

LABOUR PROTECTION ACT (No 7),

B.E. 2562 (2019)

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 4th Day of April B.E. 2562;

Being the 4th Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows.

Whereas it is deemed appropriate to amend the law governing labour protection,

Whereas this organic Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 26, in conjunction with section 40 of the Constitution of the Kingdom of Thailand so permits by virtue of provisions of law;

Whereas the reasons and need for the restriction of rights and liberties of persons under this Act is to improve the level of protection for employees to be in accordance with the international standard and to be more efficient which would render employees, the majority of the public, to have more stable work and better quality of life, resulting in the benefit for the stable economy of the country and in this regard, the enactment of this Act duly complies with the conditions provided in section 26 of the Constitution of the Kingdom of Thailand;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act is called the “Labour Protection Act (No. 7) B.E.2562 (2019)”.

Section 2. This Act shall come into force after the expiration of thirty days from the date of its publication in the Government Gazette.

Section 3. The provisions of section 9 paragraph one of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 2) B.E. 2551 shall be repealed and replaced by the followings:

“section 9. In the case where an employer fails to return the guarantee security in the form of money under section 10 paragraph two or fails to pay money upon contract termination without giving notice under section 17/1 or fails to pay for wage, overtime pay, holiday pay and holiday overtime pay within the specified time under section 70, or fails to pay for compensation when an employer terminates the business establishment under section 75 or severance pay under section 118; special severance pay in lieu of advance or special severance pay under section 120, section 121/1 and section 122, the employer shall pay the employee interest during the period of default at the rate of fifteen percent per annum”.

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Section 4. The provisions of section 13 of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“where there has been a change of employer or where the employer is a juristic person and there is a registration of change, assignment or merger with any juristic person resulting in an employee having a new employer, the employee shall grant consent to being under such new employer and the new employer shall assume the rights and duties, entitled to from their previous employer, and in connection with those employees in all respects”

Section 5. The followings shall be added as section 17/1 of the Labour Protection Act B.E. 2541:

“section 17/1. In the case where an employer terminates an employment contract without giving an advance notice under section 17 paragraph two, the employer shall pay compensation for the amount of wage the employee is supposed to receive as from the date the employee is dismissed until the termination of employment contract comes into effect under section 17 paragraph two and this shall be paid on the date the employee is dismissed”.

Section 6. The provisions in section 34 of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“section 34. Employees are entitled to leave for necessary business for no less than three working day per year”.

Section 7. The provisions of section 41 of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“section 41. A pregnant female employee is entitled to maternity leave of not more than ninety eight days for each pregnancy.

The days of maternity leave referred to in this section shall include leave for pregnancy check-up before delivery.

The leave under paragraph one shall include holidays that occur during the leave period.

Section 8. The provisions of section 53 of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“section 53. Where the work to be performed is of the same nature, quality and quantity or the work is in the equivalent value, the wage, overtime pay, holiday pay and holiday overtime pay shall be in fixed by the employer in the same rate regardless of whether the employee is male or female”.

Section 9. The followings shall be added as section 57/1 of the Labour Protection Act B.E. 2541:

“section 57/1. An employer shall pay the wage to an employee on the leave day for necessary business under section 34 at a rate equal to the wage for working day throughout the leave period but this leave shall not be more than three working day per year”.

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Section 10. The provisions of section 59 of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“section 59. An employer shall pay the wage of an employee on maternity leave under section 41, at a rate equal to the wage for a normal working day, for the entire period of time the leave being taken but not exceeding forty five days”.

Section 11. The provisions of section 70 of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“section 70. An employer shall pay wage, overtime pay, holiday pay, holiday overtime pay and other money which the employer has the duties to pay under this Act correctly and within the specified time period as follows:

(1) where wage is calculated on a monthly, daily, hourly basis or at other duration of no longer than one month or on the basis of work output, payment shall be made at least once a month, unless otherwise agreed upon by the employer and employee in the interests of the employee;

(2) Where wage is calculated by methods other than as prescribed in (1), payment shall be made at the time agreed upon by the employer and employee;

(3) Payment of overtime pay, holiday pay and holiday overtime pay shall be made at least once a month.

Where the employer terminates the employment of an employee, the employer shall pay wage, overtime pay, holiday pay, holiday overtime pay and money the employer shall pay under this Act to an employee who is entitled to receive such pay, within three days from the date of termination of the employment”.

Section 12. The provisions of section 75 of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 2) B.E. 2551 shall be repealed and replaced by the followings:

“section 75. In the case where it is necessary for an employer to terminate a whole or a part of the business operation temporarily for whatever important reason affecting the business operation of the employer and resulting in the employer being unable to operate the business as usual which is not due to *force majeure*, an employer shall make a payment to an employee for no less than seventy five percent of the wage the employee has received before the employer terminates the business operation throughout the time the employer does not require the employee to work at a payment place under section 55 and within the prescribed time period for payment under section 70(1)”.

Section 13. The provisions of section 93 (5) of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 2) B.E. 2551 shall be repealed and replaced by the followings:

“(5) to issue an employer to pay for special severance pay instead of a given advance notice or special severance pay under section 120/1”.

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Section 14. The provisions of section 118 (5) of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“(5) an employee who has worked for a continuous period of ten years but less than twenty years, shall be paid for the amount of not less than his or her last rate of wages for three hundred days, or of not less than his or her wages for the last three hundred days for an employee who receives wages on a piece rate basis”.

Section 15. The followings shall be added as (6) of section 118 of the Labour Protection Act B.E. 2541:

“(6) an employee who has worked for a continuous period of twenty years and more shall be paid for the amount of not less than the last rate of wages for four hundred days or of not less than his or her wages for the last four hundred days for an employee who receives wages on a piece rate basis”.

Section 16. The provisions of section 120 of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 2) B.E. 2551 shall be repealed and replaced by the followings:

“section 120. An employer who wishes to move a place for establishment of business operation to a new business establishment or to others place of an employer, the employer shall publish a notice in advance in a public place where such business operation is established and employees are able to see clearly for a continuous period of no less than thirty days as from the day of moving the business establishment. Such notice shall contain, at least, the statements which are clear and sufficient to understand in regard to which, where and when an employee would be moved to.

In the case where the employer fails to give an advance notice to an employee under paragraph one, the employer shall pay special severance pay, to an employee who does not wish to move to a new business establishment, in lieu of the advance notice in an amount equal to thirty days of the most recent wage rate received by him or her or not less than the wage for work performed in the last thirty days as an employee who is paid on the basis of his or her wage on a piece rate basis.

In the case where any employee sees that the move of such business establishment would substantially affect the ordinary course of living of such employee or family and does not wish to work in a relocated business establishment, he or she shall notify, in writing, the employer within thirty days as from the date of public notice as from the date of relocating the business establishment in the case where the employer does not put a public notice under paragraph one and the employment contract shall be deemed to be terminated on the date the employer relocates the business establishment. The employee is entitled to special severance pay not less than the rate of severance pay he or she would be entitled to under Section 118.

In the case where the employer disagrees with the reason of the employee under paragraph tree, the employer shall submit a complaint to the Labour Welfare Committee within thirty days as from the date of receiving the written notice”.

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Section 17. The followings shall be added as section 120/1 and section 120/2 of the Labour Protection Act B.E. 2541:

“section 120/1. When the Labour Welfare Committee considers the complaint under section 120 and is of the opinion that the employee has the right to receive the special severance pay in lieu of the advance notice or special severance pay, the Labour Welfare Committee shall order the employer to pay the special severance pay in lieu of the advance notice or special severance pay, as the case may be, to the employee within thirty days as from the date of receiving the order.

In the case where the Labour Welfare Committee considers and is of the opinion that the employee has no right to receive the special severance pay in lieu of the advance notice or special severance pay, as the case may be, the Labour Welfare Committee shall notify the employer and employee of such order.

In the case where the complaint is considered and an order is issued by the Labour Welfare Committee, this shall be completed within sixty days as from the date of receiving the complaint and the order shall be notified to the employer and employee within fifteen days as from the date of issuance of order.

The order of the Labour Welfare Committee is final except in the case where the employer or employee wishes to appeal the order to the Court within thirty days as from the date of receiving the order. In the case where the employer is the plaintiff of the court case, the employer shall place the guarantee to the court for the amount he or she shall pay in accordance with the order before initiating the case.

In regard to the delivery of the order of the Labour Welfare Committee, the provision of section 143 shall apply mutatis mutandis.

Section 120/2. In the case where the employer has appealed the order of the Labour Welfare Committee to the Court within the time period as prescribed under section 120/1 paragraph four and has complied with the court ruling or order, the criminal proceeding against the employer shall be ceased”.

Section 18. The provisions of section 120 of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 2) B.E. 2551 shall be repealed and replaced by the followings:

“section 124/1. In the case where an employer has complied with an order of a labour inspector under section 124 within the prescribed time period, the criminal proceeding against the employer shall be ceased”.

Section 19. The followings shall be added as section 125/1 of Chapter 12, the submission of complaints and consideration of complaints, of the Labour Protection Act B.E. 2541:

“section 125/1. In the case where an employer initiates a case in the court within the time period as prescribed under section 125 and has complied with the Court ruling or order, the criminal proceeding against the employer shall be ceased”.

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Section 20. The provision of section 144(1) of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 6) B.E. 2560 shall be repealed and replaced by the followings:

“(1) section 10, section 17/1, section 23 paragraph two, section 24, section 25, section 26, section 37, section 38, section 39, section 39/1, section 40, section 42, section 43, section 46, section 47, section 48, section 51, section 57/1, section 61, section 62, section 63, section 64, section 67, section 70, section 72, section 76, section 90 paragraph one, section 118 paragraph one or section 118/1 paragraph two”.

Section 21. The provisions of section 144 (2) of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 5) B.E. 2560 shall be repealed and replaced by the followings:

“section 145. Any employer who fails to comply with section 23 paragraph one or paragraph three shall be liable to a fine not exceeding five thousand Baht”.

Section 22. The provisions of section 145 of the Labour Protection Act B.E. 2541 shall be repealed and replaced by the followings:

“section 145. Any employer who fails to comply with section 23 paragraph one or paragraph three shall be liable to a fine of not exceeding five thousand Baht.

Section 23. The provisions of section 146 of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 4) B.E. 2553 shall be repealed and replaced by the followings:

“section 146. Any employer who fails to comply with section 15, section 27, section 28, section 29, section 30 paragraph one, section 45, section 53, section 54, section 56, section 57, section 58, section 59, section 65, section 66, section 73, section 74, section 75 paragraph one, section 77, section 99, section 108, section 111, section 112, section 113, section 114, section 115, section 117 or without advanced notice, section 121 paragraph one or section 139(2) or (3) shall be liable to a fine not exceeding twenty thousand Baht”.

Section 24. The provisions of section 151 paragraph two of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 4) B.E. 2553 shall be repealed and replaced by the followings:

“Any person who fails to comply with an order of a labour inspection under section 124 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both”.

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Section 25. The provisions of section 155/1 of the Labour Protection Act B.E. 2541 as amended by the Labour Protection Act (No. 2) B.E. 2551 shall be repealed and replaced by the followings:

“section 155/1. Any employer who fails to submit or notify a form stating employment conditions and working conditions under section 115/1 shall be liable to a fine not exceeding twenty thousand Baht”.

Countersigned by

General Prayut Chan-O-Cha

Prime Minister

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