

LABOUR PROTECTION ACT,  
B.E. 2541 (1998)<sup>1</sup>

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Bhumibol Adulyadej, Rex.  
Given on the 12<sup>th</sup> day of February B.E. 2541;  
Being the 53<sup>rd</sup> year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:  
Whereas it is deemed appropriate to revise the law governing labour protection,

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the Parliament, as follows:

**Section 1.** This Act shall be called the "Labour Protection Act, B.E. 2541 (1998)".

**Section 2.** This Act shall come into force after one hundred and eighty days from the date of its promulgation in the Government Gazette.<sup>2</sup>

**Section 3.** The following shall be repealed:

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<sup>1</sup>Translated by Center for Translation and Language Services, Research Institute for Languages and Cultures of Asia, Mahidol University. –Initial version- pending review and approval.

<sup>2</sup>Published in the Government Gazette, Vol. 115, Part 8 kor, Page 1, dated 20th February, B.E. 2541 (1998).

(1) The Announcement No. 103 of the National Executive Council, dated the 16<sup>th</sup> day of March, B.E. 2515 (A.D. 1972);

(2) The Act Amending the Announcement No. 103 of the National Executive Council, dated the 16<sup>th</sup> day of March, B.E. 2515 (A.D. 1972) (No.1), B.E. 2533 (A.D. 1990).

All laws, rules, and other regulations insofar as they contradict the provisions hereof shall be replaced by this Act.

**Section 4.** This Act shall not apply to:

- (1) Central, Regional and Local Government Administrations;
- (2) State enterprises under the law governing State Enterprise Labour Relations.

In addition to the provisions of paragraph one, Ministerial Regulations may be issued to exempt any category of employer from the application of this Act, wholly or partly.

**Section 5.** In this Act:

"Employer"<sup>3</sup> means a person who agrees to employ the employee to work and pay wages therefor and shall also include:

- (1) A person designated to do work for the employer;
- (2) Where the employer is a juristic entity, the term shall include a person authorised to act on behalf of that juristic entity, and a person designated to act on behalf of the person who is authorised to act on behalf of that juristic entity.

"Employee" means a person who is employed by an employer for wages, regardless of the title given.

"Hirer" means a person who agrees to hire another to do any work, wholly or partly, for his/her own benefit and who pays remuneration in return for the completion of that work.

"Primary contractor" means a person who agrees to perform work, wholly or

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<sup>3</sup> Section 5, the definition of the term "employer" as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

partly, for the benefit of the hirer.

"Subcontractor" means a person undertakes by a contract with a primary contractor to do work, wholly or partly, within the responsibility of the primary contractor for the benefit of the hirer, and also includes any person who undertakes by a contract with a subcontractor to do work within the responsibility of the subcontractor, regardless of the extent of sub-contractual subordination.

"Employment contract" means a contract, whether made orally or in writing, that specifies expressly or implied that a person, called the employee, agrees to work for another person, called the employer, who agrees to pay wages throughout the period of employment.

"Working day" means a day upon which an employee is normally required to do work.

"Holiday" means a day fixed for recreation and upon which an employee can enjoy a weekly or traditional holiday or annual vacation.

"Leave" means a day upon which an employee takes sick leave, leave for sterilization, leave to attend necessary personal business, leave for military service, leave for training or developing his/her knowledge and ability, or maternity leave.

"Wage" means the money which the employer and the employee mutually agree to be payable in return for work done in accordance with the employment contract during normal working period on an hourly, daily, weekly, monthly, or other periodic basis or to be paid upon the basis of work output of the employee during normal working period, and also includes the money which the employer pays whilst the employee is on holiday or taking other leave and during which time the employee did not work but is entitled to receive payment under this Act.

"Working day wage" means wages paid for work done full time during normal working period.

"Minimum rate of basic wage" means the wage rates prescribed by the Wages Committee under this Act.

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"Workmanship standard wage rate"<sup>4</sup> means the wage rate prescribed by the Wages Committee for each career field in accordance with the workmanship.

"Base minimum rate of basic wage"<sup>5</sup> (Repealed).

"Overtime work" means work performed in excess of or beyond the normal working period in a day as agreed to by the employer and the employee under Section 23 and which is performed on a working day or holiday, as the case may be.

"Overtime pay" means the money which an employer pays to an employee in return for overtime work performed on a working day.

"Holiday pay" means the money, which an employer pays to an employee in return for work performed on a holiday.

"Holiday overtime pay" means the money that an employer pays to an employee in return for overtime work on a holiday.

"Severance pay" means the money, which an employer pays to an employee upon the termination of employment, in addition to other monies, which the employer agrees to pay the employee.

"Special severance pay" means the money, which an employer pays to an employee upon the termination of an employment contract due to special circumstances as specified in this Act.

"Employee contribution" means the money, which an employee pays into an Employee Welfare Fund.

"Employer contribution" means the money, which an employer pays into an Employee Welfare Fund and which is supplementary to the monies paid in by the employee.

"Labour inspector" means a person(s) appointed by the Minister for the purpose of the execution of this Act.

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<sup>4</sup> Section 5, the definition of the term "Workmanship standard wage rate" as added by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

<sup>5</sup> Section 5, the definition of the term "Base minimum rate of basic wage" repealed by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

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"Director-General" means the Director-General of the Department of Labour Protection and Welfare.

"Minister" means the Minister in charge and control of this Act.

**Section 6.** The Minister of Labour shall be in charge of enforcement of this Act and shall have the power to appoint Labour Inspectors and issue Ministerial Regulations and Notifications for the purpose of the operation of this Act.

Upon the appointment of a Labour Inspector, the scope of his/her powers, duties and conditions thereof for the purpose of carrying out his/her duties may also be prescribed.

Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

## Chapter 1 General Provisions

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**Section 7.** Any claim or acquisition of rights or benefits under this Act shall not extinguish the rights or benefits an employee is entitled to under any other laws.

**Section 8.** The Minister shall have power to appoint competent officials, who shall at least possess a bachelor's degree in law, to file or defend a labour lawsuit on behalf of an employee or a statutory heir of a deceased employee, and upon the notification of the Ministry of Labour to the Court, to proceed therewith until final judgment is obtained.

**Section 9.** When an employer fails to return the guarantee security in the form of money under Section 10 paragraph two or does not pay basic wage, overtime pay, holiday pay and holiday overtime pay within the specified time under Section 70; or severance pay under Section 118; special severance pay in lieu of advance or special

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severance pay under Section 120, Section 121 and Section 122, the employer shall pay the employee interest during the period of default at the rate of fifteen percent per annum.<sup>6</sup>

Where an employer willfully refuses to return or pay the monies mentioned in paragraph one without reasonable cause, upon the expiration of seven days from the due date of the return of guarantee or payment of money, the employer shall be liable to pay the employee a surcharge of 15 percent of the outstanding amount payable for every seven day period.

Where the employer is prepared to return or pay the monies referred to in paragraphs one and two and has delivered the monies to the Director-General or his/her designate for the purpose of making payment to the employee, the employer will not be liable for payment of the interest or the surcharge as from the date of delivery of the monies.

**Section 10.**<sup>7</sup> Subject to Section 51 paragraph one, an employer is prohibited from demanding of or receiving from an employee a performance guarantee deposit whether in the form of money or other property or a personal guarantee for any damage that may be incurred in the performance of his/her work, except where the nature or type of work requires that the employee be responsible for money or property belonging to the employer and which may cause the employer to suffer loss. In this regard, the nature or type of work for which a performance guarantee deposit may be demanded or received from an employee as well as the type and the amount of guarantee deposit and means of custody thereof, shall be in accordance with the criteria and procedures prescribed and notified by the Minister.

Where an employer demands or receives a guarantee security or enters into a guarantee agreement with an employee regarding compensation for any damage that may be caused by the employee, upon termination of employment by the employer or

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<sup>6</sup> Section 9, paragraph one, as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>7</sup> Section 10 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

resignation of the employee, or expiration of the guarantee agreement, the employer shall return the guarantee security with interest, if any, to the employee within seven days from the date of termination of employment by the employer, or the date of resignation of the employee, or the expiration date of the guarantee agreement, as the case may be.

**Section 11.**<sup>8</sup> For debt owed by an employer to be paid under this Act or money payable by the employer to the Employee Welfare Fund under Section 135, the employee or the Department of Labour Protection and Welfare, as the case may be, shall have a preferential right over all properties of the employer who is a debtor in the same rank as the preferential rights of taxes and duties under the Civil and Commercial Code.

**Section 11/1.**<sup>9</sup> Where an entrepreneur has authorised an individual to recruit workers, which is not a business of job placement service, and such work is a part of manufacturing process or business operation under the entrepreneur's responsibility, and regardless of whether such individual is the supervisor or takes the responsibility for paying wages to those who perform work, the entrepreneur shall be deemed an employer of such workers.

The entrepreneur shall provide labour-contracting employees, who perform the same nature of work as employees under the employment contract, with fair benefits and welfare without discrimination.

**Section 12.** Where an employer is a subcontractor, all superior subcontractors, if any, and the primary contractor shall be jointly liable with the subcontractor who is the employer for the purpose of payment of basic wage, overtime pay, holiday pay, holiday overtime pay, severance pay, special severance pay, employee and employer contributions, or surcharge.

The primary contractor or the subcontractors referred to in paragraph one

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<sup>8</sup> Section 11 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>9</sup> Section 11/1 as added by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

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shall have a right of recourse against the subcontractor who is the actual employer for the reimbursement of payments already made under paragraph one.

**Section 13.** Where there has been a change of employer due to an assignment, succession, or any other means; or where the employer is a juristic entity and there is a registration of change, assignment or merger with any juristic entity, the employees shall continue to have all the rights they entitled to from their previous employer, and the new employer shall assume the rights and duties in connection with those employees in all respects.

**Section 14.** Unless otherwise provided for by this Act, an employer shall treat its employee in accordance with the rights and duties provided for by the Civil and Commercial Code.

**Section 14/1.**<sup>10</sup> Where a contract of employment between an employer and an employee, work regulations, rules or orders of an employer result in the employer unreasonably exploiting the employee, the Court shall have the power to order such contract of employment, work regulations, rules or orders being enforceable only to the extent that it is fair and reasonable.

**Section 15.** An employer shall treat male and female employees equally in their employment, except where the employer is prevented by the nature or conditions of the work from doing so.

**Section 16.**<sup>11</sup> An employer, a person in charge, a supervisor, or a work inspector is forbidden from committing sexual abuse, harassment, or nuisance against an employee.

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<sup>10</sup> Section 14/1 as added by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>11</sup> Section 16 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

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**Section 17.**<sup>12</sup> An employment contract shall expire when the specified period of time in the employment contract expires without advance notice.

Where no period of time is specified in the contract of employment, the employer or the employee may terminate the employment contract by giving advance notice in writing to the other party on or before a due date of wage payment in order for the termination to take effect on the following due date of wage payment. The advance notice needs not be longer than three months. In addition, a probationary employment contract shall also be deemed as a contract of employment with indefinite period of time.

In terminating the contract of employment under paragraph two, the employer may pay wages in an amount to be paid up to the time the termination of the contract of employment will be effective as specified in the notice and may dismiss the employee immediately.

The advance notice under this Section shall not apply to the termination of employment under Section 119 of this Act and Section 583 of the Civil and Commercial Code.

**Section 18.**<sup>13</sup> Where this Act requires an employer to notify of any act or submit any document to the Director-General or any person designated by the Director-General, or the Labour Inspector, the employer shall notify or submit the same in person or by mail, telephone, facsimile, electronic media or any other kinds of information technology media in accordance with the criteria and procedures as prescribed in the announcement of the Director-General.

**Section 19.** For the purpose of the employment period calculation under this Act, the holidays, days on which the employee is on leave, days on which the employer has ordered the employee not to work in the interests of the employee, and days upon which the employer has ordered the employee not to work in the interests of the employer

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<sup>12</sup> Section 17 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>13</sup> Section 18 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

shall be included in the employment period of the employee.

**Section 20.** Where an employee has not worked for a consecutive period because it is the intent of the employer to deprive the employee of his/her rights under this Act, regardless of whether the employer has designated the employee to any particular duty and regardless of the length of each interval in the employment, all periods of employment shall be added together for the benefit of the rights entitled to the employee.

**Section 21.** Where this Act requires an employer to do any act, which incurs expenses, the employer shall pay the expenses incurred in the performance of that act.

**Section 22.** Labour protection for agricultural work, marine fishing work, transfer of cargos to and from maritime vessels work, work to be performed at home, transportation work, and for other works as prescribed by Royal Decree, may be provided in the Ministerial Regulations differently from this Act.

## Chapter 2

### Employment of Labour in General

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**Section 23.**<sup>14</sup> An employer shall inform an employee of his/her normal working period by specifying the starting and finishing time for each working day which shall not exceed the amount of time prescribed for each category of work by Ministerial Regulations, provided that it shall not exceed eight hours in one day. Where working period in any one day is less than eight hours, the employer and the employee may mutually agree to add the remaining hours to other normal working days but the daily working period shall not exceed nine hours and the total working period in each week shall not exceed

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<sup>14</sup> Section 23 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

forty eight hours, except where the work may be harmful to the health and safety of the employee as prescribed in the Ministerial Regulations, in which case the daily normal working period shall not exceed seven hours and the total working period in one week shall not exceed forty two hours.

Where the employer and the employee mutually agree to add the remaining time to other normal working days referred to in paragraph one resulting in working period in excess of eight hours, the employer is required to pay the daily or hourly employee a remuneration for not less than one and a half times the hourly wage of a working day for the excessive time or not less than one and a half times per unit wage of a working day according to the quantity of work output achieved in excessive time by per unit wage type of employee.

Where the employer cannot specify the starting and finishing times for a working day due to work nature or condition, the employer and the employee shall agree to fix the number of working hours for each day so as not to exceed eight hours, and the total number of working hours in one week not to exceed 48 hours.

**Section 24.** An employer is prohibited from requiring an employee to work overtime on a normal working day, except with prior consent of the employee from time to time.

Where the nature or type of work demands uninterrupted performance, failing which damage will result, or the work is urgent or being other works as prescribed by Ministerial Regulations, the employer may require an employee to work overtime as necessary.

**Section 25.** An employer is prohibited from requiring an employee to work on holiday, except where the nature or type of work demands uninterrupted performance, failing which damage will result, or the work is urgent, then the employer may require an employee to work on holiday as necessary.

An employer may require an employee to work on holidays if his/her business is that of a hotel, theater, transport, restaurant, cafe, club, society, medical

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establishment, or such other businesses as prescribed in Ministerial Regulations.

In the interests of production, distribution, and provision of service, an employer may require an employee to work on holiday as may be necessary in addition to the preceding paragraphs one and two, with prior consent of the employee from time to time.

**Section 26.** Overtime working hours referred to in Section 24 paragraph one, and holiday working hours referred to in Section 25 paragraphs two and three, shall not, in total, exceed the limits prescribed in Ministerial Regulations.

**Section 27.** During a working day an employer shall allow an employee a rest period of at least one hour once the employee has worked on that day for not longer than five hours consecutively. The employer and employee may agree in advance to a rest period of less than one hour but the total rest period for the day shall not be less than one hour.

Where an employer and employee agree that a rest period during work referred to in paragraph one is to be determined otherwise, such an agreement shall be valid only if it is beneficial to the employee.

A rest period during work shall not be counted as working time except where the accumulated rest periods in one day exceed two hours in which case any amount of time in excess of such two hours shall be counted as normal working time.

Where overtime work will last for not less than two hours beyond normal working period, an employer shall allow an employee a rest period of not less than twenty minutes before the employee starts overtime work.

The provisions of paragraphs one and four shall not apply to work the nature or type of which demands uninterrupted performance which the employee consents to perform nor to emergency work.

**Section 28.** An employer shall allow an employee to have at least one day off per week as a weekly holiday and the interval between each weekly holiday shall be no

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longer than six days. An employer and employee may agree in advance to fix which day as the weekly holiday.

As for hotel work, transport work, forest work or work performed in isolated areas, or other works prescribed in Ministerial Regulations, an employer and employee may agree in advance that the weekly holidays be accumulated and taken at a later time which shall be within four consecutive weeks.

**Section 29.** An employer shall inform an employee in advance of at least thirteen annual traditional holidays as prescribed and notified by the Minister, which shall include National Labour Day.

An employer shall consider fixing the traditional holidays in accordance with annual public, religious or local customary holidays.

Where a traditional holiday falls on the employee's weekly holiday, the employee shall be granted an additional holiday on the following working day in lieu of the traditional holiday.

Where an employer is unable to allow an employee to take his/her traditional holiday because of the nature or type of work performed by the employee is that prescribed in Ministerial Regulations, the employer shall agree with the employee that another day be taken as a holiday in lieu of the traditional holiday, or the employer may pay holiday pay instead.

**Section 30.** An employee who has worked continuously for one full year shall be entitled to an annual holiday of not less than six working days which shall be fixed in advance by the employer or set out in an agreement made between the employer and the employee.

In subsequent years, the employer may fix the annual vacation for more than six working days for an employee.

An employer and employee may agree in advance that the annual vacation be cumulative and that the unused vacation of that year be postponed and be taken together with that of the following years.

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For an employee who has worked for less than one year, the employer may fix and grant the employee an annual vacation on a pro-rata basis.

**Section 31.** An employer is prohibited from requiring an employee to work overtime or work on holidays where the work may be harmful to the health and safety of the employee as provided for in Section 23 paragraph one.

**Section 32.** An employee is entitled to sick leave on days that he/she is actually ill. For sick leave taken for three or more working days, the employer may require that the employee show a medical certificate from a first class medical practitioner or from a government clinic. If the employee fails to acquire a medical certificate from a first class medical practitioner or from a government clinic, the employee shall submit to the employer an explanation.

Where a physician is provided by the employer, such physician shall be the person issuing the medical certificate, except where the employee is unable to be examined by that physician.

Days upon which an employee is unable to work owing to work related injury or illness and maternity leave as provided for in Section 41, shall not be deemed sick leave under this Section.

**Section 33.** An employee is entitled to take leave for sterilization and shall be entitled to take leave as a result of the sterilization for such time as a first class medical practitioner shall prescribe and has issued a certificate to that effect.

**Section 34.** An employee is entitled to take leave to attend to his/her necessary personal business in accordance with work regulations.

**Section 35.** An employee is entitled to take leave for military service when the government makes a call for personnel inspection, for military training, or for combat readiness test, in accordance with the laws on military service.

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**Section 36.** An employee is entitled to take leave for training or development of his/her knowledge and skills in accordance with the criteria and procedures prescribed in Ministerial Regulations.

**Section 37.** An employer is prohibited from requiring an employee to lift, carry, bear on his/her head or shoulders, pull or push loads that exceed the weights prescribed in Ministerial Regulations.

### Chapter 3

#### Employment of Female Labour

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**Section 38.**<sup>15</sup> An employer is prohibited from requiring a female employee to perform any of the following works:

- (1) Mining or construction work which must be performed underground, underwater, in a cavern, in a tunnel or in a crater of a mountain, except where the conditions of work are not harmful to the employee's health or body;
- (2) Work to be performed on scaffolding which is 10 meters or more above the ground;
- (3) Production or transportation of explosives or inflammable materials, except where the conditions of work are not harmful to the employee's health of body;
- (4) Such other works as prescribed in Ministerial Regulations.

**Section 39.**<sup>16</sup> An employer is prohibited from requiring a pregnant female employee to perform any of the following works:

- (1) Work in connection with machine or engine that vibrates;

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<sup>15</sup> Section 38 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>16</sup> Section 39 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

- (2) Drive a vehicle or ride along with it;
- (3) Lift, carry, bear on her head or shoulders, pull or push loads that weigh more than fifteen kilograms;
- (4) Work on water-going vessels;
- (5) Such other works prescribed in Ministerial Regulations.

**Section 39/1.**<sup>17</sup> An employer is prohibited from requiring a pregnant female employee to perform work during 22:00 hours and 06:00 hours, work overtime, work on holidays.

Where the pregnant female employee works in an executive position, academic work, clerical work or work relating to finance or accounting, the employer may require the employee to work overtime on working days insofar as the health of the pregnant female employee is not affected and with prior consent of the pregnant female employee from time to time.

**Section 40.** Where an employer requires a female employee to work between 24:00 hours and 06:00 hours, and a Labour Inspector considers that the work may be harmful to the health and safety of the female employee, the Labour Inspector shall submit a report to the Director-General or his/her designate for consideration and for the issuance of a direction to the employer to change working time or reduce the working hours as deemed appropriate, and the employer shall be required to comply with such direction.

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

The days of maternity leave referred to in paragraph one shall include holidays that occur during the leave period.

**Section 42.** Where a pregnant female employee has shown a certificate issued by a first class medical practitioner, stating that she is no longer able to perform her

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<sup>17</sup> Section 39/1 as added by the Labour Protection Act, (No. 2), B.E. 2551 (2008)



original duties, such employee shall be entitled to request her employer to change her work temporarily either before or after childbirth, and the employer shall consider changing her duties to such as are suitable for the employee.

**Section 43.** An employer is prohibited from terminating a female employee because of her pregnancy.

## Chapter 4

### Employment of Child Labour

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**Section 44.** No employer shall employ as an employee a child of under fifteen years of age.

**Section 45.** Where a child of under eighteen years of age is employed, the employer is required to do the following:

- (1) Notify the Labour Inspector of the employment of the child employee within fifteen days from the date of the child employment;
- (2) Prepare a new record of the terms of employment if there has been a change from those already in existence and keep it at the place of business or office of the employer for inspection by a Labour Inspector during working hours;
- (3) Notify the Labour Inspector of the termination of employment of the child employee within seven days from the date the child has left the employment.

The notification or record referred to in paragraph one shall be in the form prescribed by the Director-General.

**Section 46.** An employer shall arrange for a child employee to have an uninterrupted rest period each day of not less than one hour for a period the employee has worked for not exceeding four hours. However the child employee is entitled to such rest period as prescribed by the employer during the said four hours.

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**Section 47.** An employer is prohibited from requiring a child employee of under 18 years of age to work between 22:00 hours and 06:00 hours, except where written permission has been granted by the Director-General or his/her designate.

An employer may have a child employee of under 18 years of age work as an actor in a motion picture, play, or the like, during the said period, however, the employer shall arrange for that child employee to have such rest periods as are appropriate.

**Section 48.** An employer is prohibited from requiring a child employee of under 18 years of age to work overtime or on holidays.

**Section 49.** An employer is prohibited from requiring a child employee of under 18 years of age to perform any of the following works:

- (1) Metal smelting, blowing, casting, or forging;
- (2) Metal pressing;
- (3) Work involving conditions of heat, cold, vibration, sound and abnormal lighting which may be harmful as prescribed in Ministerial Regulations;
- (4) Work involving hazardous chemicals as prescribed in Ministerial Regulations;
- (5) Work involving poisonous microorganisms, which include virus, bacteria, fungus, or other microorganisms as prescribed in Ministerial Regulations;
- (6) Work involving toxic materials, explosives, or inflammable materials, except work in fuel oil service stations as prescribed in Ministerial Regulations;
- (7) Driving or controlling hoists or cranes as prescribed in Ministerial Regulations;
- (8) Work involving an electrically or mechanically operated saw;
- (9) Work which must be performed underground, underwater, in a cavern, tunnel, or in a crater of a mountain;
- (10) Work involving radioactivity as prescribed in Ministerial Regulations;

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- (11) Machine or engine cleaning while the machine or engine is in operation;
- (12) Work on scaffolding which is 10 meters or more above the ground;
- (13) Such other works as prescribed in Ministerial Regulations.

**Section 50.**<sup>18</sup> An employer is prohibited from requiring a child employee of under 18 years of age to perform work in any of the following establishments:

- (1) Slaughterhouse;
- (2) Gambling house;
- (3) Entertainment establishment according to the laws on entertainment establishments;
- (4) Such other establishments as prescribed in Ministerial Regulations.

**Section 51.**<sup>19</sup> An employer is prohibited from demanding or receiving a guarantee deposit for any reason whatsoever, from the child employee.

An employer is prohibited from paying wages of a child employee to a person other than the child employee.

Where the employer pays money or any other benefit to the child employee, the parent or a guardian of the child employee or other persons, in advance of the employment or at the commencement of the employment or before the payment of wages to the child employee becomes due in any period, it shall not be regarded as payment or receipt of wages by the child employee, and the employer shall not deduct the aforesaid payment or benefit from the wages payable to the child employee when the wages become due.

**Section 52.** For the purpose of the development and promotion of quality of life and work of children, child employees of under 18 years of age shall have the right to take leave to attend meetings, seminars, training sessions, or take leave for other reasons, which are held by educational institutes or a government or private agency approved by the

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<sup>18</sup> Section 50 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>19</sup> Section 51 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

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Director-General. The child employee shall expressly inform the employer of the reason for the leave in advance and show the relevant documents, if any, and the employer shall pay the wages to the child employee during his/her leave of absence at his/her normal working day rate of wages but not exceeding thirty days each year.

## Chapter 5

### Wage, Overtime Pay, Holiday Pay and Holiday Overtime Pay

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**Section 53.** Where the work to be performed is of the same nature, quality and quantity, the wage, overtime pay, holiday pay and holiday overtime pay shall be fixed *pari passu* by the employer regardless of whether the employee is male or female;

**Section 54.** All monies paid by an employer as wage, overtime pay, holiday pay, holiday overtime pay, and other benefits payable in cash shall be in Thai currency, except where the employee consents the same to be paid by bill or in foreign currency.

**Section 55.** An employer shall pay the wage, overtime pay, holiday pay, holiday overtime pay, and other benefits to the employee at the employee's workplace. If payment is to be made elsewhere or by other methods, the consent of the employee must be obtained.

**Section 56.** An employer shall pay an employee his/her wage equal to a working day's wage for the following holidays:

- (1) A weekly holiday, except for employees who receive a daily wage, an hourly wage or a wage calculated on work output;
- (2) A traditional holiday;
- (3) Annual vacation.

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**Section 57.** An employer shall pay an employee his/her wage for a day of sick leave referred to in Section 32 at a rate equal to the wage for a normal working day for the entire period of time taken as sick leave but not exceeding thirty working days each year.

Where the employee takes leave for the purpose of sterilization referred to in Section 33, the employer shall make payment of the wage to the employee for the leave so taken.

**Section 58.** An employer shall pay the wage of an employee who takes leave for military service pursuant to Section 35 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 sixty days each year.

**Section 59.** An employer shall pay the wage of an employee on maternity leave, 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 60.** For the purpose of making payment of wage under Section 56, Section 57, Section 58, Section 59, Section 71 and Section 72 where an employee receives his/her wage on the basis of work output, the employer shall pay wage for a holiday or day of leave in an amount equivalent to the average daily wage rate that the employee receives during the payment period immediately prior to his/her taking a holiday or day of leave.

**Section 61.** Where the employer requires an employee to work overtime on a working day, the employer shall make overtime pay at the rate of not less than one and a half times the rate of the hourly wage earned in normal working day for the hours the employee working overtime, or not less than one and a half times the wage rate for each unit of work output on a working day for employees who receive wage based upon work output.

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**Section 62.** Where an employer requires an employee to work on a holiday specified in Section 28, Section 29 or Section 30, the employer shall pay the employee holiday pay at the following rates:

(1) For an employee who is entitled to receive wages for work on holidays: an additional amount of not less than one time of the amount of the hourly wage rate earned per hour on a normal working day, for the hours working overtime, or not less than one time of the rate of wage per unit of work output earned per unit on a normal working day for work done by an employee who is paid on the basis of work output;

(2) For an employee who is not entitled to receive wages for work on holidays: an amount of not less than two times of the hourly wage rate earned per hour on a normal working day, for the hours working overtime, or not less than two times of the rate of wage per unit of work output earned per unit on a normal working day for work done by an employee who is paid on the basis of work output.

**Section 63.** Where an employer requires an employee to work overtime on a holiday, the employer shall pay holiday overtime pay to the employee at the rate not less than three times of the hourly wage rate earned per hour on a normal working day, for the hours working overtime, or not less than three times of the rate of wage per unit of work output earned per unit on a normal working day for work done by an employee who is paid on the basis of work output.

**Section 64.** Where an employer fails to provide an employee with holidays or provides him/her with holidays less than as specified in Section 28, Section 29 and Section 30, the employer shall pay holiday pay and holiday overtime pay to the employee at the rates prescribed in Section 62 and Section 63 as if the employer had required the employee to work on holiday.

**Section 65.**<sup>20</sup> An employee who has the authority or is designated by the

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<sup>20</sup> Section 65 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

employer to perform any of the following works shall not be entitled to overtime pay under Section 61 and holiday overtime pay under Section 63, but an employee who is designated by the employer to perform work referred to in (3) (4) (5) (6) (7) (8) or (9) shall be entitled to receive a remuneration in an amount equal to the hourly rate of wage for working day on the basis of the actual hours worked:

- (1) An employee who has the authority to act on behalf of the employer in relation to employment, granting of pension, or termination of employment;
- (2) Itinerant vending or inciting purchase of merchandise upon which sales commission is payable;
- (3) Railway service operation which includes work on railway carriages and facilitating railway transportation;
- (4) Opening and closing water gates or floodgates;
- (5) Recording water levels and measuring water volumes;
- (6) Firefighting or prevention of public hazards;
- (7) Work with nature or condition of having to perform away from workplace and definite working hours of which are unable to fix;
- (8) Taking turns watching or guarding premises or property which is not in the normal scope of work of the employee;
- (9) Other works as prescribed in the Ministerial Regulations.

Except only where the employer agrees to pay the employee the overtime pay or the holiday overtime pay.

**Section 66.** An employee referred to in Section 65 (1) shall not be entitled to holiday pay under Section 62, except where the employer agrees to pay holiday pay to the employee.

**Section 67.**<sup>21</sup> Where an employer terminates the employment which is not the case under Section 119, the employer shall pay the employee the wages for his/her annual vacation for the year in which the employment was terminated, in proportion to the

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<sup>21</sup> Section 67 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

number of days of annual vacation to which the employee is entitled pursuant to Section 30.

**Section 68.** For the purpose of calculating overtime pay, holiday pay, and holiday overtime pay, where the employee receives his/her wages on a monthly basis, the hourly wage rate on a working day shall mean the monthly wage divided by a multiple of thirty and the average number of working hours on a working day.

**Section 69.** For the purpose of calculating the hours of overtime work, where the employer fixes the normal working hours on a weekly basis, traditional holidays, annual vacation and leave, shall be counted as working days.

**Section 70.** An employer shall correctly and precisely pay wage, overtime pay, holiday pay and holiday overtime pay at the following times:

(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 best 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 and holiday overtime pay to an employee entitled to receive such pay, within three days from the date of termination of the employment.

**Section 71.** Where an employer requires an employee to travel and work in an area other than that of his/her usual place of work on a holiday, the employer shall pay wages equal to the amount of wage for a normal working day to an employee who is

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not entitled to receive wage on holidays by virtue of Section 56 (1) for such travel.

**Section 72.** Where an employer requires an employee to travel and work in an area other than that of his/her usual place of work, the employee shall not be entitled to receive overtime pay pursuant to Section 61 and holiday overtime pay pursuant to Section 63 during the time he/she spends traveling. Except for travel on holidays, payment equal to the wage for a normal working day shall be made to an employee who is not entitled to receive wage on a holiday pursuant to Section 56 (1), except where the employer agrees to pay such overtime pay or holiday overtime pay.

**Section 73.** An employer shall pay traveling expenses pursuant to Section 71 and Section 72.

**Section 74.** Where an employer agrees to pay overtime pay, holiday pay and holiday overtime pay at a rate higher than as prescribed in Section 61, Section 62 and Section 63, payment shall be made in accordance with that agreement.

**Section 75.**<sup>22</sup> Where it is necessary for an employer to temporarily cease his/her business operation, wholly or partly, for whatever cause of significance, but not a *force majeure*, affecting his/her business activities to the extent that the employer is unable to carry on his/her normal operation, the employer shall pay wages to an employee in the amount of not less than seventy-five per cent of wages for a working day that the employee was receiving before the cessation of business operation for the entire period in which the employer does not require the employee to work.

The employer shall give an advance written notice to the employee and the Labour Inspector for a period of not less than three working days prior to the date of business cessation under paragraph one.

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<sup>22</sup> Section 75 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

**Section 76.** An employer is prohibited from making any deduction from wage, overtime pay, holiday pay, holiday overtime pay, except for:

- (1) Payment of income tax in an amount which the employee is obliged to pay, or other payments as specified by law;
- (2) Payment of dues to a labour union in accordance with the regulations of the labour union;
- (3) Payment of debts to a savings co-operative or other co-operative of the same nature as a savings co-operative, or debts which have been incurred for the welfare solely for the benefit of the employee, with prior consent of the employee;
- (4) Guarantee money as referred to in Section 10 or compensation paid to an employer due to a willful act or gross negligence of the employee, provided that the employee has granted his/her consents;
- (5) An employee contribution under an agreement in connection with employee fund.

Deductions made under (2), (3), (4) and (5) shall not in each case exceed 10 percent and, in total, shall not exceed one-fifth of the money which the employee is entitled to receive at the time of payment specified in Section 70, unless the employee otherwise consents.

**Section 77.** Where an employer is required to obtain an employee's consent, or there being an agreement with the employee concerning payments under Section 54 and Section 55 or deductions under Section 76, the employer shall arrange to have the same made in writing and signed by the employee as evidence of consent granting, or there shall be an explicit agreement made specifically therefor.

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## Chapter 6

### The Wages Committee

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**Section 78.** There shall be a Wages Committee consisting of the Permanent Secretary of the Ministry of Labour as Chairperson, four government representatives, five representatives from the employer side and five representatives from the employee side, appointed as committee members by the Council of Ministers, and an official of the Ministry of Labour appointed by the Minister as Secretary.

Criteria and procedures relating to the selection of employer and employee representatives referred to in paragraph one shall be in accordance with regulations prescribed by the Minister.

**Section 79.**<sup>23</sup> The Wages Committee shall have the following powers and duties:

- (1) Proposing opinions and giving advice and recommendations to the Council of Ministers concerning policy and development relating to wages and income;
- (2) Prescribing guidance for consideration by the employers in making wage adjustment in accordance with the economic and social conditions;
- (3) Prescribing minimum wage rates;
- (4) Prescribing workmanship standard wage rates;
- (5) Giving advice on academic aspect and direction for coordination of interest for various agencies both in the public and private sectors as well as the general public.
- (6) Performing other tasks as prescribed by law or as designated by the Council of Ministers or the Minister.

In proposing opinions to the Council of Ministers, Wages Committee may include any observations in relation to the income system development of the country.

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<sup>23</sup> Section 79 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

**Section 80.** Wages Committee members appointed by the Council of Ministers shall hold office for a term of two years. A member of the Wages Committee whose term of office has expired is eligible for reappointment.

Where a Wages Committee member appointed by the Council of Ministers vacates office before the expiration of his/her term of office, the Council of Ministers shall appoint a member of same category to fill the vacancy. The person so appointed shall hold office for the remaining term of the member that he/she replaces, except where the remaining term of the member is less than one hundred and eighty days, a replacement may not be appointed.

Where a member of the Wages Committee appointed by the Council of Ministers has completed his/her term of office but the appointment of a new member is yet to be made, the retiring member shall continue to perform his/her duties until a new member is appointed to fill his/her office. The appointment shall be made within ninety days from the date the retiring member has completed his/her term of office.

**Section 81.** Apart from retirement at the expiration of his/her term of office under Section 80, a member of the Wages Committee appointed by the Council of Minister shall vacate his/her office upon

- (1) Death;
- (2) Resignation;
- (3) Termination by the Council of Ministers because of his/her absence from meetings on three consecutive occasions without reasonable cause;
- (4) Becoming a bankrupt person;
- (5) Being adjudged an incompetent or quasi-incompetent person;
- (6) Being sentenced to imprisonment by a final judgment, except for offenses committed by negligence or petty offenses.

**Section 82.**<sup>24</sup> At any meeting of the Wages Committee, there must be in

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<sup>24</sup> Section 82 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

attendance not less than one-half of the total number of its members inclusive of at least one member from the employer side and one member from the employee side in order to constitute a quorum.

At a meeting convened to consider and prescribe the minimum rate of basic wage or workmanship standard wage rate as provided for in Section 79, there must be in attendance at least two-thirds of the total number of the members of the Committee inclusive of at least two members from the employer side and two members from the employee side in order to constitute a quorum. A resolution must be passed by at least two-thirds of the members present at the meeting.

At any meeting to determine minimum rate of basic wage or workmanship standard wage rate, if a quorum is not constituted as required in paragraph two, another meeting shall be convened within fifteen days from the date scheduled for the first meeting. At the subsequent meeting, even if no member from the employer or the employee side is present, a quorum shall be constituted if at least two-thirds of the Committee members are present at the meeting, and a resolution must be passed by two-thirds of the members present at the meeting.

**Section 83.** At any meeting, if the chairperson of the Committee is absent or is unable to perform his/her duty, the members present shall select one from among their number to preside over the meeting.

A final decision of the meeting shall be passed by a majority of votes. Each member shall have one vote. In the event of a tie, the chairperson of the meeting shall have a casting vote.

**Section 84.**<sup>25</sup> The Wages Committee shall have the power to appoint sub-committees to consider or act on anything as designated by the Wages Committee.

The Wages Committee shall determine the quorum for the Sub-committee meeting and its mode of operation as it deems appropriate.

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<sup>25</sup> Section 84 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

**Section 84/1.**<sup>26</sup> The Wages Committee shall have the power to appoint not exceeding five qualified persons as Advisors to the Wages Committee, among them, at least, they must be qualified in the field of labour, wages and salary administration, economics, industry or law.

The provisions of Section 80 and 81 shall apply to the holding of office and vacating of the same as an advisor appointed by the Wages Committee referred to in paragraph one, *mutatis mutandis*

**Section 85.** In carrying out its duties, the Wages Committee or a Sub-committee or a person designated by the Wages Committee or a Sub-committee shall have the following powers:

(1) To summon any person to provide a statement or furnish any document or material for consideration as deemed necessary;

(2) To demand cooperation from any organization or person in an inspection of any business activities which could affect the economy;

(3) To enter a place of business or office of an employer during working hours in order to study, survey, research, inspect, or make inquiries so as to obtain information for consideration of matters referred to in Section 79. In this regard, the employer or person concerned shall render all facilitation, furnish or present documents, or provide facts and not obstruct the execution of the duty of such body or person.

**Section 86.** In carrying out the duties prescribed in Section 85, the Wages Committee, Sub-committee, or a person designated by the Wages Committee or the Sub-committee shall present an identity card or letter of designation, as the case may be, to the person concerned.

The identity card of the members of the Wages Committee and the Sub-committee referred to in the foregoing paragraph shall be in the form prescribed by the Minister.

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<sup>26</sup> Section 84/1 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

**Section 87.**<sup>27</sup> In prescribing the minimum wage rate, the Wages Committee must study and consider all factors relating to the wage received by employee and other facts taking into account the cost of living index, the rate of inflation, the standard of living, cost of production, the price of goods and services, business competitiveness, labour productivity, gross national product, and economic and social conditions.

The minimum rate of basic wage may be prescribed specifically for any or all types of business or occupation in any locality.

In prescribing the workmanship standard wage rate, the Wages Committee must study and consider all factors relating to the wage received by employee in each occupation in accordance with the stipulated workmanship standard by measuring workmanship skill, knowledge and ability, however, it shall not be lower than the minimum wage rate prescribed by the Wages Committee.

**Section 88.**<sup>28</sup> After having studied the information and matters specified in Section 87, the Wages Committee shall prescribe the minimum wage rate or the workmanship standard wage rate and submit the same to the Council of Ministers for publication in the Government Gazette.

**Section 89.**<sup>29</sup> The notification prescribing the minimum wage rate or workmanship standard wage rate under Section 88 shall be applicable to all employers and employees without discrimination.

**Section 90.**<sup>30</sup> When the notification prescribing the minimum wage rate or the workmanship standard wage rate comes into force, an employer shall not pay an employee a wage lower than the prescribed minimum wage rate or the prescribed workmanship standard wage rate.

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<sup>27</sup> Section 87 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

<sup>28</sup> Section 88 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

<sup>29</sup> Section 89 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

<sup>30</sup> Section 90 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)

The Labour Inspector shall send the notification prescribing the minimum wage rate or the workmanship standard wage rate to employers compelled thereby, who are required to post such notification for the information of the employees at a conspicuous location at their workplace throughout the period such notification remains in effect.

**Section 91.**<sup>31</sup> The Office of the Wages Committee shall be established in the Ministry of Labour with the following duties and powers:

- (1) Preparation of the country's wage and income system development for submission to the Wages Committee.
- (2) Preparation of work plans for submission to the Wages Committee and the Sub-committee;
- (3) Co-ordination of plans and operations of the Wages Committee;
- (4) To collect, study, research, analyse and evaluate situations relating to the economy, labour, living conditions, expansion of labour market, labour productivity, investment, migration, and relevant information, for use in the planning of the country's wage and income system development, and as information for the consideration of the Wages Committee and the Sub-committee;
- (5) Making recommendations on the results of the study and the consideration of technical information and other supplementary measures to the Ministry of Labour and organizations concerned for the purpose of the development of wage and income system;
- (6) Following up and evaluating the country's wage and income system development plan and works carried out pursuant to the resolutions of the Wages Committee;
- (7) Carrying out of such other acts as are designated to it by the Wages Committee and the Sub-committee.

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<sup>31</sup> Section 91 as amended by the Labour Protection Act, (No. 3), B.E. 2551 (2008)



## Chapter 7

### Welfare

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**Section 92.** There shall be a Labour Welfare Committee consisting of the Permanent Secretary of the Ministry of Labour as Chairperson, four members representing the government, five members representing the employers and five members representing the employees, appointed as members by the Minister as well as an official of the Department of Labour Protection and Welfare appointed by the Minister as Secretary.

**Section 93.**<sup>32</sup> The Labour Welfare Committee shall have the following powers and duties:

- (1) Proposing opinions to the Minister on policies, guidelines and measures concerning labour welfare;
- (2) Proposing opinions to the Minister on issuance of Ministerial Regulations, notifications, or regulations concerning the provision of welfare in business establishments;
- (3) Giving advice relating to the provision of labour welfare for each category of business establishments;
- (4) Following up, evaluating and reporting to the Minister the results of its operation;
- (5) Issuing an order to an employer to pay a special severance pay or a special severance pay in lieu of advance notice under Section 120;
- (6) Carrying out any other act as prescribed by this Act or other laws as being within the powers and duties of the Labour Welfare Committee, or as delegated by the Minister.

**Section 94.**<sup>33</sup> Section 78 paragraph two, Section 80, Section 81, Section 82

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<sup>32</sup> Section 93 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>33</sup> Section 94 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

paragraph one, Sections 83, Section 84, Section 85, and Section 86 shall apply to the Labour Welfare Committee, *mutatis mutandis*.

**Section 95.** The Minister shall have the power to issue Ministerial Regulations requiring an employer to arrange for welfare in any matter, or imposing standards for the provision of any welfare.

**Section 96.** In a business establishment where there are 50 employees or more, an employer shall arrange to have a welfare committee of the business establishment which shall consist of at least five employee representatives.

The members of the welfare committee of the business establishment shall be elected in accordance with the criteria and procedures prescribed by the Director-General.

Where a committee of employees under the law governing labour relations already exists in a business establishment of an employer, the committee of employees shall perform the duty of the welfare committee of the business establishment under this Act.

**Section 97.** The welfare committee of the business establishment shall have the following powers and duties:

- (1) Participating in joint discussions with the employer in providing welfare to the employees;
- (2) Giving advice and recommendations to the employer regarding the provision of welfare to the employees;
- (3) Inspecting, controlling, and overseeing the provision of welfare provided by the employer to the employees;
- (4) Providing the Labour Welfare Committee with opinions and guidelines on provision of welfare which is beneficial to the employees.

**Section 98.** An employer shall meet for discussion with the welfare

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committee of the business establishment at least once every three months, or when requested by more than one half of the total members of the welfare committee of the business establishment, or, when reasonably requested by the labour union.

**Section 99.** For the information of the employees, the employer shall post, at a conspicuous location at the workplace of the employees, notifications relating to the organisation of welfare as set forth in the Ministerial Regulations pursuant to Section 95 or to an agreement made with the employees.

## Chapter 8

### Safety, Occupational Sanitation and Working Environment<sup>34</sup>

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**Section 100.**<sup>35</sup> (Repealed)

**Section 101.**<sup>36</sup> (Repealed)

**Section 102.**<sup>37</sup> (Repealed)

**Section 103.**<sup>38</sup> (Repealed)

**Section 104.**<sup>39</sup> (Repealed)

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<sup>34</sup> Chapter 8 Safety, Occupational Sanitation and Working Environment, containing Section 100 to Section 107, was repealed by the Labour Protection Act, (No. 4), B.E. 2553 ( 2010)

<sup>35</sup> Section 100 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>36</sup> Section 101 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>37</sup> Section 102 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>38</sup> Section 103 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>39</sup> Section 104 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

Section 105.<sup>40</sup> (Repealed)

Section 106.<sup>41</sup> (Repealed)

Section 107.<sup>42</sup> (Repealed)

## Chapter 9

### Regulations and Controls

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**Section 108.** An employer who employs ten or more employees shall arrange to have work regulations prepared in the Thai language. These regulations shall, at least, contain particulars of the following:

- (1) Working days, regular working hours and rest periods;
- (2) Holidays, and criteria for taking holidays;
- (3) Criteria concerning overtime work and work on holidays;
- (4) Date and place of payment of wage, overtime pay, holiday pay and holiday overtime pay;
- (5) Leave and criteria for taking leave;
- (6) Discipline and disciplinary punishment;
- (7) Lodging of complaints;
- (8) Termination of employment, severance pay and special severance pay.

The employer shall announce the applicability of the work regulations within fifteen days from the date upon which the workforce of the employer reaches a total of ten or more employees. The employer shall, at all times, keep a copy of these regulations at its business establishment or in the employer's office. The employer shall submit a copy of the regulations to the Director-General or his/her designate within seven days from the date the

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<sup>40</sup> Section 105 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>41</sup> Section 106 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>42</sup> Section 106 was repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

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regulations being announced as enforceable.

The Director-General or his/her designate shall be empowered to order the employer to amend, within a specified period, the work regulations which contradict the law.

An employer shall distribute and post the work regulations at a conspicuous location at the workplace, for the information of the employees for their convenient references.

**Section 109.** A complaint lodged pursuant to Section 108 (7) shall at least contain the following details:

- (1) Scope and meaning of the complaint;
- (2) Methods and procedure for the lodging of complaints;
- (3) Investigation and consideration of complaints;
- (4) Procedure for the settlement of complaints;
- (5) Protection for the complainant and other persons involved.

**Section 110.** Where there is an amendment to the work regulations, the employer shall announce such amended work regulations within seven days from the date of announcement of the applicability of the amended work regulations, and the provisions of Section 108 paragraphs two, three and four shall apply *mutatis mutandis*.

**Section 111.** When an employer has announced the work regulations under Section 108, the employer has the duty thenceforth to comply with Section 108 and Section 110, regardless of whether or not the employer subsequently employs less than 10 employees.

**Section 112.** An employer with ten or more employees shall prepare in the Thai language an employee register and keep the same in custody at the business establishment or at the office of the employer in order that a Labour Inspector may readily inspect it during working hours.

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The employer shall prepare the employee register mentioned in paragraph one within fifteen days from the date of an employee is employed.

**Section 113.** An employee register shall at least contain the following particulars:

- (1) Name and family name;
- (2) Gender;
- (3) Nationality;
- (4) Date of birth or age;
- (5) Present address;
- (6) Date of commencement of employment;
- (7) Position or work duties;
- (8) Wages or other remuneration which the employer agrees to pay the employee;
- (9) Date of termination of employment.

If it is necessary to make a change in any of the particulars in the register of the employees, the employer shall complete the amendment of the register within fifteen days from the date of such change or within fifteen days from the date the employee informs the employer of any change.

**Section 114.** An employer with ten employees or more shall prepare documents concerning the payment of wage, overtime pay, holiday pay and holiday overtime pay containing at least the following particulars:

- (1) Working days and working hours;
- (2) Work output of an employee whose wage is computed on the basis of work output unit;
- (3) The rate and amount of wage, overtime pay, holiday pay and holiday overtime pay which each employee has received.

Upon making payment of wage, overtime pay, holiday pay and holiday overtime pay to an employee, the employer shall require the employee to sign the

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documents referred to in paragraph one as evidence.

The particulars referred to in paragraph one may be recorded in one or several documents.

Where an employer pays wage, overtime pay, holiday pay and holiday overtime pay to an employee by transferring money to his/her deposit account at a commercial bank or other financial institutions, the evidence of the money transfer to the deposit account of the employee shall be deemed to be a document relating to such payment.

**Section 115.** An employer shall keep in custody a register of employees for not less than two years from the date of termination of the employment of each employee, and the employer shall keep documents relating to the payments made to employees of wage, overtime pay, holiday pay and holiday overtime pay for not less than two years from the date such payments were made.

Where a complaint has been submitted pursuant to Chapter 12 of this Act, or where a labour dispute under the law on labour relations or labour law litigation has been instituted, the employer shall keep in custody the register of employees and documents relating to the payment of wage, overtime pay, holiday pay and holiday overtime pay until a final order or judgment on that matter has been made.

**Section 115/1.**<sup>43</sup> For the purpose of performing duties of the Labour Inspector under Section 139, an employer with ten employees or more shall submit a report form on conditions of employment and working conditions to the Director-General or his/her designate within the month of January of every year. In this regard, the Labour Inspector shall provide the form as prescribed by the Director-General to the employer within the month of December of every year.

Where there is any change in the fact on conditions of employment and working conditions submitted under paragraph one, the employer shall inform the Director-General or his/her designate in writing of the change within the following month after the

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<sup>43</sup> Section 115/1 as added by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

occurrence of such change.

## Chapter 10

### Suspension from Work

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**Section 116.** Where an employer conducts an investigation on an employee who is alleged to have committed an offense, the employer is prohibited from suspending that employee from work during the course of the investigation, except where the work regulations or an agreement relating to conditions of employment empower the employer to suspend the employee. In this regard, the employer shall issue a written suspension order specifying the offense and prescribing the period of suspension which shall not exceed seven days. The employer shall notify the employee prior to the suspension.

During the period of suspension referred to in paragraph one, the employer shall pay the employee the money at the rate prescribed in the work regulations or as agreed upon between the employer and the employee in an agreement relating to the conditions of employment, provided that such rate shall not be less than fifty percent of the wage for a working day as received by the employee before his/her suspension from work.

**Section 117.** Once an investigation is completed and it appears that the employee is not guilty, the employer shall pay the employee his/her wage in an amount equal to that which would have been payable for the working days on which he/she was suspended, by calculating the amount of money which the employer must pay pursuant to Section 116 as part of his/her wage under this Section, together with interest at the rate of fifteen percent per annum.

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## Chapter 11

### Severance Pay

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**Section 118.** An employer shall pay severance pay to an employee whose employment is terminated, as follows:

(1) An employee who has worked for one hundred and twenty consecutive days, but for less than one year, shall be paid not less than thirty days of the most recent wage rate received by him/her or not less than the wage he/she received for work performed in the last thirty days as an employee who is paid on the basis of his/her work output units;

(2) An employee who has worked continuously for one year but less than three years shall be paid not less than ninety days of the most recent wage rate received by him/her or not less than the wage for work performed in the last ninety days as an employee who is paid on the basis of his/her work output units;

(3) An employee who has worked consecutively for three years but less than six years shall be paid not less than one hundred and eighty days of the most recent wage rate received by him/her or not less than the wage for work performed in the last one hundred and eighty days as an employee who is paid on the basis of his/her work output units;

(4) An employee who has worked consecutively for six years but less than ten years shall be paid not less than two hundred and forty days of the most recent wage rate received by him/her or not less than the wage for work performed in the last two hundred and forty days as an employee who is paid on the basis of his/her work output units;

(5) An employee who has worked for ten years consecutively or longer shall be paid not less than three hundred days of the most recent wage rate received by him/her or not less than the wage for work performed in the last three hundred days as an employee who is paid on the basis of his/her work output units.

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The termination of employment in this Section shall mean any act of an employer which prevents an employee from continuing to work and receiving his/her wage therefor, whether due to the termination of the employment contract or for any other reason, and shall include the situation where the employee cannot work and be paid because the employer can no longer operate its business.

The provisions of paragraph one shall not apply to an employee whose employment period is definite and which is terminated at the expiration of that period.

The employment of definite period referred to in paragraph three can be done in the case of employment for a special project work, which is not in the normal course of business or trade of the employer and which shall have a definite beginning and ending time, or for work of a temporary nature with ending or completion schedule, or for seasonal work and the employment is made during the season, provided that the work must be completed within a period of not exceeding two years for which the employer and the employee have entered into an agreement at the beginning of the employment.

**Section 119.**<sup>44</sup> An employer is not required to pay severance pay to an employee whose employment has been terminated for any of the following reasons:

- (1) Performing his/her duty dishonestly or intentionally committing a criminal offence against the employer;
- (2) Willfully causing damage to the employer;
- (3) Committing negligent acts causing serious damage to the employer;
- (4) Violating work regulations, regulation or order of the employer which is lawful and just for which the employer has already issued the employee a written warning, except in a serious instance for which the employer is not required to give a warning.

The written warning shall be valid for not exceeding one year from the date the employee has committed the offence;

- (5) Absenting from duty without justifiable reason for three consecutive working days whether or not they are separated by holiday;

- (6) Being sentenced to imprisonment by a final court judgment.

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<sup>44</sup> Section 119 as amended by the Labour Protection Act, (No. 2), B.E. 2551 ( 2008)

In (6), if the offense was committed with negligence or was a petty offense, it must have caused damage to the employer.

Where an employment is terminated without severance pay as referred to in paragraph one, if the employer fails to specify the fact which is the cause of employment termination in the letter of termination of employment or fails to inform the employee the cause of employment termination at the time of termination of employment, the employer cannot afterwards base his claim on such cause.

**Section 120.**<sup>45</sup> Where an employer relocates its place of business and the relocation materially affects the ordinary course of living of the employee or his/her family, the employer shall notify the employee of the relocation not less than thirty days prior to the date of relocation. In this regard, if an employee does not wish to work for the employer at the new location, he/she has the right to terminate his/her employment contract within thirty days from the date being notified by the employer or from the date of relocation, as the case may be. The employee shall be entitled to special severance pay not less than the rate of severance pay he/she would be entitled to under Section 118.

Where an employer fails to give an advance notice to an employee in accordance with paragraph one, the employer shall also pay special severance pay in lieu of the advance notice in an amount equal to thirty days of the most recent wage rate received by him/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/her work output units.

The employer shall pay special severance pay or special severance pay in lieu of advance notice to the employee within seven days from the date the employee terminates the contract.

Where the employer fails to pay severance pay or special severance pay in lieu of advance notice as referred to in paragraph three, the employee shall be entitled to lodge a complaint to the Labour Welfare Committee within thirty days from the date the payment of special severance pay or special severance pay in lieu of advance notice, is due.

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<sup>45</sup> Section 120 as amended by the Labour Protection Act, (No. 2), B.E. 2551 ( 2008)

The Labour Welfare Committee shall consider and issue an order within sixty days from the date of receiving the complaint.

When it is determined by the Labour Welfare Committee that the employee is entitled to special severance pay or special severance pay in lieu of advance notice, as the case may be, the Labour Welfare Committee shall issue an order in writing to the employer to pay special severance pay or special severance pay in lieu of advance notice to the employee within thirty days from the date the employer has acknowledged or deemed to have acknowledged such order.

When it is determined by the Labour Welfare Committee that the employee is not entitled to special severance pay or special severance pay in lieu of advance notice, as the case may be, the Labour Welfare Committee shall issue an order in writing and notify the employer and the employee.

The order of the Labour Welfare Committee shall be final unless the employer or the employee appeals against the order to the court within thirty days from the date of the acknowledgement of the order. In the event the employer is the party bringing the case before the court, the employer shall deposit a security with the court in the amount equal to the payment to be made under such order so as to initiate the lawsuit.

**Section 121.** Section 17 paragraph two shall not apply where an employer terminates an employee because improvement being made to the working unit, production, distribution or service processes, due to the utilization of machinery or change of machinery or technology, causing reduction in the number of employees, and the employer shall notify the Labour Inspector and the employees to be terminated, of the date of employment termination, reasons for employment termination, and list of names of the employees at least sixty days in advance of the employment termination date.

Where an employer fails to give advance notice to an employee of his/her termination, or gives advance notice but shorter than the period of time specified in paragraph one, in addition to the severance pay payable to the employee pursuant to Section 118, the employer shall, in lieu of the advance notice, also pay special severance

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pay in an amount equal to sixty-day wage at the most recent wage rate received by the employee or equal to the wage for work performed in the last sixty days as an employee who is paid on the basis of his/her work output units.

Where special severance pay is made in lieu of the advance notice pursuant to paragraph two, it shall be deemed that the employer has paid remuneration instead of providing advance notice under the Civil and Commercial Code.

**Section 122.** Where an employer terminates an employee under Section 121 and that employee has worked consecutively for six years or more, the employer shall pay special severance pay in addition to the severance pay under Section 118, in an amount not less than the wage received at the most recent rate for fifteen days, for each complete year of work; or not less than the wage received at the most recent rate for fifteen days for each complete year of work in as an employee who is paid on the basis of his/her work output units, but the total severance pay under this Section, in total, shall not exceed the amount of the wage at the most recent wage rate for three hundred and sixty days or not exceed the wage for the last three hundred and sixty days as an employee who is paid on the basis of his/her work output units.

For the purpose of special severance pay computation, where an employment period is less than one year but the fraction thereof is greater than one hundred and sixty days, it shall be deemed to be one year of employment.

## Chapter 12

### Submission of Complaints and Consideration

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**Section 123.** Where an employer violates or fails to comply with those provisions concerning entitlement to any sum of money under this Act and the employee wishes to have a competent official take action under this Act, the employee has the right to submit a complaint in the form prescribed by the Director-General to the Labour Inspector of the locality in which the employee works or in which the employer is

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domiciled.

In a case concerning entitlement to any sum of money under this Act, if the employee is deceased, the statutory heir has the right to submit a complaint to the Labour Inspector.

**Section 124.** When a complaint is submitted pursuant to Section 123, the Labour Inspector shall investigate the facts and issue an order within sixty days from the date of receipt of the complaint.

Where necessity renders it impossible to issue an order within the period of time specified in paragraph one, the Labour Inspector shall request an extension of time from the Director-General or his/her delegate and provide reasons therefor. The Director-General or his/her delegate may grant permission as considered appropriate for a period not exceeding thirty days from the expiry date of the period referred to in paragraph one.

Once the Labour Inspector has conducted his/her investigation and it appears that the employee is entitled to a sum of money which the employer is required to pay under this Act, the Labour Inspector shall issue an order requiring the employer to pay that money to the employee, or his/her statutory heir in case the employee is deceased, in the form prescribed by the Director-General within thirty days from the date the order is acknowledged or deemed to have been acknowledged.<sup>46</sup>

The employer shall pay the money referred to in paragraph three to the employee or his/her statutory heir, in case the employee is deceased, at the workplace of the employee. Where a request is made by the employee or, his/her statutory heir in case the employee is deceased, the Labour Inspector shall have the power to order the employer to pay the money at the office of the Labour Inspector or at such other place as is agreed upon between the employer and the employee or his/her statutory heir in case the employee is deceased.

Where the employee, or his/her statutory heir in case the employee is

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<sup>46</sup> Section 124 paragraph three as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

deceased, does not collect the money within fifteen days from the date the Labour Inspector has issued an order, the Labour Inspector shall remit the money to the Employee Welfare Fund by depositing it with a bank. In doing so, any interest or other gain acquired by reason of this deposit shall belong to the employee, or his/her statutory heir in case the employee is deceased, who is entitled to such money.

Where the Labour Inspector is of the opinion that the employee, or his/her statutory heir in case the employee is deceased, is not entitled to receive the money under Section 123, the Labour Inspector shall issue an order and notify, in writing, the employer and employee or his/her statutory heir in case the employee is deceased, for their information.

**Section 124/1.**<sup>47</sup> Where the employer has complied with the order of the Labour Inspector under Section 124 within the time specified or has complied with the court's judgement or order, the criminal proceedings against the employer shall be extinguished.

**Section 125.** When the Labour Inspector issues an order under Section 124, if the employer, the employee, or his/her statutory heir in case the employee is deceased, is not satisfied with the order, legal proceedings must be instituted within thirty days from the date upon which the order has become known.

Where the employer, the employee or his/her statutory heir in case the employee is deceased, does not institute legal proceedings within the time prescribed, such order shall become final.

Where legal proceedings are instituted by the employer, the employer must deposit with the Court an amount of money equal to the amount the payment of which being due under the said order, in order to be able to institute legal action.

When the case is final and the employer is made to pay any monies to the employee or his/her statutory heir in case the employee is deceased, the Court shall have the power to release the deposit amount of money placed by the employer with the Court to the employee or his/her statutory heir in case the employee is deceased, or to the

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<sup>47</sup> Section 124/1 as added by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

Employee Welfare Fund in the event payment under Section 134 has been made, as the case may be.<sup>48</sup>

## Chapter 13

### Employee Welfare Fund

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**Section 126.** There shall be an Employee Welfare Fund established in the Department of Labour Protection and Welfare for use as a welfare fund for employees in circumstances where an employee resigns, dies, or in such other cases as are prescribed by the Employee Welfare Fund Committee.

**Section 127.** The Employee Welfare Fund shall consist of:

- (1) The contributions of both employers and employees;
- (2) Money vested in the Employee Welfare Fund pursuant to Section 133 and Section 136;
- (3) Payments of surcharge made pursuant to Section 131;
- (4) Fines received as a result of the punishment of offenders under this Act;
- (5) Money or property donated;
- (6) Government subsidies;
- (7) Other income;
- (8) Interest accrued to the Employee Welfare Fund.

The Employee Welfare Fund shall maintain the following accounts:

- (1) An account of funds of the members showing particulars of employee and employer contributions and the accrued interest of each member;
- (2) An account of common fund showing particulars of funds other than those referred to in (1).

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<sup>48</sup> Section 125 paragraph four as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)



**Section 128.** Remittance of fine under Section 127 (4) to the Employee Welfare Fund and the period of time for the remittance thereof shall be in accordance with the regulations which the Employee Welfare Fund Committee shall prescribe and publish in the Government Gazette.

**Section 129.** For the purpose of the implementation of this Act, it shall be deemed that the ownership of money and property of the Employee Welfare Fund referred to in Section 127 belongs to the Department of Labour Protection and Welfare and, therefore, need not be remitted to the Ministry of Finance as State Revenue.

There shall be an Employee Welfare Fund Committee which shall consist of the Permanent Secretary for Ministry of Labour as Chairperson, a representative of the Ministry of Finance, a representative of the Office of the National Economic and Social Development Board, a representative of the Bank of Thailand, as members, and five employer representatives and five employee representatives appointed by the Minister, as members, and the Director-General of the Department of Labour Protection and Welfare as member and Secretary.

The Employee Welfare Fund Committee shall have the following powers and duties:

- (1) Formulation of policies concerning the administration of and payments out of the Employee Welfare Fund, with the approval of the Minister;
- (2) Considering and providing opinions to the Minister relating to the enactment of Royal Decrees, promulgation of Ministerial Regulations, issuance of notifications or regulations, for the purpose of the implementation of this Act;
- (3) Formulation of regulations concerning the receipt, payment and custody of the money of the Employee Welfare Fund, with the approval of the Minister;
- (4) Formulation of regulations concerning acquisition of interests of the Employee Welfare Fund, with the approval of the Minister;
- (5) Allocation of money of the Employee Welfare Fund of not more than 10 per cent of the interests derived by the Fund each year for use as administrative expenses for the Employee Welfare Fund;

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(6) Execution of any other act as prescribed by this Act or other laws as being the power and duty of the Employee Welfare Fund Committee or as delegated by the Minister.

Section 78 paragraph two, Section 80, Section 81, Section 82 paragraph one, Section 83 and Section 84 shall apply to the Employee Welfare Fund Committee, *mutatis mutandis*.

**Section 130.** Employees of a business operation having ten or more employees shall be members of the Employee Welfare Fund.

The provisions of paragraph one shall not apply to business operations where the employer has set up a provident fund under the law relating to provident funds, or where arrangements have been made for the welfare of employees in the event of their resignation or death, according to the criteria and procedures prescribed in Ministerial Regulations.

A Royal decree shall be enacted whenever the provisions of paragraph one are to be applicable to employees of business operations having less than ten employees.

The Employee Welfare Fund Committee may issue regulations permitting employees of a business operation not subjected to this Act to apply for membership to the Employee Welfare Fund when such employees wish to be members of the Employee Welfare Fund with the consent of the employer, and the employer shall have the same duties as provided by this Act as if that business operation was subject to this Act.

An employer with employees who are members of the Employee Welfare Fund under paragraph one shall file a form setting out the names of those employees and other details. When the employer has filed this form, the Department of Labour Protection and Welfare shall issue a certificate of registration to the employer.

Where there is a change of particulars in the form which has been filed, the employer shall notify the Department of Labour Protection and Welfare in writing requesting change or amendment to be made to the said form.

The filing of a request for change or amendment of the form and issuance of a certificate of registration to the employer shall be in accordance with the formats, criteria

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and procedures prescribed by the Employee Welfare Fund Committee.

The person filing a form or requesting change or amendment of the form under the law on social security shall be deemed to have complied with the provisions of paragraphs five, six and seven of this Section.

**Section 131.** As from the date an employee has become a member of the Employee Welfare Fund, whenever a payment of wages is made, the employee shall pay a contribution which the employer shall deduct from his/her wages, and the employer shall pay a contribution to the Employee Welfare Fund at the rate prescribed in the Ministerial Regulations, but not exceeding five per cent of the wages.

If an employer fails to pay wages at the time scheduled for payment, the employer has the duty to remit the employee and employer contributions as if payment of wages had been made.

Where an employer fails to remit the employee or employer contributions, or does not remit the same in full within the time prescribed in paragraph four, the employer shall make a payment of surcharge to the Employee Welfare Fund at the rate of five per cent per month from the date when the remittance of the employee or employer contribution was due and which has not been remitted or which is shortcoming. If a fraction of a month is fifteen days or more, it shall be deemed a full month, if less than that it shall be disregarded. A failure to make a wage deduction or an insufficient deduction shall not be raised by the employer as grounds for its release from liability to remit such sum of money.

The remittances of the employee and employer contributions and payment of surcharge to the Employee Welfare Fund shall be in accordance with the criteria and procedures as prescribed by the Employee Welfare Fund Committee.

**Section 132.** Where an employer fails to remit the employee or employer contributions or does not remit the same in full within the prescribed time, the Labour Inspector shall issue a written warning requiring the employer to pay the outstanding amount within a period of not less than thirty days from the date of receipt of the written warning.

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In issuing a warning pursuant to paragraph one, if an amount of wages is not ascertained, the Labour Inspector shall have the power to assess the employee and employer contributions which the employer is required to remit in accordance with the criteria and procedures prescribed by the Employee Welfare Fund Committee.

**Section 133.** Where an employee resigns, the Department of Labour Protection and Welfare shall pay the employee from the Employee Welfare Fund with the money which is the employee and employer contributions and interest derived thereon.

Where an employee is deceased, if he/she had not, in writing, named a person entitled to receive money from the Employee Welfare Fund in the form prescribed by the Director-General, and submitted it to the Department of Labour Protection and Welfare, or if the person so named had predeceased the employee, the money to be paid from the Employee Welfare Fund pursuant to paragraph one shall be paid to the living children, husband, wife, father and mother of the deceased employee in equal shares.

If the deceased employee had no person entitled to receive money from the Employee Welfare Fund as prescribed in paragraph two, such money shall become vested in the Employee Welfare Fund.

**Section 134.** For payments of money out of the Employee Welfare Fund in cases other than those mentioned in Section 133, the Employee Welfare Fund Committee shall prescribe regulations concerning the payment of welfare funds, rate of payment and the duration of payment by taking into account the amount of the Employee Welfare Fund which is not the money payable under Section 133.

**Section 135.**<sup>49</sup> Where the Department of Labour Protection and Welfare has paid money from the Employee Welfare Fund, whether wholly or in part, to the employee under Section 134, the Department of Labour Protection and Welfare shall have the right of recourse against a person who has the duty under the law to pay such money to the

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<sup>49</sup> Section 135 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

employee, including interest at the rate of fifteen per cent per annum from the date the Department of Labour Protection and Welfare has paid money from the Employee Welfare Fund to the employee regardless of whether or not the person who has the duty under the law has already paid such money to the employee.

The prescription of the right of recourse under paragraph one shall be ten years from the date the payment from the Employee Welfare Fund has been made.

**Section 136.** The Labour Inspector shall have the power to issue a written order for the seizure, attachment and sale by auction of the property of a person who has the duty under the law but fails to remit the employee contribution, employer contribution or surcharge payments, or who has done so but not in full, or fails to remit money payable under Section 135.

The issuance of an order to seize or attach property pursuant to paragraph one can be made only after a written warning has been given to the person who has the duty under the law to pay the outstanding employee contribution, employer contribution, or surcharge payments or money payable under Section 135 within a prescribed period of time which shall not be less than thirty days from the date that person has received the warning and has failed to make the payment within the prescribed period.

Criteria and procedures for seizure, attachment and sale by auction of property pursuant to paragraph one shall be in accordance with regulations prescribed by the Minister. In this regard, the criteria and procedures under the Civil Procedure Code shall apply, *mutatis mutandis*.

The proceeds from sale by auction shall be subject to deductions for expenses incurred in the seizure, attachment and sale by auction, and to payment of outstanding employee contribution, employer contribution or surcharge money, or money which the person with the duty under the law is required to pay under Section 135. The balance, if any, shall be returned to such person without delay. The Labour Inspector shall send a written notice by registered mail with acknowledgement of receipt to inform that person of his/her right to claim the said balance. If that person fails to claim the said balance within five years, the money shall become vested in the Employee Welfare Fund.

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**Section 137.** A right to claim money from the Employee Welfare Fund is not transferable and is non-leviable.

**Section 138.** Within one hundred and twenty days from the end of a calendar year, the Employee Welfare Fund Committee shall submit a balance sheet and a revenue and expenditure statement of the Employee Welfare Fund for the previous year to the Office of the Auditor-General for auditing and certification prior to submission to the Minister.

The Minister shall submit the said balance sheet and revenue and expenditure statement to the Council of Ministers for its information and cause the same to be published in the Government Gazette.

## Chapter 14

### Labour Inspectors

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**Section 139.** In performing their duties, Labour Inspectors shall have the following powers:

(1) To enter place of business or office of an employer and workplace of an employee during business hours so as to inspect the working conditions of employees and the employment conditions, to make inquiries about facts, to take photos, to make copies of documents relating to employment, payments of wage, overtime pay, holiday pay, holiday overtime pay, and the register of employees, to collect samples of materials or products relating to work safety analysis and to do any other act to obtain facts relating to the enforcement of this Act;

(2) To send notices of inquiry or summons to an employer, an employee or other persons concerned for the clarification of facts or to send relevant items or documents for their consideration;

(3) To issue written orders requiring an employer or an employee to comply with this Act.

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**Section 140.** In performing his/her duties under Section 139 (1), a Labour Inspector shall present his/her identification card to an employer or a person concerned, and the employer or person concerned shall facilitate them and shall not obstruct the performance of duty of the Labour Inspector.

The identification card of the Labour Inspector shall be in the form prescribed by the Minister.

**Section 141.**<sup>50</sup> An appeal against an order of the Labour Inspector under Section 139 (3) shall be made to the Director-General or his/her designate within a specified period as provided in the order. The Director-General or his/her designate shall consider the appeal and notify the appellant without delay but it shall not be longer than thirty days from the date of receiving the appeal. The decision of the Director-General or his/her designate shall be final.

The appeal under paragraph one shall not be a respite for the employer from complying with the order of the Labour Inspector unless the Director-General or his/her designate has issued an order otherwise or a security as required by the Director-General or his/her designate is deposited.

Where the Employer or the employee has complied with the order of the Labour Inspector under Section 139 (3) or has complied with the decision of the Director-General or his/her designate under paragraph one within the specified period, the criminal proceedings against the employer or the employee shall be extinguished.

**Section 142.** When inspecting a place of business or office of an employer or of the workplace of an employee, the Director-General or his/her designate may arrange for a physician, social welfare worker or expert appointed by the Minister to enter that place for the provision of opinion or rendition of assistance to the Labour Inspector in the performance of his/her duty under this Act.

An employer or a person concerned shall provide facilitative assistance and

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<sup>50</sup> Section 141 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

shall not obstruct a physician, social welfare worker or expert mentioned in paragraph one in the performance of their duties.

## Chapter 15

### Delivery of Notices

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**Section 143.** Delivery of orders or notices of the Director-General or a Labour Inspector who has issued orders under this Act, shall be made by registered mail with acknowledgement or receipt or by hand delivery by a Labour Inspector or by an official at the domicile or residence or office of an employer during the business hours of the employer. If the employer is not found at his/her domicile or residence or office or if the employer is found but refuses to receive the same, then the order or notice may be given to any person who is of legal age and resides or works in the house or office, which appears to belong to the employer. When this has been done, it shall be deemed that the employer has duly received the order or notice of the Director-General or the Labour Inspector.

If delivery as referred to in paragraph one cannot be made, the delivery shall be made by posting the order or notice of the Director-General or the Labour Inspector in a very conspicuous location at the office of the employer, workplace of the employee, domicile or residence of the employer. When this has been done and a period of not less than fifteen days has elapsed, it shall be deemed that the employer has duly received the order or notice of the Director-General or the Labour Inspector.

## Chapter 16

### Penalties

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**Section 144.**<sup>51</sup> An employer who violates or fails to comply with any of Sections 10, 22, 24, 25, 26, 37, 38, 39, 39/1, 40, 42, 43, 46, 47, 48, 49, 50, 51, 61, 62, 63, 64,

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<sup>51</sup> Section 144 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)



67, 70, 71, 72, 76, 90 paragraph one; Ministerial Regulations issued under Section 95, Section 118 paragraph one, or fails to pay special severance pay in lieu of advance notice or special severance pay under Section 120, Section 121, or Section 122, shall be punished with a term of imprisonment of not exceeding six months or a fine of not exceeding one hundred thousand baht, or both.<sup>52</sup>

Where an employer violates or fails to comply with any of Section 37, Section 38, Section 39, Section 39/1, Section 42, Section 47, Section 48, Section 49 or Section 50 thereby causing an employee to suffer bodily or mental injury or death, the employer shall be punished with a term of imprisonment of not exceeding one year or a fine of not exceeding two hundred thousand baht, or both.

**Section 144/1.**<sup>53</sup> An entrepreneur who fails to comply with Section 11/1 shall be punished with a fine of not exceeding one hundred thousand baht.

**Section 145.** An employer who fails to comply with Section 23 shall be punished with a fine not exceeding five thousand baht.

**Section 146.**<sup>54</sup> An employer who fails to comply with any of Sections 15, 27, 28, 29, Section 30 paragraph one, Sections 45, 53, 54, 56, 57, 58, 59, 65, 66, 73, 74, Section 75 paragraph one, Sections 77, 99, 108, 111, 112, 113, 114, 115, 117; or fails to give advance notice pursuant to Section 120, Section 121 paragraph one, or Section 139 (2) or (3), shall be punished with a fine of not exceeding twenty thousand baht.

**Section 147.** Any person who violates Section 16 shall be punished with a fine of not exceeding twenty thousand baht.

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<sup>52</sup> Section 144 paragraph one as amended by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>53</sup> Section 144/1 as added by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>54</sup> Section 146 as amended by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

**Section 148.**<sup>55</sup> Any employer who violates Section 31 or Section 44 shall be punished with a term of imprisonment of not exceeding one year or a fine not of exceeding two hundred thousand baht, or both.

**Section 149.** Any employer who fails to comply with Sections 52, Section 55, Section 75 paragraph two, Section 90 paragraph two, Section 110 or Section 116, shall be punished with a fine of not exceeding ten thousand baht.

**Section 150.**<sup>56</sup> Any person who fails to facilitate, to come forward and provide a statement, or to send documents or any materials set out in a written summons of the Wages Committee or the Labour Welfare Committee or the Sub-committee of said Committees or the person designated by such Committee or Sub-committee, as the case may be, or fails to give facilitative assistance to a Labour Inspector, physician, social welfare official or expert under Section 142, shall be punished with a term of imprisonment of not exceeding one month or a fine of not exceeding two thousand baht, or both.

**Section 151.**<sup>57</sup> Any person who obstructs the performance of duty of the Wages Committee or the Labour Welfare Committee or the Sub-committee of said Committees or the person designated by such Committee or Sub-committee, as the case may be, or obstructs the performance of duty of a Labour Inspector, physician, social welfare official or expert under Section 142, shall be punished with a term of imprisonment of not exceeding one year or a fine of not exceeding twenty thousand baht, or both.

Any person who fails to comply with an order of the Labour Welfare Committee issued pursuant to Section 120 or an order of the Labour Inspector issued pursuant to Section 124 shall be punished with a term of imprisonment of not exceeding

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<sup>55</sup> Section 148 as amended by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>56</sup> Section 150 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

<sup>57</sup> Section 151 as amended by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

one year or a fine of not exceeding twenty thousand baht, or both.<sup>58</sup>

**Section 152.** An employer who fails to comply with Section 96 shall be punished with a fine of not exceeding fifty thousand baht.

**Section 153.** An employer who fails to comply with Section 98 shall be punished with a term of imprisonment of not exceeding one month or a fine of not exceeding two thousand, or both.

**Section 154.**<sup>59</sup> (Repealed)

**Section 155.**<sup>60</sup> (Repealed)

**Section 155/1.**<sup>61</sup> Any Employer who fails to submit or declare a report form on conditions of employment and working conditions under Section 115/1 and, after having received a warning letter of the Labour Inspector, fails to submit or declare the report form within fifteen days from the date of receiving the warning letter shall be punished with a fine of not exceeding twenty thousand baht.

**Section 156.** Any employer who fails to submit forms or fails to give written notification requesting a change or amendment to particulars within the period of time prescribed in Section 130, or has submitted forms or given written notification requesting a change or amendment of particulars set out in Section 130 by providing false statement,

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<sup>58</sup> Section 151 paragraph two as amended by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>59</sup> Section 154 as repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>60</sup> Section 155 as repealed by the Labour Protection Act, (No. 4), B.E. 2553 (2010)

<sup>61</sup> Section 155/1 as added by the Labour Protection Act, (No. 2), B.E. 2551 (2008)

shall be punished with a term of imprisonment of not exceeding six months or a fine of not exceeding ten thousand baht, or both.

**Section 157.** Any competent official who discloses any facts, acquired or came to his/her knowledge in the performance of the duty under this Act, concerning the business of an employer which are normally treated as confidential and not revealed by the employer, shall be punished with a term of imprisonment of not exceeding one month or a fine of not exceeding two thousand baht, or both, except where the disclosure forms part of the performance of official duty for the purpose of this Act or in the interest of labour protection, labour relations or investigation or trial proceedings.

**Section 158.** Where an offense is committed by a juristic entity, if the commission of the offense by that juristic entity resulted from an order, act or omission of duty of the managing director or any other person responsible for the operation of the juristic entity, such person shall be liable to be penalized for the offense by punishment provided for such offense.

**Section 159.** For all offenses under this Act except as provided under Section 157, if the official designated below is of the opinion that the offender should not be penalized with a term of imprisonment or should not be prosecuted, that official shall have the power to compound the matter as follows:

- (1) The Director-General or his/her designate, for offenses taking place in the Bangkok Metropolis;
- (2) The Provincial Governor or his/her designate, for offenses taking place in provinces other than the Bangkok Metropolis.

In the event of investigation, if the investigating officer finds that a person has committed an offense under this Act and that person consents that the case be settled by paying fine, the investigating officer shall refer the matter to the Director-General or Provincial Governor, as the case may be, within seven days from the date the person consents that the case be settled by paying fine.

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When the offender pays the fine so imposed within thirty days, it shall be deemed that the case has been settled pursuant to the Criminal Procedure Code.

If the offender does not agree to the settlement of the case, or has agreed to the settlement of the case but fails to pay the fine within the period prescribed in paragraph three, the prosecution shall proceed.

### Transitional Provisions

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**Section 160.** Section 44 shall not apply to an employee who is a child between thirteen and fifteen years of age who has been in the employment of the employer in accordance with the Notification No. 103 of the National Executive Council dated 16<sup>th</sup> day of March B.E. 2515 (A.D. 1972) prior to the date upon which this Act comes into force.

**Section 161.** Within fifteen days from the date on which this Act comes into force, an employer shall give notice of the employment of employees who are children under 18 years of age and who have been in the employment of the employer in accordance with the Notification No. 103 of the National Executive Council dated 16<sup>th</sup> day of March B.E. 2515 (A.D. 1972) prior to the date upon which this Act comes into force.

**Section 162.** The Wages Committee, Sub-committees and Working Groups holding office on the date upon which this Act comes into force shall remain in office until the expiration of their respective terms.

**Section 163.** Whenever the collection of employee and employer contributions for use as employee welfare funds pursuant to the provisions governing Employee Welfare Fund in Chapter 13 is to begin, a Royal Decree shall be enacted to that effect.

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**Section 164.** Complaints which are not final or lawsuits which remain pending prior to the date upon which this Act comes into force shall be subject to notifications of the Ministry of Interior or of the Ministry of Labour issued under the Notification No. 103 of the National Executive Council dated 16<sup>th</sup> of March, B.E. 2515 (A.D. 1972) until those complaints or lawsuits have become final.

**Section 165.** Whoever is entitled to receive wages or other monies from an employer pursuant to the Notification No. 103 of the Revolutionary Party dated 16<sup>th</sup> day of March, B.E. 2515 (A.D. 1972) prior to the date upon which this Act comes into force shall continue to receive the same.

**Section 166.** All notifications or orders issued under the Notification No. 103 of the National Executive Council dated 16<sup>th</sup> day of March, B.E. 2515 (A.D. 1972) shall remain in full force and effect insofar as they do not contradict or are inconsistent with this Act, until such time as the Ministerial Regulations, regulations and notifications issued under this Act come into force.

Countersigned by:

Chuan Leekpai

Prime Minister

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## Fees

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Registration fee for a registered person qualified to certify and examine documents, evidence and reports is 5,000 baht annually.

Office of the Council of State

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