

Labor Protection Act, (No. 2), B.E. 2551

The Labor Protection Act, (No. 2), B.E. 2551, which came into force on 28 May 2008, provides the following additional protections for employees:

1. Where an employer fails to return an employee's monetary security, to pay an employee wages, including overtime pay or holiday pay, or to pay employees certain other compensation, in each case, within the time period required by law, the employer is required to pay interest on such late payments at the rate of 15% per year.
2. Employers are prohibited from requiring employees to provide performance guarantees or guarantees against damage except in the case where the work is financial in nature or relates to property for which an employee is responsible and which may damage the employer and, in each case, is otherwise in accordance with the rules set forth by the Minister of Labor.
3. Debts owed by an employer in respect of amounts payable to employees under the Labor Protection Act, B.E. 2541, as amended, or to the Employee Support Fund have the same rank in bankruptcy as tax and duty charges under the Civil and Commercial Code.
4. If a person or entity uses another person or entity to obtain workers, but such other person or entity is not in the business of supplying labor or workers, then such first person or entity will be deemed to be the employer for purposes of the Labor Protection Act, B.E. 2541, as amended, and will be required to treat such employees on a nondiscriminatory basis as compared to other employees doing the same kind of work.
5. Employment agreements that are excessively in favor of the employer will be enforceable only to the extent such enforcement would be equitable. Employment agreements with a term will terminate at the end of such term without the need for advanced notice. If an employment agreement does not specify a term, then it may be terminated by either the employer or employee with one payment period's advanced written notice.
6. Employers and those with supervisory or management authority will be prohibited from sexually molesting or threatening employees.
7. Working hours shall not exceed 8 hours per day or 48 hours per week (or 7 hours per day and 42 hours per week for dangerous work). If a working day is shorter than 8 hours, then a

work day may be extended to 9 hours by mutual agreement, but the work week shall not exceed 48 hours per week. Work in excess of 8 hours per day shall be paid at least at one and one-half times the normal rate.

8. Female employees are prohibited from being assigned certain activities, including, among other things, (a) mining or construction work done underground, underwater or in certain other situations, unless the working conditions are not dangerous and (b) work performed on scaffolding more than 10 meters off the ground.

9. Pregnant employees are prohibited from being assigned certain activities, including, among other things, (a) operating vibrating machinery, (b) work involving operating or traveling in a vehicle, (c) physical labor involving more than 15 kilograms and (d) work on a boat. In addition, employers may not have pregnant employees work between 10 pm and 6 am or to work overtime or on holidays, except that a pregnant woman doing management, secretarial or academic work or working in the financial or accounting industries may be assigned overtime work or holiday work with the employee's consent if it does not affect the employee's health.

10. Children under 18 years of age may not work where animals are butchered, in gambling businesses or in certain entertainment areas. In addition, employers may not receive any guarantees from child employees and may not pay the wages of child employees to other persons.

11. Employees working in human resources or peddling goods on commission shall not have the right to receive overtime or holiday pay. Employees in certain other activities (including, among other things, working for railroads, operating water or drainage gates, reading water levels and volumes, fire fighting, work where the location of work is not at the place of business or where hours cannot be fixed, work as a guard where guard duties are not in the ordinary duties of the employees) shall not have the right to receive overtime or holiday pay, but shall have the right to receive wages equivalent to an hourly wage rate based on the number of hours worked.

12. Except for termination for certain causes as specified by statute, employers are required to pay employees for accrued vacation days upon termination of their employment.

13. The Labor Welfare Committee's duties include, among other things, making proposals and preparing reports for the Minister of Labor relating to labor policy and regulation and issuing rulings relating to special compensation under the Labor Protection Act.

14. Employers with more than 10 employees are required to report annually to the Director-General and to submit additional reports upon the occurrence of certain changes.

15. Employers are not required to pay employees terminated for the following causes: (1) corruption or intentional crimes against the employer, (2) willful damaging the employer, (3) negligently causing serious damage to the employer, (4) violating the employer's work rules or orders (in the case of offenses which are not serious, after a letter of warning has been issued), (5) abandoning the employer for 3 consecutive work days and (6) imprisonment.

16. If an employer relocates its business, the employer must give 30 days' notice to employees and the employees shall have the right to terminate their employment on 30 days notice. Special compensation shall be payable and additional compensation may be paid in lieu of the 30 days' notice.

17. If money is paid out of the Employee Support Fund to an employee, then the Department of Labor Protection and Welfare shall have recourse against the person with the obligation to pay the money to recover such payment, together with interest at the rate of 15% per year.

18. The provisions relating to penalties for violations were amended.

Labor Protection Act, (No. 3), B.E. 2551

The Labor Protection Act, (No. 3), B.E. 2551, which came into force on 28 February 2008, increased the powers of the Wage Committee and established the Wage Committee Office in the Ministry of Labor. The Wage Committee's powers and duties include, among others, (1) advising the Council of Ministers in connection with wage and revenue policy, (2) providing guidance to employers for wage adjustments, (3) establishing minimum wage rates and (4) establishing workmanship standard wage rates. The Wage Committee shall have the power to appoint a sub-committee and advisors. The Wage Committee Office shall prepare wage and revenue plans for the Wage Committee, provide research, information and data to the Wage Committee and, if any, the sub-committee and perform such other duties as required by the Wage Committee or sub-committee

Persons with concerns regarding breach of employment contracts, or other labor issues, should contact our Thailand lawyers

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