

SPI Newsletter

## DRAFT AMENDMENTS TO THAILAND'S LABOUR PROTECTION ACT

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On 13 December 2018, the National Legislative Assembly of Thailand passed a resolution to approve amendments to the Labour Protection Act B.E. 2541 (1998) (“LPA”) by issuing a new draft Labour Protection Act (no. 7) B.E. 2562 (2019) (“Draft Amendment Act”). The Draft Amendment Act is expected to come into force in Q1 2019 after it is published in the Royal Thai Government Gazette.

The Draft Amendment Act aims to amend the LPA by providing additional fundamental rights to employees. Important amendments to the LPA under the Draft Amendment Act are summarised below:

- (1) **Section 13** – Requires that if an employer changes entities resulting in the transfer of employees, the employer must first obtain consent from the employees who are to be transferred. The current provision does not require consent if it is a change of entity by amalgamation.
- (2) **Section 17/1** – Requires the employer to pay compensation in lieu of prior notice calculated from the date of termination of employment until the date that the employment would have been terminated if the prescribed prior notice had been given. This concept is the same as the current provision but this new Section 17/1 provides a clearer regulation.
- (3) **Section 34** – Requires the employer to provide employees with at least 3 days of paid business leave. Entitlement to business leave exceeding 3 days must be stated in the relevant employer’s work rules and could be given on a leave without pay basis. The current provision allows the employer to determine whether to provide business leave and whether it is with or without pay.
- (4) **Section 41** – Requires the employer to provide 98 days of maternity leave to pregnant employees per pregnancy including check-up prior to the delivery. The current provision requires the employer to provide only 90 days per year to be taken from delivery only.
- (5) **Section 70** – This section regulates timing of payments to the employee and it is revised to include all payments payable under the LPA. Currently this section only includes wages, overtime pay, holiday pay, and holiday overtime pay which in practice could create discrepancy among payments. For example, currently an employer must pay severance pay immediately upon termination, however, an unpaid wage could be paid within three days from the date of termination. This amendment will allow the employer to make all payments at the same time.



- (6) **Section 118** – This section governs the rate of applicable severance pay upon termination of employment. Currently, the rate of applicable severance pay reaches its maximum of 300 days at the employee’s latest wage rate if the employee has worked for the employer for over 10 years. This amendment introduces an additional tier for employees who have worked for the employer for over 20 years who will be entitled to a maximum severance pay of 400 days at the employee’s latest wage rate.
- (7) **Section 120** – This section governs a procedure to relocate the employer’s business premises (but does not apply to relocation between existing offices). Currently, this section of the LPA requires the employer to provide 30 days’ advance notice to employees only if such relocation materially affects the ordinary living conditions of the employees or their family, with entitlement to a special severance pay. The amendment imposes an obligation on the employer to provide 30 days’ advance notice to the affected employees in any case and allows the employees to terminate employment effective as at the date of the scheduled relocation if such relocation would affect the ordinary living conditions of such employees or their family, with entitlement to a special severance pay. The rate of special severance pay remains the same i.e. equivalent to a rate of ordinary severance pay prescribed by Section 118.

Employers in Thailand should ensure that they are prepared for compliance with the proposed changes to the LPA under the Draft Amendment Act, which is expected to come into force in Q1 2019.

Siam Premier has extensive experience in assisting local and multinational clients on the full spectrum of labour and employment law matters in Thailand.

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