

THAILAND

Labor Protection Act of 1998

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Section 1. This Act shall be referred to as the "Labour Protection Act of 1998."

Section 2. This Act shall enter into force one hundred and eighty days from the date of its publication in the Government Gazette.

Section 3. The following shall be repealed:

- (1) Announcement No. 103 of the National Executive Council to revise the laws on labor and the settlement of labor disputes, dated 16 March, 1972;

- (2) Act No. 1 of 1990 to amend Announcement No. 103 of the National Executive Council to revise the laws on labor and the settlement of labor disputes, dated 16 March, 1972;

Provisions of all laws, regulations and other rules which are the same as provisions of this Act or which contradict or conflict with the provisions of this Act shall be replaced by this Act.

Section 4. This Act shall not apply to

- (1) The central government administration, provincial government administration and local government administration.
- (2) State enterprises under the law governing state enterprise labor relations.

In addition to Subsection (1) above, a ministerial regulation may be issued prohibiting the application of part or all of this Act to any specific class of employers.

Section 5. In this Act:

"Employer" shall mean a person who agrees to accept an employee for work in return for a wage and shall also mean

- (1) A person who has been assigned to work on behalf of an employer;
- (2) Where a employer has legal personality, "employer" shall also mean the persons who are authorized to act on behalf of such a employer and the persons who are assigned by persons authorized to act on behalf of such a employer to act on their behalf.
- (3) Where the operator of a business has contracted out the supervision of work and payment of wages, or has assigned any person to recruit employees for work, other than an employment service, such that the work is a part of the entire production or business which is under the responsibility of the business operator, the business operator shall be deemed to be the employer of the said employees.

"Employee" means a person who agrees to do work for an employer in return for a wage, regardless of the name given to describe his status;

"Employer" means a person who agrees to employ another person to carry out all or part of any work for his own benefit, in return for employment remuneration for satisfactory performance of the work.

"First level contractor" means a person who agrees to undertake to carry out all or part of a job for the benefit of the employer..

"Sub-contractor" means a person who makes an agreement with a first level contractor by undertaking to carry out all or part of a job under the responsibility of the first level contractor for the benefit of the employer, and shall also mean a person who makes an agreement with a subcontractor to undertake a sub-contracted job under the responsibility of the sub-contractor, regardless of how many stages of sub-contract there may be.

"Employment agreement" means a written or verbal agreement which is clearly stated or which is implicitly understood, where a person referred to as the employee agrees to do work for another person referred to as the employer, and the employer agrees to pay a wage throughout the period of work.

"Work day" means a day fixed for an employee to do normal work..

"Holiday" means a day fixed for an employee as a weekly holiday, a traditional holiday or an annual holiday.

"Concession leave day" means a day on which an employee takes: medical leave; leave in order to be sterilized; leave for the purpose of essential business; leave for the purpose of military service; leave for the purpose of training or development of knowledge and competence; or maternity leave.

"Wage" means the amount of money which a employer and an employee agree on as remuneration for performance of the work under the employment agreement for the normal working period, based on an hourly, daily, weekly, monthly or other period of time, or which is paid according to the amount of work achieved by the employee during the normal working hours of a working day, and shall also mean the amount of money which a employer pays to an employee on a holiday and a leave day on which the employee did not perform any work but for which the employee is entitled to receive payment under this Act.

"Wage on a working day" means the wage which is paid for normal full-time work.

"Minimum wage" means the wage prescribed by the Wages Board under this Act.

"Basic minimum wage" means the wage prescribed by the Wages Board for use as the basis for prescribing the minimum wage.

"Overtime" means work on a working day or holiday, outside or in excess of the normal working hours or in excess of the number of working hours in each day agreed on between a employer and an employee under Section 23, whichever the case may be.

"Overtime pay" means the money which a employer pays to an employee as remuneration for overtime on a working day.

"Holiday pay" means the money which a manager pays to an employee as remuneration for working on a working day.

"Compensation payment" means the money which a employer pays to an employee upon termination of employment over and above other categories of money which the employer has agreed to pay to the employee.

"Special compensation payment" means the money which a employer pays to an employee when the employment agreement ends as a result of special circumstances prescribed in this Act.

"Savings" means the money which an employee pays into the Employees Welfare Fund.

"Contribution" means the money which a employer pays as a contribution for an employee for the purpose of payment into the Employees Welfare Fund.

"Labour Inspection Officer" means the person appointed to perform as such in accordance with this Act.

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

"Minister" means the Minister in charge of the enforcement of this Act.

Section 6. The Minister of Labor and Social Welfare shall be responsible for enforcement of this Act and he or she shall have the authority to appoint the Labor Inspection Officer and issue ministerial regulations and notifications for performance in accordance with this Act.

In the matter of the appointment of the Labor Inspection Officer, the scope of the authority, duties and conditions for performance of duties may also be prescribed.

Such ministerial regulations and notifications shall come into force after they have been published in the Government Gazette.

Chapter 1 - General Provisions

Section 7. Claims or acquisitions of rights or benefits under this Act do not curtail the rights or benefits which an employee is eligible to obtain under other laws.

Section 8. The Minister shall have the authority to appoint an official whose qualification is not lower than a bachelor's degree in political science who shall have authority to file lawsuits or to hold briefs in labor cases in defiance of employees or the legitimate heirs of deceased employees and, when the Ministry of Labor and Social Welfare has informed the court thereof, he or she shall have the authority to act until the case reaches its final conclusion.

Section 9. Where a employer does not refund guarantee money under paragraph 2 of Section 10 or does not pay wages, overtime pay, holiday pay and holiday overtime pay within the deadline under Section 70, compensation payment under Section 118, special compensation payment under Sections 120, 121 and 122, the employer shall pay interest of fifteen percent per annum to the employee during the period of default.

Where a employer wilfully does not refund or does not pay the money under subsection one without reasonable cause after the passage of seven days as calculated from the date due for refund or payment, the employer shall pay the employee a surcharge of fifteen percent per annum on the money unpaid during every seven-day period.

Where a employer is ready to refund or pay the money under paragraph one and paragraph two, and has handed the money to the Director-General or a person assigned by the Director-General for payment to the employee, the employer need not pay any interest or surcharge with effect from the date on which he handed that money over.

Section 10. Subject to paragraph 2 of Section 51, a employer is not allowed to demand or accept work guarantee money or money guaranteeing against damages caused at work from an employee, unless the characteristics or nature of the work which is performed are such that the employee is responsible for the financial matters or property of the employer, such that damage might be caused to the employer.

In this regard, the characteristics or nature of the work for which work guarantee money or money guaranteeing against damages caused at work may be demanded or accepted from an employee, as well as the monetary amounts and the procedures for keeping them, shall be in accordance with the criteria and procedures prescribed by the Minister in notifications.

When a employer demands or accepts guarantee money or makes a guarantee agreement with an employee as compensation for damages caused by the employee, and the employer later terminates the employment or the employee resigns or the guarantee agreement expires, the employer shall refund the guarantee money together with interest, if any, to the employee within seven days as calculated from the date on which the employer terminated the employment or the date on which the employee resigned or the date on which the guarantee agreement expired, whichever the case may be.

Section 11. If a employer is indebted to an employee because of failure to pay wages, overtime pay, holiday pay, holiday overtime pay, compensation payments, special compensation payments, savings, contributions or surcharges to him or her or the Labour Welfare and Protection Department, whichever the case may be, the employee shall have a preferential right to all the property of the debtor employer at the same level as the preferential right to payment of arrears in taxes under the Civil and Commercial Code.

Section 12. When a employer is a subcontractor, the subcontractors at the next higher levels, if any, all along the line right up to the first level contractor shall be jointly liable with the sub-contractor who is the employer for wages, overtime pay, holiday pay, holiday overtime pay, compensation payments, special compensation payments, savings, contributions or surcharges.

The first level contractor or the subcontractors under paragraph one shall have the right to seek redress from the subcontractor who is the employer for return of the money which has been paid out under paragraph one.

Section 13. When the employer changes because of a transfer, inheritance or otherwise, or in the case where the employer has legal personality and a change, transfer or merger with any other legal personality is registered, an employee shall continue to have the same rights which he had vis-a-vis the original employer and the new employer shall assume all of the rights and duties which are connected with that employee in every respect.

Section 14. A employer shall treat an employee correctly in accordance with the rights and duties which are prescribed in the Civil and Commercial Code, unless this Act prescribes otherwise.

Section 15. A employer shall treat male and female employees equally with regard to employment for work, unless such treatment is not possible due to the characteristics or nature of the work.

Section 16. A employer or a person who is a work chief, a work supervisor or a work inspector is not allowed to sexually harass an employee who is a female or a child.

Section 17. An employment agreement shall terminate upon a date specified in an employment agreement for such termination without need for advance notice.

When an employment agreement does not have a date specified for its termination, the employer or the employee may terminate the employment agreement by giving advance notice in writing to the other party at or before the time for any wage payment, and this shall serve to terminate the employment agreement at the

time of the next wage payment, but it is not necessary to give more than three months' advance notice of such termination.

When a employer terminates the employment agreement, if the employer does not state the reasons for such termination in the letter of termination of the employment agreement, the employer may not cite at a later date any of the reasons under Section 119 as the basis for termination.

In the matter of termination of an employment agreement under paragraph two, the employer may pay the wages in the amount which must be paid up to the time of termination of the agreement in accordance with the termination date given in the notice and let the employee leave the job at once, and such payment of the wages to the employee in accordance with this paragraph shall be held to be payment of the employment remuneration to the employee under Section 582 of the Civil and Commercial Code.

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

Section 18. When this Act requires a employer to inform the Labor Inspection Officer of any action, the employer shall do so in person, by post or by fax, whatever the case may be, at the places prescribed by the Director-General in notifications.

Section 19. In the interests of calculating an employee's period of service under this Act, holidays, leave days, days which were granted by the employer as holidays for the benefit of the employee and days which the employer ordered the employee to take as holidays for the benefit of the employer, shall be included as part of the employee's period of service.

Section 20. When an employee has not worked continuously because his or her employer had the intention of not permitting the employee to have rights under this Act, regardless of the nature of the employee's duties and the intervals between the periods of service, all periods of service shall be included for the purpose of calculation of the rights entitlements of that employee.

Section 21. Where this Act requires a employer to take any action that requires him to incur expenses, the employer shall be responsible for payment of such expenses.

Section 22. Agricultural work, sea fishing work, the work of conveying or loading and unloading goods by sea-going vessels, home work, transportation work and other work as prescribed in royal decrees may be prescribed in ministerial regulations as having labour protection that differs from that provided in this Act.

Chapter 2 - General Use of Labour

Section 23. A employer shall announce the normal hours of work for the information of the employee, such that the prescription of the employee's time of commencement and time of finishing of work for each day does not exceed the hours of work for each of the job categories as prescribed in ministerial regulations, but one working day must not exceed eight hours and the total hours of work in one week must not exceed forty eight hours, except that one day's normal hours of work for work which might be hazardous to the health and safety of the employee as prescribed in ministerial regulations must not exceed seven hours and in such a case, the total hours of work in one week must not exceed forty two hours.

When a employer is unable to announce and fix the time of commencement and time of finishing of work for each day due to the characteristics or nature of the work, the employer and the employee shall arrive at an agreement with each other and fix the number of hours of work for each day which must not exceed eight hours and in such a case, the total hours of work for each week must not exceed forty-eight hours.

Section 24. A employer is not allowed to tell an employee to work overtime on a working day unless the consent of the employee has been obtained on a case-by-case basis.

When the characteristics or nature of the work requires the work to be performed continuously, such that if there is a stoppage it will cause damage to the work, or where the work is emergency work or such other work as prescribed in ministerial regulations, the employer may order the employee to work overtime to the extent necessary.

Section 25. A employer is not allowed to order an employee to work on a holiday, except when the characteristics or nature of the work requires the work to be performed continuously, such that if there is a stoppage it will cause damage to the work, or when the

work is emergency work; in such cases the employer may order the employee to work on a holiday to the extent necessary.

A employer may order an employee to work on a holiday in respect of the businesses of a hotel, a place of amusement, transportation work, a shop that sells food, a shop that sells drinks, a club, an association, a medical facility, or such other businesses as prescribed in ministerial regulations.

In the interests of production, sales and services, a employer may order an employee to perform work, in circumstances other than those stipulated in paragraph one and paragraph two, on a holiday to the extent necessary, such that the consent of the employee has been obtained first on a case-by-case basis.

Section 26. The amount of overtime under paragraph one of Section 24 and the holiday hours of work under paragraph two and paragraph three of Section 25, when combined, must not exceed the amount prescribed under ministerial regulations.

Section 27. On a day on which work is performed, the employer shall arrange for the employee to have a rest period of not less than one hour per day during the work after the employee has been working for not more than five consecutive hours. The employer and the employee may agree in advance that a rest period shall be less than one hour but, when combined together, there must not be less than one hour of rest in each work day.

If it is beneficial for an employee to agree with his or her employer on a rest period other than that provided under paragraph one, such an agreement shall be enforceable.

Rest periods during work shall not be counted as hours of work except that, if the combined rest periods in one day exceed two hours, the hours in excess of two hours shall be counted as normal hours of work.

When overtime is to be performed continuously for not less than two hours in excess of normal working hours, the employer must arrange for the employee to have a rest period of not less than twenty minutes before the employee commences such overtime work.

The provisions in paragraph one and paragraph four shall not apply when the employee performs work which because of its characteristics or nature of must be performed continuously, when the consent of the employee has been obtained or the work is emergency work.

Section 28. A employer shall arrange for an employee to have a weekly holiday of not less than one day per week, such that the interval between weekly holidays must be not be less than six days. The employer and the employee may agree in advance to fix any day as the weekly holiday.

When an employee performs hotel work, transportation work, work in a forest, work in the countryside or such other work as prescribed in ministerial regulations, within any period of four consecutive weeks, the employer and the employee may agree in advance to accumulate weekly holidays, but such holidays must be taken within those four consecutive weeks.

Section 29. A employer shall announce and fix the traditional holidays for the information of the employees in advance. The number of traditional holidays in one year shall not be less than thirteen days, inclusive of the National Labour Day as prescribed by the Minister in a notification.

A employer shall consider fixing the traditional holidays from the government holidays for the year, religious holidays or the customary and traditional holidays of the locality.

When a traditional holiday falls on an employee's weekly holiday, the employee shall be given a holiday in compensation for the traditional holiday on the following working day.

When a employer is unable to let an employee take a traditional holiday as the characteristics or nature of the work performed by the employee is as prescribed in ministerial regulations, the employer shall agree with the employee on another holiday in compensation thereof or the employer may pay the employee holiday pay in lieu.

Section 30. An employee who has been working consecutively for a full year is entitled to take annual leave of not less than six working days per year; the employer shall be the person to

determine in advance when the said leave for the employee shall be taken or shall determine it in by agreement with the employee.

In the following years, the employer may determine annual leave for the employee of more than six working days.

A employer and an employee may agree in advance to accumulate and postpone annual leave which has not been taken in that year to be combined with the annual leave of the following years.

With regard to an employee who has worked for less than one year, the employer may determine the annual leave for the employee on a prorata basis.

Section 31. A employer shall not be allowed to order an employee to perform overtime work or holiday work which might be hazardous to the health and safety of the employee as per paragraph one of Section 23.

Section 32. An employee shall be entitled to take medical leave in accordance with the actual extent of illness. For medical leave of three working days or more, the employer may require the employee to produce a medical certificate from a doctor of first class modern medicine or from a government medical facility. When the employee is unable to produce a medical certificate from a doctor of first class modern medicine or from a government medical facility, the employee shall give an explanation to the employer.

When the employer provides a doctor, that doctor shall be the person to issue the certificate, unless the employee is unable to let that doctor examine him or her.

Days on which an employee is unable to work due to an injury or illness arising from work, and maternity leave days under Section 41 shall not be considered to be medical leave under this Section.

Section 33. An employee shall be entitled to take leave in order to be sterilized for the time period prescribed by a doctor of first class modern medicine and for which the doctor of first class modern medicine issues a certificate.

Section 34. An employee is entitled to take leave for essential errands in accordance with work rules and regulations.

Section 35. An employee shall be entitled to take leave for military service for mobilization for inspection, for military training or for mass testing in accordance with the law on military service.

Section 36. An employee shall be entitled to take leave for training or development of knowledge and competence in accordance with the criteria and procedures prescribed in ministerial regulations.

Section 37. A employer shall be prohibited from ordering an employee to lift, tote, carry with both hands, carry suspended from the ends of a pole across the shoulder, carry on the head, drag or push a heavy object in excess of the weights prescribed in ministerial regulations.

Chapter 3 - Female Labour

Section 38. A employer shall be prohibited from permitting female employees to perform any of the following work:

- (1) Mining work or construction work which must be done underground, under water, in a cave, in a tunnel or a shaft in a mountain, unless the characteristics of the work do not pose a hazard to the health or the body of the female employee.
- (2) Work which must be performed on a scaffold more than ten metres from the ground or more.
- (3) Production or transportation of explosives or inflammable materials.
- (4) Other work as prescribed in ministerial regulations.

Section 39. A employer shall be prohibited from allowing a pregnant female employee to work between the hours of 22.00 hours and 06.00 hours, to work overtime, to work on holidays or to do any of the following work:

- (1) Work connected with vibrating machinery or engines.
- (2) Work which moves along or goes off together with a vehicle.
- (3) The work of lifting, toting, carrying with both hands, carrying suspended from the ends of a pole across the shoulder, carrying on the head, dragging or pushing a heavy object in excess of fifteen kilograms.

- (4) Work which is performed inside a ship.
- (5) Other work as prescribed in ministerial regulations.

Section 40. When an employer lets a female employee work between the hours of 22.00 hours and 06.00 hours, and the Labour Inspection Officer is of the opinion that that work is hazardous to the health and safety of that woman, the Labour Inspection Officer shall report it to the Director-General or a person assigned by the Director-General for consideration and issuance of an order ordering the employer to change the hours of work or to reduce the hours of work as may be deemed appropriate, and the employer shall comply with the said order.

Section 41. A pregnant female employee shall have the right to take maternity leave of not more than ninety days per pregnancy.

The leave days under paragraph one shall include the holidays which occur during the leave days.

Section 42. When a pregnant female employee produces a medical certificate from a doctor of first class modern medicine stating that she is unable to continue to perform her existing duties, that employee shall have the right to ask the employer to change her existing duties temporarily before or after delivery, and the employer shall consider changing the work to work which is appropriate for that employee.

Section 43. An employer shall be prohibited from terminating the employment of a female employee on the basis that she is pregnant.

Chapter 4 - Child Labour

Section 44. An employer shall be prohibited from employing a child under the age of fifteen years as an employee.

Section 45. When a child under the age of eighteen years is employed as an employee, the employer shall act as follows:

- (1) Report the employment of that child employee to the Labour Inspection Officer within fifteen days from the date on which the child starts work.
- (2) Prepare a record of conditions of employment, when they are changed from the original conditions, for storage at the

employer' place of business operations or office, ready for inspection by the Labour Inspection Officer during hours of work.

- (3) Report the termination of the employment of the child to the Labour Inspection Officer within seven days from the date on which the child left the job.

The reports or preparation of the record under paragraph one shall be in accordance with the formats prescribed by the Director-General.

Section 46. A employer shall arrange for a child employee to have a rest period of not less than one consecutive hour per day after the employee has been working for not more than four hours.

However, during those four hours, the child employee shall have a rest period as prescribed by the employer.

Section 47. A employer shall be prohibited from permitting a child employee under the age of eighteen years to work between the hours of 22.00 hrs and 16.00 hrs unless written permission has been obtained from the Director-General or a person assigned by the Director-General.

A employer may let a child employee under the age of eighteen years who is a performer in a movie, play or other similar form of exhibition work between the said hours. In this connection, the employer shall arrange for that child employee to rest as appropriate.

Section 48. A employer shall be prohibited from permitting a child employee under the age of eighteen years to work overtime or work on holidays.

Section 49. A employer shall be prohibited from permitting a child employee under the age of eighteen years to perform any of the following work:

- (1) The smelting, blowing, casting or rolling of metals.
- (2) Metal stamping.
- (3) Work connected with heat, cold, vibration, noise and light the levels of which are different from normal levels, which could be hazardous as prescribed in ministerial regulations.

- (4) Work connected with hazardous chemicals as prescribed in ministerial regulations.
- (5) Work connected with microorganisms, which could be viruses, bacteria, moulds or other germs as prescribed in ministerial regulations.
- (6) Work connected with poisonous materials, explosives or inflammable materials, except for work in fuel oil service stations as prescribed in ministerial regulations.
- (7) The driving or controlling of forklifts or cranes as prescribed in ministerial regulations.
- (8) Work which uses electric or motorized saws.
- (9) Work which must be done underground, under water, in a cave, in a tunnel or a shaft
 - in a mountain.
- (10) Work connected with radiation as prescribed in ministerial regulations.
- (11) The cleaning of machinery or engines whilst the machinery or engines are in operation.
- (12) Work which must be performed on a scaffold more than ten metres from the ground.
- (13) Other work as prescribed in ministerial regulations.

Section 50. A employer shall be prohibited from permitting a child employee under the age of eighteen years to work in the following places:

- (1)An abattoir.
- (2)A casino.
- (3)A dance, folk dance or ronggeng hall.
- (4)A place which sells and provides food, alcohol, tea or other beverages, with hostesses to serve customers or with places for resting or sleeping or with massage services for customers.
- (5) Other places as prescribed in ministerial regulations.

Section 51. A employer shall be prohibited from paying the wages of a child employee to another person.

A employer shall be prohibited from demanding or accepting guarantee money for any purpose whatsoever on the part of a child employee.

In the case where a employer, a child employee, a parent or guardian of a child employee pays or accepts money or any remuneration benefit in advance before employment takes place,

at the beginning of employment or before the stage of payment of the wages to the child employee on each occasion, it shall not be held to be payment or receipt of wages for that child employee, and the employer shall be prohibited from deducting the said remuneration benefit from the wages which must be paid to the child employee in accordance with the deadline.

Section 52. In the interests of developing and promoting the quality of life and the performance of work by children, a child employee under the age of eighteen years has the right to participate in meetings and seminars, receive training or take leave for other activities which are organized by places of education or state or private sector work units approved by the Director-General, subject to the requirement that the child employee shall inform the employer clearly in advance of the reason for taking the leave, as well as show relevant documentary evidence thereof, if any, and the employer shall pay wages to the child employee in an amount equal to the wages for working days throughout the entire leave period, but the number of such leave days must not exceed thirty days in a year.

Chapter 5 - Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay

Section 53. The employer shall prescribe wages, overtime pay, holiday pay and holiday overtime pay to employees equitably for work which has the same characteristics and quality and when the amount of work is the same, regardless of whether those employees are male or female.

Section 54. A employer shall pay wages, overtime pay, holiday pay, holiday overtime pay and other monetary benefits arising from employment in Thai currency, unless consent has been obtained from the employee for payment to be made in the form of a financial bill or in foreign currency.

Section 55. A employer shall pay wages, overtime pay, holiday pay, holiday overtime pay and other monetary benefits arising from employment to an employee at the employee's place of work. If payment is to be made at another place or by another method, consent must be obtained from the employee.

Section 56. A employer shall pay a wage to an employee equal to the wage on a working day in respect of the following holidays:

- (1)A weekly holiday, except for employees who receive a daily wage, an hourly wage or a wage paid for piece work.
- (2)A traditional holiday.
- (3)An annual leave holiday.

Section 57. A employer shall pay a wage to an employee on a medical leave day under Section 32 equal to the rate of the wage on a working day throughout the entire leave period, but the number of such leave days must not exceed thirty working days in a year.

When an employee exercises the right to take leave in order to be sterilized in accordance with Section 33, the employer shall pay a wage to the employee on that day as well.

Section 58. A employer shall pay a wage to an employee who takes leave for the purpose of military service under Section 35 equal to the wage on a working day throughout the entire leave period, but the number of such leave days must not exceed sixty days in a year.

Section 59. A employer shall pay a wage to a female employee on maternity leave equal to the wage on a working day throughout the entire leave period, but the number of such leave days must not exceed forty five days.

Section 60. In the interests of payment of wages under Sections 56 to 59 and Sections 71 and 72, when an employee receives a wage on the basis of piece work, on the date of payment of such a wage the employer shall pay holiday or leave pay in an amount equal to the average working day's pay that had been received by that employee prior to the holiday or leave day.

Section 61. When a employer requires that an employee work overtime on a working day, the employer shall pay overtime pay to the employee at a rate that is not less than one and a half times the normal hourly for the hours of overtime worked, or not less than one and a half times the piece rate on a working day, according to the amount of work produced by an employee who is paid a wage on the basis of piece work.

Section 62. When a employer lets an employee work on a holiday in accordance with

Sections 28, 29 or 30, the employer shall pay holiday pay to the employee at the following rates:

- (1)For an employee who is entitled to receive holiday pay, an additional payment of not less than one time the hourly wage rate on a working day shall be paid in accordance with the number of hours worked or not less than one time the piece work rate paid for past work for employees paid on the basis of piece work.
- (2)For an employee who is not entitled to receive holiday pay, a payment of not less than two times the hourly wage rate on a working day shall be paid in accordance with the number of hours worked, or not less than two times the piece work rate paid for past work for employees paid on the basis of piece work.

Section 63. When a employer requires that an employee work overtime on a holiday, the employer shall pay holiday overtime pay to the employee at a rate that is not less than three times the hourly wage rate on a working day in accordance with the number of hours worked, or not less than three times the piece work rate paid for past work for employees paid on the basis of piece work.

Section 64. When a employer has not arranged for an employee to take a work break or has arranged for the employee to have a work break that is less than that which is prescribed under Section 28, 29 and 30, the employer shall pay holiday pay and holiday overtime pay to the employee at the rates which are prescribed in Sections 62 and 63 as if the employer had instructed the employee to work on a holiday.

Section 65. An employee who has the following authority and duties or who is instructed by a employer to do any of the following work is not entitled to receive overtime pay under Section 61 and holiday overtime time under Section 63, but an employee who is instructed by a employer to do work under subsections (2) to (8) is entitled to receive monetary remuneration equal to the hourly wage rate on a working day in accordance with the number of hours worked.

- (1)An employee who has the authority and duty to act on behalf of a employer in respect of employment, payment of remuneration, reduction of wages or termination of employment.

- (2) Railway work preparation operations: the work that is performed on the trains and the work of facilitating the operation of the trains.
- (3)The work of opening and closing watergates or water discharge gates.
- (4)The work of reading water levels and measuring water amounts.
- (5)The work of extinguishing fires or of preventing public disasters.
- (6)Work the characteristics or nature of which require going outside to perform the work and, due to the characteristics or nature of the work, it is not possible to determine the definite hours of work.
- (7)The work of being on shifts to watch over a site or property which is not the normal work of the employee.
- (8) Other work as prescribed in ministerial regulations.

The above shall apply unless the employer agrees to pay overtime pay or holiday overtime pay to the employee.

Section 66. An employee under Section 65 (1) is not entitled to receive holiday pay under Section 62 unless the employer agrees to pay holiday pay to the employee.

Section 67. When the employer terminates the employment of an employee, and the reason is not included among those listed under Section 119, the employer shall pay wages to the employee for the annual leave in the year of termination of employment in accordance with the ratio of annual leave which the employee is entitled to and including the accumulated annual leave under Section 30.

Section 68. In the interests of the computation of overtime pay, holiday pay and holiday overtime pay, when the employee is paid a monthly wage, "hourly wage rate on a working day" means the monthly wage divided by the product of thirty days and the average number of working hours on a working day.

Section 69. In the interests of the computation of overtime pay, when the employer fixes normal working hours as a week, traditional holidays, annual leave and leave days shall be counted as working days.

Section 70. A employer shall pay wages, overtime pay, holiday pay and holiday overtime pay correctly and in accordance with the following deadlines:

- (1) When wages are calculated on a weekly, daily, hourly or on the basis of some other period of time which is not more than one month, or in accordance with work calculated at a piece rate, payment shall be made not less than once a month, unless there is an agreement otherwise which is to the benefit of the employee.
- (2) When wages are calculated other than in subsection (1), payment shall be made in accordance with the deadline agreed on between the employer and the employee.
- (3) Overtime pay, holiday pay and holiday overtime pay shall be paid not less than once a month.

When a employer terminates the employment of an employee, the employer shall pay the wages, overtime pay, holiday pay and holiday overtime pay which the employee is entitled to receive to the employee within three days from the date of termination of employment.

Section 71. When a employer instructs an employee to travel to work in a locality other than the locality for normal work on a holiday, the employer shall pay a wage equal to the wage on a working day to the employee who is not entitled to receive holiday overtime pay in accordance with Section 56 (1) in respect of that trip.

Section 72. When a employer instructs an employee to travel to work in a locality other than the locality for normal work, the employee is not entitled to receive overtime under Section 61 and holiday overtime pay under Section 63 during the trip. However, in respect of a trip on a holiday, the employer shall pay a wage equal to the wage on a working day to the employee who is not entitled to receive a wage on a holiday under Section 56 (1), unless the employer agrees to pay overtime or holiday overtime to the employee.

Section 73. A employer shall pay for travelling expenses under Section 71 and 72.

Section 74. When a employer agrees to pay overtime, holiday pay and holiday overtime pay at rates higher than those prescribed in Sections 61 to 63, it shall be as so agreed.

Section 75. When it is necessary for a employer to stop all or part of the business temporarily for any reason which is not an act of god, the employer shall pay the employee not less than fifty percent of the working day's wage which the employee had received before the employer stopped the business throughout the time period when the employer does not permit the employee to work.

A employer shall inform the employee and the Labour Inspection Officer in advance before the date of commencement of stoppage of business under paragraph one.

Section 76. A employer shall not deduct wages, overtime pay, holiday pay and holiday overtime pay unless it is a deduction for the purpose of

- (1)paying income tax in the amount which has to be paid by the employee or paying other monies as provided for by law,
- (2)paying trade union dues under the articles of the trade union,
- (3)paying the debts of a savings cooperative or some other cooperative which has the same characteristics of those of a savings cooperative, or debts which are for the beneficial welfare of the employees solely, wherein consent has been obtained in advance from the employees,
- (4)providing guarantee money under Section 10 or compensation to the employer for damages which had been caused by the employee deliberately or due to gross negligence, wherein consent has been obtained from the employee,
- (5) depositing money for the employee in a savings fund under an agreement with the employee regarding such a fund.

With regard to deductions under subsections (2) to (5), in each case deductions of more than ten percent are prohibited and the total deductions may not be more than one fifth of the money which the employee is entitled to receive on the date for payment under Section 70, unless consent has been obtained from the employee.

Section 77. When an employer must obtain consent from the employee or has an agreement with the employee on the payment of money under Sections 54 or 55 or deductions under Section 76, the employer must do so in the form of a letter providing such consent and give it to the employee to sign, or must have a clear and specific agreement between them.

Chapter 6 - Wages Committee

Section 78. There shall be a Wages Committee made up of the Permanent Secretary to the Ministry of Labour and Social Welfare as Chairman of the Committee, four government representatives, five employer representatives and five employee representatives appointed by the Cabinet as members of the Committee, and a government civil servant from the Ministry of Labour and Social Welfare appointed by the Minister as Secretary.

The criteria and procedures for obtaining the employer representatives and the employee representatives under paragraph one shall be in accordance with the regulations prescribed by the Minister.

Section 79. The Wages Committee has the following authority and duties:

- (1) to offer opinions to the Cabinet in connection with wages policy.
- (2) to offer opinions to the Cabinet reflecting recommendations of the private sector in connection with the fixing of wages and the annual wage adjustments.
- (3) To fix the basic minimum wage rate.
- (4) To fix the minimum wage rates which employees should receive commensurate with economic and social conditions.
- (5) To offer opinions to the Cabinet for development of the wages system.
- (6) To give academic recommendations and guidelines for coordination of interests to the various work units in the private sector.
- (7) To report to the Minister at least once a year in connection with the wages situation and wage trends as well as the measures which should be carried out.
- (8) To take any other action provided for by this Act or other laws within the authority and duty of the Wages Committee or as assigned to it by the Cabinet or the Minister.

When offering opinions to the Cabinet, the Wages Committee may include observations on the development of the national income system.

Section 80. The members of the Wages Committee who are appointed by the Cabinet shall serve for two years per term. A committee member who retires from office may be reappointed.

When a member of the Wages Committee who is appointed by the Cabinet retires from office before expiry of his or her term, the Cabinet shall appoint a committee member in the same category as the replacement committee member, and the person who is appointed shall serve for a period equal to the remainder of the term of the committee member whom he or she replaced, except that, if the remainder of the committee member's term is less than one year, a replacement committee member may or may not be appointed.

When a member of the Wages Committee who is appointed by the Cabinet retires from office upon expiry of his or her term but a new committee member has not yet been appointed, that committee member shall continue to perform his or her duties until a new committee member has been appointed to take over his or her duties. Such an appointment must be completed within ninety days as calculated from the date on which the previous committee member retired from office.

Section 81. Apart from retirement from office upon expiry of term under Section 80, a member of the Wages Committee appointed by the Cabinet retires from office when

- (1)he or she dies,
- (2)he or she resigns,
- (3)he or she is removed by the Cabinet because of absence from three consecutive scheduled meetings without an appropriate reason,
- (4)he or she is a bankrupt;
- (5)he or she is an incompetent or quasi-incompetent person,
- (6)he or she has been sentenced to imprisonment under a final judgement that he or she be imprisoned, unless it is a sentence for an offence which was committed as a result of negligence, or a petty offence.

Section 82. Not less than one half of the total number of committee members must be present at a meeting of the Wages Committee, with at least one employer representative and one employee representative being present, in order to establish the quorum for the meeting.

At a meeting to consider the fixing of the basic minimum wage rate or the minimum wage rates under Section 79, not less than two thirds of the total number of committee members must be present, with at least two employer representatives and two employee representative present, in order to establish the quorum for the meeting, and resolutions must be carried by at least two thirds of the committee members present at the meeting.

At any meeting to consider the fixing of the minimum wage rates, if the quorum prescribed in paragraph two is not present, arrangements shall be made for another meeting within fifteen days from the date appointed for the first meeting. Even if no employer representative or employee representative is present at this later meeting, if not less than two thirds of the total number of committee members are present for the meeting, the quorum for the meeting shall be established, and resolutions must be carried by at least two thirds of the committee members present at the meeting.

Section 83. At any meeting, if the Chairman of the Committee is not present at the meeting or is unable to carry out his or her duties, the committee members who are present at the meeting shall elect a committee member to chair the meeting.

Rulings and decisions of a meeting shall be carried by simple majority. One committee member shall have one vote. If the votes are tied, the chairman of the meeting shall cast an additional vote as the deciding vote.

Section 84. The Wages Committee shall have the authority to appoint the following subcommittees to consider or carry out any matter on behalf of the Committee:

- (1)Minimum Wage Rates Sub-Committee;
- (2)Provincial Minimum Wage Rates Sub-Committees;
- (3) Other sub-committees which the Committee deems appropriate to prescribe.

The Wages Committee shall fix the quorum and the operating procedures of the subcommittees as may be appropriate.

Section 85. When performing duties, the Wages Committee or a sub-committee or a person assigned by the Wages Committee or a sub-committee shall have the following authority:

- (1) To issue letters requiring any person to come and make a statement or to submit any document or object for consideration as may be necessary;
- (2) To require any work unit or person to cooperate in the survey of any activity which may affect the economy.
- (3) To enter a place of business operation or an office of an employer during working hours for the purpose of studying, surveying, researching, checking or enquiring into facts in order to obtain information for consideration under Section 79. In this regard, the employer or person concerned shall provide every convenience, send or produce documentation or provide facts and not obstruct the performance by such a person of his or her duty.

Section 86. In the performance of their duties under Section 85, the members of the Wages Committee, sub-committee members or persons assigned by the Wages Committee or a subcommittee shall produce an identity card or letter of authorization, whichever the case may be, to the persons concerned.

The identity cards of the members of the Wages Committee and sub-committee members under paragraph one shall be in accordance with the formats prescribed by the Minister.

Section 87. When considering the prescription of the minimum wage rates and the basic minimum wage rate, the Wages Committee shall study and consider the facts connected with the wage rates which are actually being received by employees, together with other facts, especially the Cost of Living Index, the rate of inflation, living standards, costs of production, prices of goods, capabilities of businesses, labour productivity, the Gross National Product, and the economic and social situation.

Minimum wage rates may be prescribed specifically for any sector of business, for all such sectors, or for all the sectors in any particular locality.

The minimum wage rates prescribed must not be lower than those prescribed by the Wages Committee.

If no minimum wage rate is prescribed for any locality, the basic minimum wage rate shall be held to be the minimum wage rate of that locality.

Section 88. After studying the various information and facts as required under Section 87, the Wages Committee shall prescribe the basic minimum wage rate together with the various details as considered appropriate for presentation to the Minister and for notification in the Government Gazette.

Section 89. A notification prescribing the minimum wage rates under Section 88 shall apply to employeres and employees, regardless of the employeres and employees' nationality, religion or sex.

Section 90. After a notification prescribing the minimum wage rates has come into effect, employeres shall be prohibited from paying wages to employees that are lower than the minimum wage rate prescribed.

Employeres who fall within the scope of a notification prescribing the minimum wage rates shall post such a notification in a place open to employees for the information of the employees at the employees places of work throughout the time period when sch a notification is in force.

Section 91. There shall be an Office of the Wages Committee in the Ministry of Labour and Social Welfare and it shall have the following authority and duties:

- (1) To prepare project work plans for presentation to the Wages Committee and the subcommittees.
- (2) To coordinate the plans and the operations of the Wages Committee and the subcommittees as well as those of the work units concerned.
- (3) To compile, study, research, analyse and assess the economic, labour, living, labour expansion, labour productivity, investment, and base relocation circumstances as well as related information for use as information for consideration by the Wages Committee and the sub-committees.

- (4) To recommend study results and results of consideration of academic information and other supplementary measures to the Ministry of Labour and Social Welfare and the work units concerned for the benefit of the development of wages and incomes policies.
- (5) To monitor and assess the results of work performance in accordance with the resolutions of the Wages Committee.
- (6) To perform other work assigned by the Wages Committee or the sub-committees.

Chapter 7 - Welfare

Section 92. There shall be a Labour Welfare Committee made up of the Permanent Secretary to the Ministry of Labour and Social Welfare as Chairman of the Committee, four government representatives, five employer representatives and five employee representatives appointed by the Cabinet as members of the Committee, and a government servant from the Labour Welfare and Protection Department appointed by the Minister as Secretary.

Section 93. The Labour Welfare Committee has the following authority and duties:

- (1) To offer opinions to the Minister in connection with policy, guidelines and measures in the field of labour welfare.
- (2) To offer opinions to the Minister on the issuance of ministerial regulations, announcements or regulations connected with welfare arrangements in places of business operations.
- (3) To give recommendations on labour welfare arrangements in respect of the places of operation of each category of business.
- (4) To monitor and assess results and report the operating results to the Minister.
- (5) To perform any other action provided for by this Act or other laws under the authority and duty of the Labour Welfare Committee or as assigned by the Minister.

Section 94. Paragraph two of Section 78, Section 80 and Section 81, paragraph one of Section 82, Section 83 and Section 84 shall be applied to the Labour Welfare Committee, mutatis mutandis.

Section 95. The Minister shall have the authority to issue ministerial regulations requiring employes to arrange for welfare

benefits in any matter or requiring that welfare arrangements in any matter must be in accordance with standards.

Section 96. In a place of business operations which has fifty or more employees, the employer shall arrange for a welfare committee in the place of business operations made up of at least five representatives from the employees side.

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

When a place of business operations of a employer has an employees' committee under the law on labour relations, the employees' committee shall perform the duties of the welfare committee in the place of business operations under this Act.

Section 97. A welfare committee in a place of business operations has the following authority and duties:

- (1)To participate in discussions with the employer in order to arrange for welfare benefits for the employees.
- (2)To give advice and recommend opinions to the employer in the matter of welfare arrangements for the employees.
- (3)To inspect, supervise and look after welfare arrangements provided by the employer for the employees.
- (4)To propose comments on and guidelines to the labour welfare committee for welfare arrangements which are beneficial to the employees of the labour welfare committee.

Section 98. A employer must arrange for a discussion meeting with the welfare committee in the place of business operations at least once in three months, or at any time when for an appropriate reason the labour union or the majority of members of the welfare committee in the place of business operations requests that a discussion meeting be held.

Section 99. A employer shall post a notification on welfare arrangements pursuant to a ministerial regulation issued under Section 95, or under the agreement with the employees, at a place open to the employees for the information of the employees at their places of work.

Chapter 8 - Work Safety, Occupational Health and Environmental Conditions

Section 100. There shall be a Work Safety, Occupational Health and Environmental Conditions Committee made up of the Permanent Secretary to the Ministry of Labour and Social Welfare as Chairman of the Committee, the Director-General of the Labour Welfare and Protection Department, a representative of the Health Department, a representative of the Industrial Factories Department, a representative of the Public Works Department and a representative of the Pollution Control Department as members of the Committee, seven representatives of employeres and seven representatives of employees who are appointed by the Minister as members of the Committee, and a government civil servant from the Labour Welfare and Protection Department appointed by the Minister as committee member and Secretary.

Section 101. The Work Safety, Occupational Health and Environmental Conditions Committee has the following authority and duties:

- (1)To offer opinions to the Minister relating to policy, work plans or measures in the field of employees' work safety, occupational health and environmental conditions development.
- (2)To offer opinions to the Minister on the issuance of ministerial regulations, announcements or regulations for the application of the provisions of this Act.
- (3)To give opinions to state work units in connection with the promotion of employees' work safety, occupational health and environmental conditions' development.
- (4)To take any other action provided for by this Act or other laws as the authority and duty of the Work Safety, Occupational Health and Environmental Conditions Committee or as assigned by the Minister.

Section 102. Paragraph two of Section 78, Sections 80 and 81, paragraph one of Section 82, and Sections 83 and 84 shall be applied to the Work Safety, Occupational Health and Environmental Conditions Committee, mutatis mutandis.

Section 103. The Minister shall have the authority to issue ministerial regulations setting the standards to be applied by

employers in the administration of and arrangements for work safety, occupational health and environmental conditions.

When a ministerial regulation under paragraph one requires that the preparation of any documentary evidence or report must be certified or checked by any person in accordance with the prescribed criteria and procedures, such a ministerial regulation may also prescribe the criteria and procedures for registration and revocation of registration, rates of registration fees which are not more than the rates at the end of this Act, and the maximum rates of the service charges which may be charged by the said person.

Section 104. When the Labour Inspection Officer discovers that any employer is in violation of or not in compliance with a ministerial regulation issued under Section 103, the Labour Inspection Officer shall have the authority to issue a written order requiring the employer to improve the work environmental conditions, buildings or premises or prepare or rectify the machinery or equipment which must be used by an employee in the performance of duties or which are connected with the performance of duties correctly or appropriately within a prescribed time period.

Section 105. When the Labour Inspection Officer discovers that the conditions of the work environment, buildings, premises, machinery or equipment used by an employee will endanger the safety of employees or that the employer has not complied with an order of the Labour Inspection Officer under Section 104, after receipt of approval from the Director-General or a person assigned by the Director-General, the Labour Inspection Officer shall have the authority to order the employer to stop the usage of all or part of the said machinery or equipment temporarily.

A employer shall pay an employee for whom the Labour Inspection Officer ordered, under paragraph one, the employer to stop operating machinery or equipment an amount equal to the wages that would have been paid on work days throughout the entire period that the employee stopped work until the employer has proceeded correctly in accordance with the order of the Labour Inspection Officer.

Section 106. An appeal may be lodged with the Work Safety, Occupational Health and Environmental Conditions Committee against an order of the Labour Inspection Officer under Sections

104 or 105 within thirty days from the date of becoming aware of the order.

The ruling of the Committee shall be final.

An appeal under paragraph one shall not constitute an exemption from compliance with the order of the Labour Inspection Officer unless the Work Safety, Occupational Health and Environmental Conditions Committee has issued an order otherwise.

Section 107. Employers shall arrange for employees to undergo physical examinations and send the results of the said examinations to the Labour Inspection Officer. These shall be carried out in accordance with the criteria and procedures prescribed in ministerial regulations.

Chapter 9 - Supervision

Section 108. An employer who has a total of ten or more employees shall arrange for work rules and regulations in the Thai language and those rules and regulations must at least have details relating to the following items:

- (1)Days of work, normal hours of work and rest hours.
- (2)Holidays and criteria for holidays.
- (3)Criteria for overtime work and holiday work.
- (4)Days and places of payment of wages, overtime pay, holiday pay and holiday overtime pay.
- (5)Leave days and criteria for taking leave.
- (6)Discipline and disciplinary punishment.
- (7)Complaints.
- (8)Termination of employment, compensation payments and special compensation payments.

An employer shall announce the application of the work rules and regulations within fifteen days from the day on which the employer has a total of ten or more employees, and the employer shall keep a copy of those rules and regulations at the employer's place of business operations or office at all times, and a copy of the rules and regulations shall be sent to the Director-General or a person assigned by the Director-General within seven days from the day of notification of application of the said rules and regulations.

The Director-General or a person assigned by the Director-General shall have the authority to order an employer to correctly amend work rules and regulations that are contrary to the law within a prescribed period,

An employer shall disseminate and post the notification of the work rules and regulations

in a place open to the employees at their places of work, for the information of the employees and so that they can see them conveniently.

Section 109. Complaints under Section 108 (7) must contain at least the following details:

- (1)The scope and meaning of complaints.
- (2)The procedures and steps for complaints.
- (3)Inquiries and consideration of complaints.
- (4)Process for ending complaints.
- (5)Protection of complainants and persons concerned.

Section 110. When work rules and regulations are amended, the employer shall announce the amended rules and regulations within seven days from the date of notification of application of the amended rules and regulations, and paragraphs two, three and four shall be applied, *mutatis mutandis*.

Section 111. After an employer has announced the application of work rules and regulations in accordance with Section 108, even if later on the employer has less than ten employees, the employer shall continue to have the duty to comply with Sections 108 and 110.

Section 112. An employer who has ten or more employees shall prepare an employee register in the Thai language and keep it at the employer's place of business operations or office, ready for inspection by the Labour Inspection Officer during hours of work.

The employer shall prepare the employee register under paragraph one within fifteen days from the date on which the employee starts work.

Section 113. An employee register must have at least the following particulars:

- (1)Name and surname.
- (2)Sex.
- (3)Nationality.
- (4)Date of birth or age.
- (5)Current address.
- (6)Date of commencement of employment.
- (7)Position or job duties.
- (8)Wage rate and other fringe benefits which the employer has agreed to give to the employee.
- (9)Date of expiry of employment.

When it is necessary to change the particulars in the employee register, the employer shall complete the amendment of the employee register within fifteen days from the date on which that change took place or within fifteen days from the date on which the employee reported the change to the employer for information.

Section 114. A employer who has a total of ten or more employees shall ensure that there is documentation on the payment of wages, overtime pay, holiday pay and holiday overtime pay, including at least the following particulars:

- (1)The working days and hours of work.
- (2)The work results of the employees who receive wages for piece work.
- (3)The rates and the amounts of the wages, overtime pay, holiday pay and holiday overtime pay received by each employee.

When wages, overtime pay, holiday pay and holiday overtime pay are paid to an employee, the employer shall arrange for the employee to sign the documentation under paragraph one as evidence thereof.

The particulars in the documentation under paragraph one may be in the same document or separated into several documents.

When a employer pays wages, overtime pay, holiday pay and holiday overtime pay to an employee by means of transferring the money into a deposit account in a commercial bank or some other financial institution, it shall be held that the documentary evidence of the transfer of the money into the employee's deposit account is documentation connected with the payment of the said money.

Section 115. A employer shall keep employee registers for not less than two years from the date of expiry of employment of each employee and the employer shall keep the documentation on the payment of wages, overtime pay, holiday pay and holiday overtime pay to an employee for not less than two years from the date of payment of the said money.

When a petition has been submitted under Chapter 12 of this Act or there is a labour dispute under the law on labour relations or a labour case has been filed in court, the employer shall keep the employee registers and the documentation on the payment of wages, overtime pay, holiday pay and holiday overtime pay until there is a final order or judgement regarding the said matter.

Chapter 10 - Suspension from Work

Section 116. When a employer conducts an inquiry regarding an employee who has been accused of committing an offence, the employer is not allowed to order the employee to be suspended from work during the said inquiry unless the work rules and regulations or points of agreement on the terms of employment empower the employer to suspend the employee from work. In this regard, the employer must issue a written suspension order stating the offence and a period of suspension of not more than seven days, such that the employee must be informed in advance before being suspended from work.

During the suspension under paragraph one, the employer shall pay money to the employee at the rate which is prescribed in the rules and regulations or as agreed on between the employer and the employee in the points of agreement on the terms of employment. In this regard, the said rate must not be less than fifty percent of the working day's wage which the employee had received before being suspended from work.

Section 117. Upon completion of the inquiry, if it transpires that the employee is not guilty, the employer shall pay wages to the employee in an amount equal to his working days' wages calculated from when the employee was suspended from work, except that the money which had been paid by the employer under Section 116 shall be counted as part of the wages under this Section, together with interest at fifteen percent per annum.

Chapter 11 - Compensation Payments

Section 118. A employer shall pay compensation to an employee whose employment has been terminated as follows:

- (1)An employee who has worked consecutively for a full one hundred and twenty days but less than one full year shall be paid not less than thirty days the last wage rate or not less than the wages for the last thirty days of work in respect of an employee who is paid a wage on a piece work basis.
- (2)An employee who has worked consecutively for one full year but not a full three years shall be paid at least an amount equivalent to ninety days' pay at his or her most recent wage rate or not less than the wages earned for the last ninety days of work in respect of an employee who is paid a wage on te basis of piece work.
- (3)An employee who has worked consecutively for a full three years but not a full six years shall be paid an amount at least equivalent to one hundred and eighty days' pay at his or her most recent wage rate, or not less than the wages earned for the last one hundred and eighty days of work in respect of an employee who is paid a wage on the basis of piece work.
- (4)An employee who has worked consecutively for a full six years but not a full ten years shall be paid an amount equivalent to at least two hundred and forty days' pay at his or her most recent wage rate or not less than the wages earned for the last two hundred and forty days of work in respect of an employee who is paid a wage on the basis of piece work.
- (5)An employee who has worked consecutively for a ten full years or more shall be paid an amount equivalent to at least three hundred days at his or her most recent wage rate, or not less than the wages for the last three hundred days of work in respect of an employee who is paid a wage on the basis of piece work.

Termination of employment under this Section means any action by which the employer does not allow the employee to continue to do work and does not pay wages to the employee, regardless of whether the cause is the cessation of the employment agreement or another cause, and the meaning also covers cases where an employee does not do work and is not paid wages because the employer is unable to continue business operations.

The provisions in paragraph one shall not apply to employees who have a fixed term of employment and whose employment is terminated in accordance at the end of the specified term.

Fixed term employment under paragraph three may be effected in respect of employment for work in specific projects which are not the normal work of the employer's business or trade, and which must have a definite beginning and end of employment, or for seasonal work for which employment is effected during the period of such seasons, to the extent that the work must be completed within a period of not more than two years, and that the employer and the employee had made a written agreement as such upon commencement of employment.

Section 119. A employer need not pay compensation to an employee whose employment is terminated in any of the following cases:

- (1) Dishonesty in carrying out duties or deliberate commission of a crime against the employer.
- (2) Intentionally causing the employer to suffer damage.
- (3) Negligence, causing the employer to suffer serious damage.
- (4) Violation of the work rules and regulations or the employer's lawful and legitimate regulations or orders, where the employer had already issued a written warning, except that in serious cases the employer need not issue such a warning. A letter of warning shall be enforceable for not more than one year calculated from the date on which the employee committed the offence.
- (5) Abandonment of post for three consecutive working days, regardless of whether there was a holiday in between or not, for no appropriate reason.
- (6) Imprisonment under a final judgement ordering imprisonment, unless the sentence was for an offence which was committed out of negligence or a petty offence.

Section 120. When a employer moves his place of business operations and locates it in another place, and this has an important effect on the normal way of life of the employee or his family, the employer must inform the employee not less than thirty days before the date of relocation of the place of business operations. In this regard, if the employee does not wish to go and work there, the employee shall have the right to give notice of termination of the employment agreement, and the employee shall be entitled to receive a special compensation payment of not less than fifty percent of the rate of compensation payment which the employee is entitled to receive under Section 118.

When the employer does not inform the employee of the relocation of the place of business operations in advance in accordance with paragraph one, the employer shall pay a special compensation payment in lieu of notice in an amount equal to thirty days' pay at the employee's most recent wage rate or equal to the wages for the last thirty days of work in respect of an employee who is paid a wage on the basis of piece work.

An employee is entitled to submit a petition to the Labour Welfare Committee for consideration within thirty days from the date on which the employer relocated his place of business operations as to whether or not it is a case where the employer must give advance notice or whether the employee is entitled to give notice of termination of the employment agreement with the right to receive the special compensation payment under paragraph one.

The ruling of the Labour Welfare Committee shall be final unless the employer or the employee appeals to the court against the ruling within thirty days from the date upon which the employer or the employee is informed of the ruling. When the employer is the party who takes the case to court, before the lawsuit can be filed the employer must pay an amount of money into court equivalent to the amount which must be paid to the employee who submitted the petition in accordance with paragraph three.

With regard to the giving of notice of termination of the employment agreement under this Section, the employee must exercise his or her right within thirty days from the date on which the employer relocated the place of business operations or from the date on which the ruling of the Labour Welfare Committee or the court judgement became final.

Section 121. When a employer wishes to terminate the employment of an employee because the employer is restructuring the work units, production, distribution or service processes, as a result of mechanization or changes in machinery or technology, thus making it necessary to reduce the number of employees, paragraph two of Section 17 shall not apply, and the employer shall inform the Labour Inspection Officer and the employees whose employment is to be terminated of the date of termination of employment, the reasons for termination of employment and the names of the employees not less than sixty days before the date of termination of employment.

When the employer does not inform in advance the employee whose employment is to be terminated or gives advance notice amounting to less than the time period prescribed in paragraph one, in addition to making the compensation payment under Section 118, the employer shall pay the employee a special compensation payment in lieu of notice in an amount equal to sixty working days' wages at his or her most recent wage rate, or an amount equivalent to his or her wages for the last sixty days of work in respect of an employee who is paid a wage on the basis of piece work.

When a special compensation payment is paid in lieu of notice under paragraph two, it shall be held that the employer has paid the employment monies in lieu of notice in accordance with the Civil and Commercial Code.

Section 122. When a employer terminates the employment of an employee in accordance with Section 121 and that employee has worked continuously for six years or more, the employer shall pay the employee a special compensation payment equivalent to not less than fifteen working days' wages at his or her most recent wage rate for each full year of service in addition to the compensation payment under Section 118, or not less than an amount equivalent to the wages earned for the last fifteen days of work for each full year of service in respect an employee paid wags on the basis of piece work. However, the total compensation under this Section must not be more than three hundred and sixty working days' wages at the employee's most recent wage rate, or the wages received for the last three hundred and sixty days' work in respect of an employee who is paid a wage on the basis of piece work.

For the purpose of calculating special compensation payments, when the period of service is less than one full year, if the fraction of the period of service is more than one hundred and eighty days, it shall be counted as one full year of service.

Chapter 12 - Submission of Petitions and Consideration of Petitions

Section 123. When a employer violates or is not in compliance with the requirement to pay any form of compensation under this Act and the employee who claims to have a right to such compensation wishes to ask the Labour Inspection Officer to

proceed in accordance with this Act, the employee shall have the right to submit a petition to the Labour Inspection Officer of the locality in which the employee is working or in which the employer is domiciled in the form prescribed by the Director-General.

Upon the death of an employee who is entitled to receive compensation under this Act, his or her legitimate heirs shall have the right to submit a petition to the Labour Inspection Officer in this regard.

Section 124. When a petition is submitted under Section 123, the Labour Inspection Officer shall conduct an inquiry into the facts and issue an order within sixty days from the date of receipt of the petition.

When it is not possible to issue an order within the deadline under paragraph one, the Labour Inspection Officer shall ask the Director-General or a person assigned by the Director-General for an extension of time together with the reason therefor, and the Director-General or the person assigned by the Director-General may consider granting permission as is deemed appropriate. However, the time period must not be more than thirty days from expiry of the time limit under paragraph one.

After the Labour Inspection Officer has conducted the inquiry, if the employee is entitled to receive any compensation which the employer is required to pay under this Act, the Labour Inspection Officer shall issue an order requiring the employer to pay the said compensation to the employee or the legitimate heirs of the employee in the form prescribed by the Director-General within fifteen days from the date when the employer is notified about the order.

The employer shall pay at the workplace the compensation under paragraph three to the employee or the legitimate heirs of a deceased employee. When so requested by the employee or the legitimate heirs of the employee, the Labour Inspection Officer shall have authority to order the employer to pay the said compensation at the office of the Labour Inspection Officer or at another place as agreed upon between the employer and the employee or the legitimate heirs of a deceased employee.

When the employee or the legitimate heirs of a deceased employee has not received the said compensation within fifteen

days from the day on which the Labour Inspection Officer issued the order, the Labour Inspection Officer shall remit such money for maintenance in the Employees Assistance Fund by depositing it in a bank. In this regard, the employee or his or her legitimate heirs entitled to received the above compensation shall have the right to any interest or benefit earned as the result of the deposit of such money in a bank.

When the Labour Inspection Officer is of the opinion that the employee or the legitimate heirs of a deceased employee is not entitled to receive the money under Section 123, the Labour Inspection Officer shall issue an order and inform the employer and the employee or his or her legitimate heirs in writing accordingly.

Section 125. After the Labour Inspection Officer has issued the order under Section 124, if the employer, the employee or the legitimate heirs of a deceased employee are not satisfied with that order, the case may be brought to court within thirty days as calculated from the date of notification of the order.

When the employer, the employee or the legitimate heirs of a deceased employee do not bring the case to court within the above deadline, that order shall be final.

When the employer is the party which brings the case to court, the employer must pay the money into court in the amount which is due for payment under that order before the lawsuit can be filed.

When the case is concluded and it is held that the employer has the duty to pay any amount of money to the employee or his or her legitimate heirs, the court shall have the authority to pay to the employee or his or her legitimate heirs the money which the employer had paid into court.

Chapter 13 - Employees' Assistance Fund

Section 126. There shall be an Employees' Assistance Fund in the Labour Welfare and Protection Department the purpose of which is to provide assistance when employees leave their job or die or in other cases prescribed by the Board of Directors of the Employees' Assistance Fund.

Section 127. The Employees' Assistance Fund shall be comprised of:

- (1)employees' and employeres' contributions,
- (2)money for transfer to the Employees' Assistance Fund under Sections 133 and 136,
- (3)surcharges under Section 131,
- (4)finer which are received from punishing offenders under this Section,
- (5)monies or properties which are donated by people,
- (6)government grants,
- (7)other income,
- (8)interest belonging to the Employees' Assistance Fund.

The Employees' Assistance Fund shall prepare accounts consisting of

- (1)members' accounts which show the particulars of the employees' and employeres' contributions and interest from the said monies of each of all the members,
- (2)A central Fund Account which shows the particulars of the money other than those under subsection (1) above.

Section 128. The remittance of fines under Section 127 (4) into the Employees' Assistance Fund and the deadline for remitting the said money shall be in accordance with the regulations prescribed by the Board of Directors of the Employees' Assistance Fund by notification in the Government Gazette.

Section 129. For the purpose of this Act, it shall be held that the monies and properties of the Employees' Assistance Fund under Section 127 belong to the Labour Welfare and Protection Department without the requirement of remittance to the Ministry of Finance as state income.

There shall be a Board of Directors of the Employees' Assistance Fund comprised of the Permanent Secretary to the Ministry of Labour and Social Welfare as Chairman of the Board, a representative from the Ministry of Finance, a representative from the National Economic and Social Development Board, and a representative from the Bank of Thailand as members of the Board, and five employer representatives and five employee representatives appointed by the Minister as members of the

Board, and the Director-General of the Labour Welfare and Protection Department who shall as both Director and Secretary.

The Board of Directors of the Employees' Assistance Fund has the following authority and duties:

- (1)To prescribe the policies on the administration and payment of the monies of the Employees Assistance Fund with the approval of the Minister.
- (2)To consider giving opinions to the Minister on the promulgation of Royal Decrees, and the issuance of ministerial regulations, announcements or regulations for the application this Act.
- (3)To formulate regulations on the receiving of the money, the payment of the money and the maintenance of the money of the Employees' Assistance Fund with the approval of the Minister.
- (4)To formulate regulations on the procurement of benefits by the Employee's Assistance Fund with the approval of the Minister.
- (5)To appropriate the money of the Employees' Assistance Fund in an amount of not more than ten percent of the Fund's interest per annum for use as expenses for the administration of the Employees' Assistance Fund.
- (6)To perform any other action provided for by this Act or other laws to be within the authority and duty of the Board of Directors of the Employees' Assistance Fund or as assigned by the Minister.

Paragraph two of Section 78, Sections 80 and 81, paragraph one of Section 82, Sections 83 and 84 shall be applied to the Board of Directors of the Employees' Assistance Fund, mutatis mutandis.

Section 130. Employees of businesses which have ten or more employees shall be members of the Employees' Assistance Fund.

The provisions in paragraph one shall not be applied to a business in which the employer has arranged to have a provident fond in accordance with the law on provident funds or arranged to have assistance provided to an employee when the employee leaves his job or dies in accordance with the criteria and procedures that are prescribed in ministerial regulations.

Any application of the provisions in paragraph one to employees of businesses which have less than ten employees shall be promulgated as a Royal Decree.

The Board of Directors of the Employee's Assistance Fund may issue regulations to prescribe that employees of businesses which are not subject to this Act may apply to become members of the Employees' Assistance Fund, if the employees wish to become members of the Employees' Assistance Fund, with the consent of their employer, and in such a case the employer shall have the same duties under this Act as have the employers of businesses that are subject to this Act.

A employer who has an employee who is a member of the Employees' Assistance Fund under paragraph one shall submit a form showing the name of the employee and other particulars. After the employer has submitted the said form, the Labour Welfare and Protection Department shall issue a certificate of registration to the employer.

When the facts relating to the contents of a submitted form showing the employee's name have changed, the employer shall inform the Labour Welfare and Protection Department in writing to request that the said form be changed or amended.

The submission of an application to change or amend the form showing the name of the employee, and the issuance of a certificate of registration to a employer shall be in accordance with the forms, criteria and procedures prescribed by the Board of Directors of the Employees' Assistance Fund.

A person who has submitted a form or informed and requested a change or amendment of a form under the law on social security shall be held to have complied with the provisions of paragraphs five, six and seven of this Section.

Section 131. With effect from the date on which an employee becomes a member of the Employees' Assistance Fund, every time that a wage is paid, the employee shall make a contribution, to be deducted by the employer from his or her wage, and the employer shall make a contribution on the employee's behalf to the Employees' Assistance Fund. These contributions shall be at the rates prescribed in ministerial regulations, but they shall not be more than five percent of the employee's wage.

If an employer does not pay the wage by the deadline on which they must be paid, the employer shall have a duty to remit both the employee's and the employer's contribution as if the wage had been paid.

When an employer does not remit the employee's and employer's contribution or does not remit them in the full amounts within the deadline prescribed in paragraph four, the employer shall pay a surcharge to the Employees' Assistance Fund at the rate of five percent per month of the contribution amounts which have not yet been remitted or the amount which is still owing calculated from the date on which the said money must be remitted. With regard to a fraction of a month, fifteen days or more shall be counted as one month. If less than that, it shall not be counted. In this regard, the employer is not allowed to cite non-deduction of a wage or deduction not in the full amount as an excuse for avoiding the obligation to pay such money.

The remittance of contributions and surcharges into the Employees' Assistance Fund shall be in accordance with the criteria and procedures prescribed by the Board of Directors of the Employees' Assistance Fund.

Section 132. When an employer does not remit a contribution or does not remit it in the full amount within the established deadline, the Labour Inspection Officer shall issue a warning in writing to the employer to pay such arrears not less than thirty days from the date of receipt of such a written warning.

When a warning is issued under paragraph one, if it is not possible to know the exact amount of the wage, the Labour Inspection Officer shall have the authority to assess the contributions which the employer must remit in accordance with the criteria and procedures prescribed by the Board of Directors of the Employees' Assistance Fund.

Section 133. When an employee leaves his job, the Labour Welfare and Protection Department shall pay that part of the money in the Employees' Assistance Fund representing the contributions made on his or her behalf and interest on such monies to the employee.

When an employee dies, if the employee had not designated the person who is entitled to receive the money from the Employees'

Assistance Fund in writing on the form prescribed by the Director-General and delivered it to the Labour Welfare and Protection Department, or designated a person who had died earlier, the money from the Employees' Assistance Fund mentioned in paragraph one shall be paid to the surviving children, spouse, father and mother equally.

If the deceased has not left behind any person who is entitled to receive the money from the Employees' Assistance Fund in accordance with paragraph two, the said money shall devolve upon the Employees' Assistance Fund.

Section 134. With regard to the payment of money from the Employees' Assistance Fund in cases other than the cases under Section 133, the Board of Directors of the Employees' Assistance Fund shall prescribe regulations for payment of assistance money, the rates of the money payable and the payment periods, by taking into consideration that part of the money in the Employees' Assistance Fund which is not money that must be deducted for payment under Section 133.

Section 135. When the Labour Welfare and Protection Department has paid money from the Employees' Assistance Fund, regardless of whether such money has been paid entirely or in part, to an employee in accordance with Section 134, the Employees' Assistance Fund shall have the right to call on the persons who have the legal duty to pay the said money to the employee to reimburse the money which has been paid out by the Employees' Assistance Fund, together with interest at the rate of fifteen percent per annum.

The Employees' Assistance Fund's right to claim shall have a limitation period of ten years from the date on which the Employees' Assistance Fund paid out the money under paragraph one.

Section 136. The Labour Inspection Officer shall have the authority to issue an order in writing to seize, sequester and sell by auction the property of persons who have the legal duty to but do not remit a contribution or a surcharge, or who do not remit it in the full amount, or to recover monies which must be paid under Section 135.

The issuance of an order to seize or sequester property under paragraph one may be done after a written warning has been sent to the person who has the legal duty to bring the contribution or surcharge that is in arrears or the monies which must be paid under Section 135 for payment within a prescribed deadline, which must not be less than thirty days from the date on which that person received that warning and failed to pay within the prescribed deadline.

The criteria and procedures for seizing, sequestering and selling by auction of property under paragraph one shall be in accordance with the regulations prescribed by the Minister. In this connection, the criteria and procedures in the Civil Procedure Code shall apply, *mutatis mutandis*.

Deductions shall be made from the proceeds of the auction of the property to cover the expenses for the seizure, sequestration and sale by auction and the payments of the contributions or surcharges which are in arrears or the monies which persons have the legal duty to pay under Section 135. If there is any money remaining, it shall be returned to that person quickly, such that the Labour Inspection Officer shall issue a letter informing him or her to request the return of the money remaining by registered mail. If that person does not request the refund within five years, it shall be transferred to the Employees' Assistance Fund.

Section 137. The right to claim money from the Employees' Assistance Fund is not transferable and is not subject to the liability of execution of cases.

Section 138. Within one hundred and twenty years as calculated from the end of the calendar year, the Board of Directors of the Employees' Assistance Fund shall present a balance sheet and a report on the receipts and the payments of the money of the Employees' Assistance Fund in the preceding year to the Office of the Auditor-General for auditing and certification before presentation to the Minister.

The Minister shall present the said balance sheet and report on receipts and payments of money to the Cabinet for information and arrange for them to be published in the Government Gazette.

Chapter 14 - Labour Inspection Officer

Section 139. In the performance of his or her duties, the Labour Inspection Officer shall have the following authority:

- (1)To enter a place of business operations or office of a employer and the place of work of an employee during working hours in order to inspect the working conditions of the employee and the terms of employment, inquire into facts, take photographs, make photocopies of documents which are connected with employment, the payment of wages, overtime pay, holiday pay, holiday overtime pay, and employee registers, collect samples of materials or products for analysis in connection with work safety, and carry out other actions in order to obtain facts for the implementation of this Act.
- (2)To issue letters asking or calling on employeres, employees or persons concerned to provide explanations of facts or to send things or documents concerned for use in consideration.
- (3)To issue written orders requiring employeres or employees to comply correctly with this Act.

Section 140. In the performance of the duties of the Labour Inspection Officer under Section 135 (1), the Labour Inspection Officer shall show an identity card to the employeres or persons concerned, and the employeres or persons concerned shall provide the appropriate facilities and not obstruct the Labour Inspection Officer in the performance of his or her duties.

Section 141. When a employer or an employee has complied with the order of the Labour Inspection Officer under Section 139 (3) within the prescribed deadline, any criminal proceedings against the employer or the employee shall be halted.

Section 142. With regard to the inspection of the places of business operations or offices of employeres or the places of work of employees, the Director-General or a person assigned by the Director-General may arrange for a doctor, a social worker or an expert appointed by the Minister to enter the said places to give opinions or assistance to the Labour Inspection Officer in implementing this Act.

Employeres or persons concerned shall provide all appropriate facilities and not obstruct the doctor, social worker or expert in the performance of their duties under paragraph one.

Chapter 15 - Sending of Documents

Section 143. Orders or documents of the Director-General or the Labour Inspection Officer under this Act shall be sent by registered mail, or the Labour Inspection Officer may deliver it personally or instruct an official to deliver it to the domicile or residence or office of the employer during the working hours of the employer. If the employer is not found at the domicile or residence or office of the employer, or the employer is found but the employer refuses to accept it, it may be sent to any person of legal age who is in or working in a house or office which appears to belong to that employer. After the said action has been carried out, it shall be held that the employer has received the order or letter of the Director-General or the Labour Inspection Officer.

If it is not possible to effect delivery in accordance with paragraph one, delivery shall be effected by means of posting the order or the document of the Director-General or the Labour Inspection Officer in an easily visible place at an office of the employer, a place of work of the employee, the domicile or the residence of the employer. After action has been so carried out and not less than fifteen days have passed, it shall be held that the employer has received the order or document of the Director-General or the Labour Inspection Officer.

Chapter 16 - Penalties

Section 144. A employer who violates or does not comply with Sections 10, 22, 24, 25, 26, 37, 38, 39, 40, 42, 43, 46, 47, 48, 49, 50, 51, 61, 62, 63, 64, 67,70, 71, 72, 76, paragraph one of Section 90, ministerial regulations issued under Sections 95 or 107, paragraph one of Section 118, or who does not make a special compensation payment under paragraph one or paragraph two of Section 120, paragraph two of Section 121 or Section 122, must be sentenced to not more than six months' imprisonment or fined not more than one hundred thousand baht, or both.

When a employer violates or does not comply with Sections 37, 38, 39, 42, 47, 48, 49 or 50, thereby causing an employee physical injury or death, he or she must be sentenced to not more than one year's imprisonment or fined not more than two hundred thousand baht, or both.

Section 145. A employer who does not comply with Section 23 must be fined not more than five thousand baht.

Section 146. A employer who does not comply with Sections 15, 27, 28, 29, paragraph one of Section 30, Sections 45, 53, 54, 56, 57, 58, 59, 65, 66, 73, 74, paragraph one of Section 75, Sections 77, 99, paragraph two of Section 105, Sections 108, 111, 112, 113, 114, 115, or 117, or does not give advance notice under Section 120, paragraph one of Section 121, or Section 139 (2) or (3), must be fined not more than twenty thousand baht.

Section 147. Any person who violates Section 16 must be fined not more than twenty thousand baht.

Section 148. A employer who violates Sections 31 or 44 or who does not comply with the ministerial regulations issued under paragraph one of Section 103 must be sentenced to not more than one year's imprisonment or fined not more than two hundred thousand baht, or both.

Section 149. A employer who does not comply with Section 52, Section 55, paragraph two of Section 75, paragraph two of Section 90, Section 110 or Section 116 must be fined not more than ten thousand baht, or both.

Section 150. Any person who does not provide every convenience, does not go to give a statement, does not send a document or object in accordance with a notice of the Wages Committee or a sub-committee or a person assigned by the Wages Committee or a sub-committee, or who does not provide every convenience to the Labour Inspection Officer, a doctor, social worker or expert, must be sentenced to not more than one month's imprisonment or fined not more than two thousand baht, or both.

Section 151. A person who obstructs the performance of duties by the Wages Committee or a sub-committee or a person assigned by the Wages Committee or a sub-committee , the Labour Inspection Officer, a doctor, social worker or expert, must be sentenced to not more than one year's imprisonment or fined not more than twenty thousand baht, or both.

A person who does not comply with an order of the Labour Inspection Officer ordered under Section 124 must be sentenced to not more than one year's imprisonment or fined not more than twenty thousand baht, or both.

Section 152. A employer who does not comply with Section 96 must be fined not more than fifty thousand baht.

Section 153. A employer who does not comply with Section 98 must be sentenced to not more than one month's imprisonment or fined not more than two thousand baht, or both.

Section 154. A employer who does not prepare the documentary evidence or reports under ministerial regulations issued under Section 103 or who prepares documentary evidence or reports by filling in contents that are false must be sentenced to not more than six months' imprisonment or fined not more than one hundred thousand baht, or both.

Section 155. A person who has the duty to certify or inspect any documentary evidence or report under ministerial regulations issued under Section 103 and who fills in contents that are false in the matter of the certification or inspection of the documentary evidence or report must be sentenced to not more than one year's imprisonment or fined not more than two hundred thousand baht, or both.

Section 156. A employer who does not submit a form or who does not report in writing to ask to change or amend a particular within the prescribed deadline under Section 130 or who submits a form or reports in writing to ask to change or amend a particular under Section 130 by filling in contents which are false must be sentenced to not more than six months' imprisonment or fined not more than ten thousand baht, or both.

Section 157. An official who discloses a fact in connection with the business of a employer which is a fact that the employer would normally keep secret and not disclose, and which the official obtained or came to know of as a result of carrying out this Act must be sentenced to not more than one month's imprisonment or fined not more than two thousand baht, or both, unless it is a disclosure in the performance of government duty in the interests of this Act or in the interests of labour protection, labour relations or the inquiry regarding or hearing of a lawsuit.

Section 158. When an offender is a juristic person, if the offence by that juristic person arose from the order or action of any person, or the failure to order or non-performance of an act which is a duty that must be carried out by the managing director

or any person who is responsible for the operations of that juristic person, that person must be punished as provided for in respect of that offence.

Section 159. With regard to all the offences under this Act, except for offences under Section 157, if the following officials are of the opinion that the offender does not deserve to be sentenced to imprisonment or does not deserve to be charged in court, they shall have the authority to compound the offences, as follows:

- (1)The Director-General or a person assigned by the Director-General, in respect of an offence which occurred in Bangkok.
- (2)The provincial governor or a person assigned by the provincial governor, in respect of an offence which occurred in another province.

When an enquiry is carried out, if the enquiry officer discovers that any person has committed an offence under this Act and that person consents to the offence being compounded, the enquiry officer shall present the matter to the Director-General or the provincial governor, as the case may be, within seven days from the date on which that person expressed his or her consent to the offence being compounded.

When the offender has paid the fine in the amount compounded within thirty days, it shall be held that the case has ended in accordance with the Criminal Procedure Code.

If the offender does not consent to the offence being compounded or, after having consented to it, does not pay the fine within the deadline under paragraph three, legal proceedings shall be instituted.

Transitional Provisions

Section 160. Section 44 shall be applied to child employees aged between thirty full years but less than fifteen full years who had been accepted by an employer for work under Revolutionary Council Decree No. 103 dated 16 March, 1972, before the date of enforcement of this Act.

Section 161. Employers shall report the employment of child employees below the age of eighteen years whom they had accepted for work under Revolutionary Council Decree No. 103

dated 16 March, 1972, before the date of enforcement of this Act. This shall be done within fifteen days as calculated from the date of enforcement of this Act.

Section 162. The Wages Committee, sub-committees and working committees which are in office on the date of enforcement of this Act shall continue to hold office until the expiry of their term of service.

Section 163. There shall be a promulgation in the form of a Royal Decree to commence the collection of employees' and employers' contributions to serve as funds for assisting employees in accordance with the provisions on the Employees' Assistance Fund under Chapter 13.

Section 164. A petition which has not yet reached its final conclusion or a lawsuit which is still under the consideration of a court before the date of enforcement of this Act shall be enforced under a Notification of the Ministry of Interior or a Notification of the Ministry of Labour and Social Welfare which is issued in pursuant to Revolutionary Council Decree No. 103 dated 16 March, 1972, until that petition or lawsuit has reached its final conclusion.

Section 165. A person who is entitled to receive a wage or other money from a employer under Revolutionary Council Decree No. 103 dated 16 March, 1972, before the date of enforcement of this Act shall continue to be entitled to it.

Section 166. All announcements, notifications or orders issued under Revolutionary Council Decree No. 103 dated 16 March, 1972, shall continue to be valid to the extent that they do not contravene or conflict with this Act. This shall be so until ministerial regulations, regulations, announcements and notifications issued under this Act come into force.