wooden utensils, paper or plastic bags, food packaging, towels or curtains — away from your stovetop.
- Keep the stovetop, burners and oven clean.
- Wear short, close-fitting or tightly rolled sleeves when cooking. Loose clothing can catch fire if it comes into contact with a gas flame or electric burner.



2. How can I prevent myself from tripping or falling in the kitchen?

When things are getting critical in the heat of preparing a meal, there's the temptation to leave messes for cleaning up after the meal has been prepared. But spills on the floor should be tackled immediately, lest they cause you to take a spill. It may not be convenient, but prompt attention to messes, especially ones on the floor, is the best attack.



3. How can I prevent myself from cuts or injuries while using sharp equipment?

- Always use sharp knives.
- Do not hold food in your hand while you cut it.
- Always cut on the cutting board. (Use a non-slip one, or place a damp dishtowel beneath it to prevent it from slipping.)
- Always keep fingers on top of the blade in case it slips.
- Keep knife handles free of grease or other slippery substances.
- Keep knives away from the edge of the counter to lessen the chance of being knocked off.
- Never try to catch a falling knife!
- Wash knives immediately after use. Do not leave knives in a sink of soapy water where they cannot be seen. Keep the sharp edge of the knife away from you when washing.



4. How can I protect myself from burnt or electric shock?

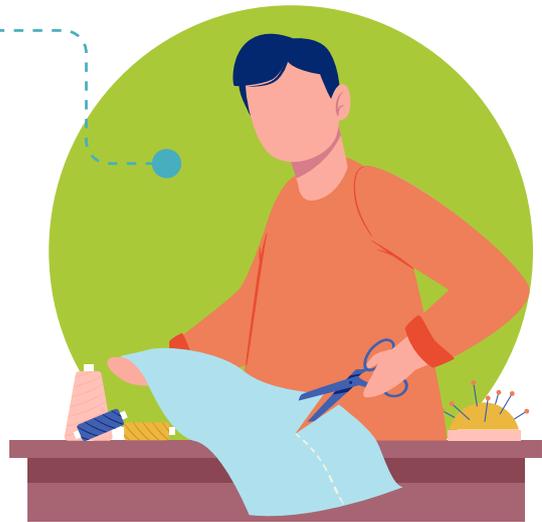
- Keep an eye out for sources of ignition and fuel
- Take extreme care when working around naked flames or electric stoves – keep flammable materials away from sources of heat.
- Check appliances and equipment cables and plugs for signs of damage. Also listen out for any unusual sounds.
- Clean up spilled chemicals immediately – use non-flammable materials to do so.

- Use electrical equipment and appliances only for their intended purpose – follow all training provided to you.
- Keep electrical appliances away from water and do not overload socket outlets.
- Never attempt to repair electrical equipment yourself.
- Turn off all electrical equipment, stoves, and ovens at the end of the work day and when cleaning.

Garment factory work

How can I ensure my safety while working in the garment factory or with sewing machines?

- Always work with the right body posture.
- Use wrist rests to avoid strain in the hand and wrist joint.
- Take short breaks from long sitting, maybe after an hour or two, to relax the strain in the back.
- While sewing, always concentrate on the machine and the task at hand.
- Turn off the sewing machine before oiling it or while changing parts.
- In the event of a cut wound, or any other injury, wounds should be cleaned and covered with a bandage.
- There should be an arrangement for proper natural lighting in the sewing area. Work stations that need more light should be moved closer to the windows.



Agriculture-related work

1. What could be dangers of working in agriculture?

- Painful muscle sprains and tears
- Slipped disc
- Exposed to dangerous chemicals including pesticide
- Agricultural equipment cuts
- Eyes irritation
- Pesticide exposure

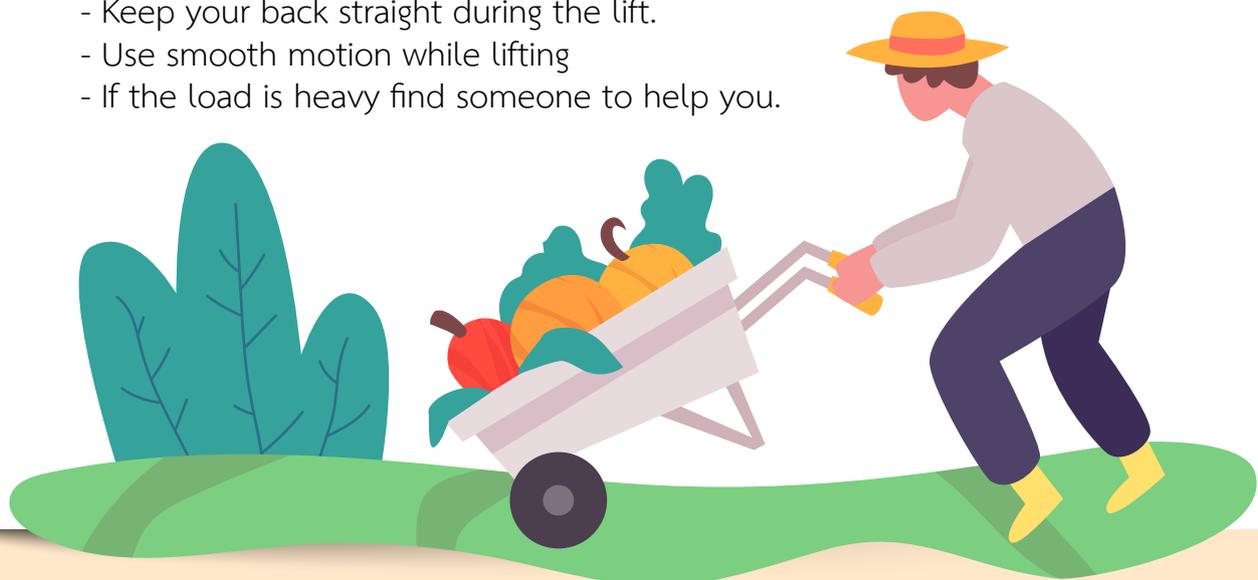


2. I have muscle pain because I often carry a heavy load. What should I do?

- Before lifting heavy loads, you should think about how heavy the load is and the direction in which the load will be carried.
- Make sure there is enough space on the load where your hands can grip on.

3. Steps you should take when carrying loads:

- Get as close to the load as possible.
- Try to keep your elbows and arms close to your body.
- Bend at the knees.
- Keep the load close and centered in front of you.
- Keep your back straight during the lift.
- Use smooth motion while lifting
- If the load is heavy find someone to help you.



4. While carrying the loads, please make sure that...

- Do not twist or turn the body
 - Move your feet to turn instead.
 - Your hips, shoulders, toes, and knees should face the same direction.
 - Keep the load as close to your body as possible with your elbows close to your sides.
 - If you feel tired, set the load down and rest for a few minutes.
 - Do not let yourself get too tired to perform proper setting down.
-

5. Follow these steps when you set down the loads:

- Bend at the knees, not the hips.
 - Keep your head up and your stomach muscles tight.
 - Do not twist your body.
 - Keep the load as close to the body as possible.
 - Wait until the load is secure to release your handhold.
-

6. How can I avoid exposure to pesticide?

- When you touch pesticide-contaminated vegetables or fruits, your hands can be contaminated. If you do not wash your hands and touch food, you might consume pesticide which is very harmful to your health and dangerous for your body.



7. As I work at home, my children sometimes enter my workspace. How can I create safe space for them?

- Set boundaries and limits for their play areas.
- Assess risks for your children.
- Determine what draws children to dangerous situations.
- Set up appropriate rules for children.
- Their play areas should be free of broken or unsafe equipment, power sockets, etc.
- View the workplace from your child perspective: Get down on their level and look up. What draws children to dangerous situations: They might be curious and oftentimes try to put things in their mouth, so in this case if it is chemical substances, e.g. pesticide or chillies. Your children could be in danger.

Cleaning work

1. What are potential dangers I can encounter from cleaning work?

- Injuries or pain in the muscles, bones and joints

Cleaners have difficulty when moving and lifting buckets of water which are too large or overfilled. Also, they later experience back pain and fatigue after mopping, excessive stretching and reaching high areas for cleaning.

- Reproductive health disorders

Prolonged standing, carrying heavy loads and high abdominal pressure from bending and stooping can also lead to spontaneous abortion, preterm delivery, low-weight babies and high blood pressure during pregnancy.



Preventive measures:

Buckets should be only partly filled with water to reduce the load and they should be made easier to move by providing plastic buckets with wheels for mopping floors.

The correct equipment for high cleaning was provided such as a stepladder to hang curtains and a long-handled tool to dust.

This can reduce the amount of time the cleaner spends reaching overhead.



- Respiratory disease and asthma.

One study pointed out that cleaners face 1.7 times higher risk of developing asthma due to working conditions when compared with other occupations. The risk of asthma is especially higher for kitchen cleaning, furniture polishing, vacuuming and sweeping, cleaning furniture and cleaning of sanitary facilities.

- Exposure to chemicals in cleaning products that contain dangerous substances.

Cleaners can be exposed through inhalation, skin and eye contact, or by ingestion. Some products may be highly flammable. Toxic gases can be formed if products are mixed: e.g. chlorine bleach mixed with acid or ammonia produces toxic gas, and certain dangerous substances can harm the health of pregnant workers and their unborn babies.

Preventive measures:

- Carefully read and follow the instructions labeled on the chemical containers.
- Wear personal protective equipment such as face masks, gloves, boots, fabric face masks with filters and gloves.
- If you are exposed to chemicals, quickly wash your hands and feet with soap and water.
- After being used, the chemicals must be stored with closed lids.

- Tripping and slipping

People often slip on floors that have been left wet after cleaning.



Preventive measures

- Use the correct amount of the right cleaning products.
- Allow detergents enough time to work on greasy floors.
- Maintain cleaning equipment so it remains effective.
- Use a dry mop or squeegee on wet floors to reduce floor-drying time, but remember, while the floor is damp there is still a slip risk.
- Even using a well-wrung mop will leave a thin film of water, sufficient enough to create a slip risk on a smooth floor.
- Stop pedestrian access to smooth wet floors by using barriers or putting signs and cones to warn of a hazard, locking doors, or cleaning in sections.

Preventive measures:

- Use the right ladders for your work and make sure that they are in good conditions.
- Use the correct equipment for high cleaning.
- Make sure that you are in the appropriate position when lifting, carrying and setting down the loads.
- If the loads are too heavy, you should find someone to help you.
- Keep electrical equipment and cables away from water and make sure that the equipment is in good condition.
- Do not repair electrical equipment on your own unless you are certified electricians.
- Keep the electrical cables organized and in place when you do not use them.

2. What are the potential risks caused by cleaning equipment?

- Falls from ladders
- Overextend your muscle
- Heavy loads
- Electric shock
- Trips over cables



Other dangerous work

Even though many refugees who fled to Thailand are concentrated in the areas work mentioned above, there are a few other dangerous jobs where a small number of refugees are employed. The workers in these unregulated sectors oftentimes find themselves in unfriendly working environments. It is therefore difficult to ensure their safety at work. However, there are certain things we can do to improve their working conditions.

Fisheries

- The fishermen should be aware of what could be potential dangers in their workplace such as drowning, injuries caused by work machines or fatigue caused by excessive work.
- You should learn how to provide first-aid as much as you can. When on board, there are only your coworkers who you can depend on. Before the start of the fishing season, please make sure that your first-aid kits are fully stocked.
- To save the lives of crewmembers, life jackets, the buddy system and a lifeline should be used. The lifeline is a rope attached to the handrail or some other part of the vessel, with the other end attached to the fisher's belt.
- As the nature of fishery work is intensified, you should make sure that you have enough rest and avoid alcoholic drinks that can affect your ability to focus and work safely.



Prostitution

Prostitution is still considered an illegal job in Thailand. Sex workers are exposed to high risks of workplace violence which can lead to negative health effects such as depression, post-traumatic stress disorder, sexually transmitted infections, HIV, unplanned pregnancy, and death (Deering KN, Amin A, Shoveller J et al, 2014). Following are some preventive actions the workers can take to improve their safety.



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- Let someone know when and where they meet a client. Another way is having someone else in the space that could intervene if necessary.
 - Hide sharp or dangerous materials in the room that can be used against you by the client.
 - Clients' use of drugs, substances or alcohol are especially problematic. Drunk or high clients tend to be aggressive and initiate conflicts which can be difficult to deescalate once occurred, so clients under influence of drugs and alcohol should be identified and avoided.
 - Insist the necessity of using protection especially condoms which can help prevent you from fatal sexually transmitted diseases such as HIV and syphilis or pregnancy.
-

There are some organizations in Thailand that provides support in various ways and promote livelihood of sex workers regardless of their nationalities. You are encouraged to contact the following organizations for more information. To contact some organizations, you may need Thai speakers to help with communication.

Health Center 28

Health Center 28 operates a sexual health clinic that conducts tests and provides treatment for sexually-transmitted diseases such as HIV and syphilis. The health center also provides condoms and medication for PrEP, which is an HIV prevention method in which people who do not have HIV take medicine daily to reduce their risk of getting HIV if they are exposed to the virus. The clinic also conducts cervical cancer screening tests. Non-Thai patients need to pay for the services. The medical fee is affordable. You can contact AAT or someone you know who are English or Thai speakers to help you communicate with the health center.

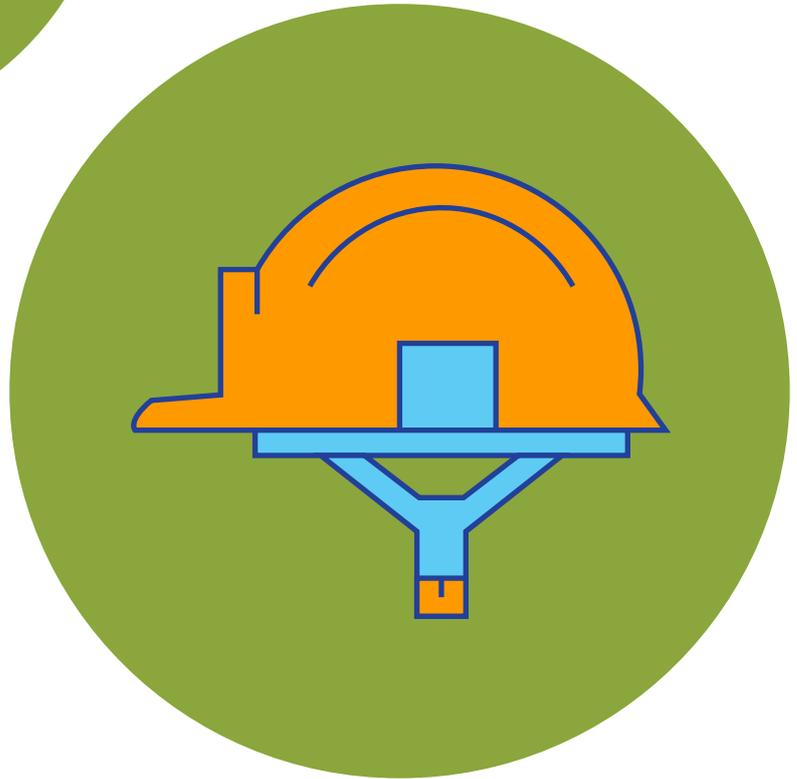
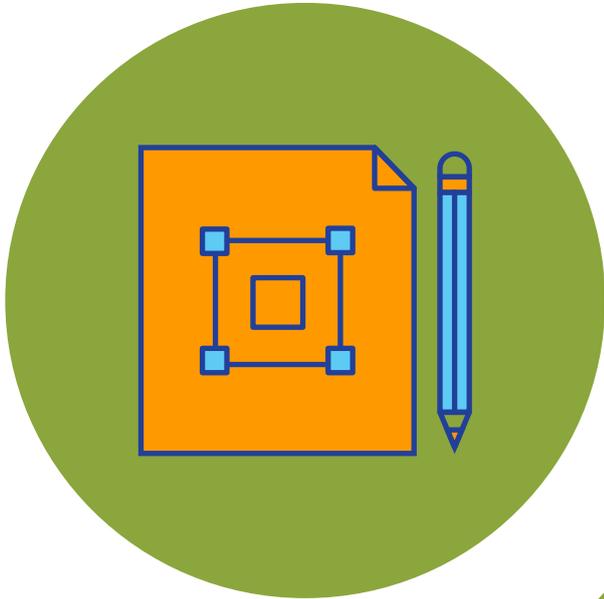
Website: <http://www.bangkok.go.th/healthcenter28>
Tel: 02-860-8210
Address: 24/16 Krungthonburi Road, Bang Lamphu Lang Sub-district, Khlongsan District, Bangkok, Thailand 10600



The Anonymous Clinic

The Anonymous Clinic of the Thai Red Cross AIDS Research Centre opens an after-hours clinic on Saturdays from 08.30 AM – 11.00 AM to offer vaccination services, including Hepatitis A, Hepatitis B and HPV vaccination. The clinic also conducts tests and provides treatment for sexually-transmitted diseases as well as medication for PrEP and PEP, which is a short course of HIV medicines taken very soon after a possible exposure to HIV to prevent the virus from taking hold in your body.

Website: <https://th.trcarc.org/th>
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