



Rights and Duties of Employers and Employees

under the new Labor Protection Act, B.E.2541 (1198)

Labour protection law is concerning the rights and duties of employers and employees. It primarily establishes minimum standard practices in general labor force utilization, women and child labour utilization, remuneration, severance, and Employee Welfare Fund. It prescribes also the interventions by government officials in providing protection to labors so as to ensure fairness and sound occupational health for the maximum benefit of both employers and employees, which will ultimately be beneficial for the national development.

In according to the provision of Labor Protection Act, Chapter II, “General Labour”

*** Working Hours**

- * Not exceed 8 hours per day and 48 hours per week.
- * Works which may be harmful to the health or safety of the employees as prescribed by Ministerial Regulations shall not exceed seven hours per day and not exceed 42 hours per week.

*** Rest Periods**

- * 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 his first consecutive hours.
- * The employer and employee may agree in advance to have each rest period of less than 1 hour, but not less than 20 minutes each time whilst the total rest period for the day shall not be less than 1 hour.
- * Where the nature or type of work necessitates continuous performance, stoppage may damage the work, or it is an urgent, the employer may require an employee not to have a rest period with consent of the employee.

*** Weekly Holidays**

- * An employer shall let an employee have at least one day off per week as a weekly holiday and the interval between each weekly holiday shall be no longer than six days.
- * In case of unidentified weekly holidays, an employer shall notify an employee not less than 3 days in advance and report Labor Inspectors within 7 days since the day of notification.

*** Traditional Holidays**

- * Not less than 13 days including National Labor Day. Where a traditional holiday falls on a weekly holiday, the employee shall be granted an additional holiday on the following working day.
- * An employee shall get his basic pay on traditional holidays.



* **Annual Vacation**

- * An employee who has worked continuously for one full year shall be entitled to an annual vacation of not less than six working days.
- * An employee is entitled to get his basic pay on his annual vacation.
- * An employer is entitled to arrange an annual vacation and notify an employee in advance, or arrange as their agreement.

* **Sick Leave**

- * An employee is entitled to sick leave and gets his basic pay at a rate equal to the basic pay for a normal working day for the entire time taken as sick leave for up to 30 working days per annum.

* **Personal Business Leave**

- * An employee is entitled to take leave to attend to his personal business as necessary in accordance with work regulations.
- * An employee shall not get his basic pay on his personal business leave.

* **Maternity Leave**

- * A pregnant female employee is entitled to maternity leave of not more than 90 days for each pregnancy, including holidays during the maternity leave and get her basic pay at a rate equal to normal working days during the leave but not exceed 45 days.

* **Sterilization Leave**

- * An employee is entitled to take leave for the purposes of sterilization and shall have the right to take leave as a result of the sterilization for such time as a first class medical practitioner shall prescribe and in respect of which he issues a certificate and get his basic pay at a rate equal to normal working days during the leave.

* **Military Service Leave**

- * An employee is entitled to take leave for military service when the government makes a call for personnel inspection, for military training, or for testing of combat readiness, and get his basic pay at a rate equal to normal working days during the leave but not exceed 60 days.

* **Training Leave**

- * An employee is entitled to take leave for training or development of his knowledge and skills in accordance with the rules and procedures prescribed by Ministerial Regulations.
- * An employee shall not get his basic pay on his training leave.



* **Basic Pay**

- * "Basic Pay" means the money which the employer and the employee mutually agree is to be paid in return of work done in accordance with the employment contract during normal working hours on an hourly, daily, weekly, monthly, or other periodic basis or to be paid upon the basis of output of the employee during normal working hours, and also includes money which the employer pays whilst the employee is on holiday or taking other leave pays whilst the employee did not work but nevertheless is such in respect of which he is entitled to receive payment under this Act.
- * An employee is entitled to get his basic pay not lower than minimum rate of basic pay.
- * If no minimum rate of basic pay has been determined in any locality, the base minimum rate of basic pay shall be deemed the minimum rate of basic pay in that locality. ("Minimum rate of basic pay" means the wage rate prescribed by the Remuneration Committee under this Act).

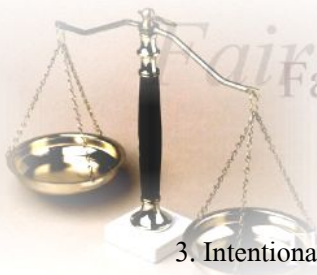
* **Severance Pay**

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

1. An employee who has worked for at least 120 consecutive days, but for less than one year shall be paid basic pay for 30 days at the most recent rate of basic pay received by him.
2. An employee who has worked continuously for at least one year but less than three years shall be paid basic pay for 90 days at the most recent rate of basic pay received by him.
3. An employee who has worked consecutively for three years but less than six years shall be paid basic pay for 180 days at the most recent rate of his basic pay.
4. An employee who has worked consecutively for at least six years but less than 10 years shall be paid basic pay for not less than 240 days at the most recent rate of his basic pay.
5. An employee who has worked for more than 10 years consecutively shall be paid basic pay for not less than 300 days at the most recent rate of his basic pay.

An employer is not required to pay severance pay to an employee whose employment has been terminated for any of the following reasons:

1. Resignation
2. Dishonest performance of his duties or the intentional commission of a criminal act against the employer;



3. Intentionally causing loss to the employer;
4. Performance of gross negligence which result in severe loss to the employer;
5. Violation of the employer's work rules or regulations or order which are both lawful and equitable when the employer has already issued the employee with a prior written warning, except in a serious instance when the employer is not required to give a warning.

The written warning shall be effective for a period of one year as from the date of the commission of the violation by the employee;

6. Neglect of his duties for a period of three consecutive work days without reasonable cause, whether or not a holiday intervenes;
7. Imprisonment by reason of a final judgment.
8. An employment contract shall be terminated when the specified period in the employment contract expires; the works related are as follows:
 - 8.1 Employment on a special project, which is not in the normal way of business or trade of the employer, where there is a fixed schedule for commencement and completion of work.
 - 8.2 Work of a temporary nature with a fixed schedule for its commencement or completion.
 - 8.3 Seasonal work in respect of which employees are only engaged during that season; provided that the work must be completed within a period of two years and the employer and employee have entered into a written agreement at or prior to the commencement of employment.

Chapter IX, "Control"

*** Work Documents**

* An employer who employs ten or more employees shall have work rules in Thai language.

An employer shall distribute and post the work rules in a conspicuous position at the work place, and being seen by employees at their convenience and submits the copy to the Director-General of Department of Labor Protection and Welfare.

* These rules shall, as a minimum, contain particulars of the following:

1. Working days, regular working hours and rest periods;
2. Holidays, and rules for taking holidays;
3. Rules concerning overtime work and work on holidays;



4. Date and place of payment of basic pay, overtime pay, holiday pay and holiday overtime pay;

5. Leave and rules for taking leave;

6. Discipline and punishment;

7. Submission of complaints;

8. Termination of employment, severance pay and special severance pay.

* An employer with 10 or more employees shall keep and maintain in Thai language a register of employees, a register of employees shall contain the following minimum 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. Basic pay or other remuneration which an employer agrees to pay an employee;

8. Date of termination of employment.

* **Control**

* An employer who employs ten or more employees shall have work rules in Thai language. These rules shall, as a minimum, contain particulars of the followings:

- Working, regular working hours and rest periods;
- Holidays and rules for taking holidays;
- Rules concerning overtime work and work on holidays;
- Date and place of payment of basic pay, overtime, holiday pay & holiday overtime pay;
- Leave and rules for taking leave; Discipline and punishment;
- Termination of employment, severance pay and special severance pay.

* **Submission of Complaints**

* Where an employer violates or fails to comply with those provisions that concern entitlement to any sum of money under this Act and the employee wishes to have a competent official proceed under this Act, the employee has the right to submit a complaint in the form prescribed by the Director-General to the labor inspector for the locality in which the employee works or in which the employer is domiciled.



*** Termination of submission of Complaints.**

- 1) The employee renounces his rights to continue submission of complaints.
- 2) The employer pays the money to the employer.

*** Penalties**

* Labor Protection Law is the law that has criminal penalty.

* An employer who violates or fails to comply with the provisions shall be:

- 1) fined not exceeding 5,000 baht.
- 2) punished with a term of imprisonment not exceeding 1 year or a fine not exceeding 200,000 baht, or both.

*** Law Violation**

- The authority designated below is of the opinion that an offender should not be punished with a term of imprisonment or should not be prosecuted, that authority shall have the power to determine the matter as follows:

- 1) The Director-General, for an offence which arises in the Bangkok Metropolis;
- 2) The provincial governor, for an offence which arises in provinces other than Bangkok.