



1. Introduction

The COVID-19 pandemic and its consequences have slowed down many businesses and, in some cases, even rendered businesses non-operational. This economic slowdown places employers and employees under significant financial pressure in keeping up with the on-going financial obligations otherwise unaffected by the pandemic.

The Thai government has, in response, introduced a series of regulations and measures to ease and support employers and employees including introducing draft regulations, reducing social security fund contributions and providing time extensions for such contributions.

2. Introduction of Draft Regulations

On 24 March 2020 the Cabinet approved in principle two Draft Ministerial Regulations: (i) *The Draft Ministerial Regulation Re: The Specification of Criteria to Receive and Rate of Compensation for Unemployment during Economic Turmoil*; and (ii) *The Draft Ministerial Regulation Re: Rights to Compensation for Inability to Work in the Event of Force Majeure*. Both draft regulations will have retrospective effect to 1 March 2020 and seek to ease the burden currently being imposed on employers and employees during the COVID-19 pandemic.

2.1 The Draft Ministerial Regulation Re: The Specification of Criteria to Receive and Rate of Compensation for Unemployment during Economic Turmoil

The Draft Ministerial Regulation Re: The Specification of Criteria to Receive and Rate of Compensation for Unemployment during Economic Turmoil is to be issued

pursuant to section 79 of the Social Security Act B.E. 2533 (“**Social Security Act**”). Section 79 of the Social Security Act provides that an insured person shall be entitled to unemployment benefits on and after the eighth day as from the date of unemployment with the last employer in accordance with the criteria and rates prescribed in the Ministerial Regulations.

Its main focus is to increase the rate of compensation to employees as insured persons in the event of unemployment following termination of employment by an employer, resignation by the employee, or the termination of fixed term employment due to such term having expired. On 31 March 2020, the Cabinet passed a resolution which provides that the compensation payable in the event of resignation shall be 45% of the employee’s salary for no more than 90 days, and in the event of termination by an employer shall be 70% of the employee’s salary for no more than 200 days.

2.2 Draft Ministerial Regulation Re: Rights to Compensation for Inability to Work in the Event of Force Majeure

The Draft Ministerial Regulation Re: Rights to Compensation for Inability to Work in the Event of Force Majeure is to be issued pursuant to section 79/1 of the Social Security Act which provides that in the event the insured person is unable to work as a result of a *force majeure* event or the employer does not permit such insured person to work due to the *force majeure* event thereby preventing the normal operation of business, if the insured person has paid at least six months contribution to the fund within the 15 months prior to the *force majeure* event, then such insured person shall be entitled to receive compensation at the rate specified in the Ministerial Regulation.

The key points in this draft Ministerial Regulation are:

- To amend the *Ministerial Regulation Re: Rights to Compensation for Inability to Work in the Event of Force Majeure B.E. 2560*
- To redefine the definition of “*force majeure*” to include the outbreak of disease in humans which is deemed as a dangerous disease by the law on dangerous diseases, as well as other dangers, whether natural or manmade
- Entitle affected employees who are insured persons to compensation

This draft Ministerial Regulation includes provisions for compensation payments to employees who are insured persons in two cases, namely: (i) inability to work as a result of a *force majeure* event; and (ii) closure of the employer’s business pursuant to government-issued orders.

Initially, the compensation set by the Cabinet on 24 March 2020 was 50% of an employee’s daily wage for no more than 180 days in the case of inability to work as a result of a *force majeure* event, and 60 days in the case of closure of the employer’s business pursuant to government-issued orders. However, this was later adjusted up to 62% following the Cabinet resolution on 31 March 2020. The following are the key details of the revised provision following the Cabinet resolution on 31 March 2020:

- **Inability to work as a result of a force majeure event**

In the event employees as insured persons become unable to work as a result of the *force majeure* event as deemed so by the relevant employer, or in the case the employer does not permit such employees to work due to the *force majeure* event thereby rendering normal operation of business impossible, such employees shall be entitled to receive compensation for their inability to work at a rate of 62% the daily wage and shall be entitled

to such compensation throughout the time such insured person remains unable to work as a result of the *force majeure* event, but in any case not exceeding 90 days.

- **Closure of the employer's business pursuant to the government's order**

To contain the spread of the virus the Government may issue an order to close certain businesses, in such case employees who are insured persons who will not receive his or her salary as a result of this closure shall be entitled to receive compensation for their inability to work at a rate of 62% of the daily wage throughout the period the relevant employer is issued closure, but in any case not exceeding 90 days.

Remark: Please note that the employer and employee relationship still remains in the case of those claiming compensation under the *Draft Ministerial Regulation Re: Rights to Compensation for Inability to Work in the Event of Force Majeure*.



3. Reduction of social security fund contributions

Section 46 of the Social Security Act provides that the Government, the employers and employees as insured persons must remit equal contributions to the fund for payment of benefits relating to injury or sickness, invalidity, death and parturition, as well as for payment of benefits relating to child benefits, old-age benefits, and unemployment benefits.

To ease this financial burden on employers and employees, on 21 and 24 March 2020 respectively, the Cabinet passed resolutions to approve in principle the *Draft Notification Re: Criteria, Procedure and Conditions for the Reduction of Employers and Insured Persons Contribution Payments in Response to the Corona 2019 Virus or Covid19* which is aimed at aiding and supporting employees and employers throughout the COVID-19 pandemic. The main principles of this Draft Notification are as follows:

- Employers and insured persons shall be entitled to reduction in monthly contribution payments to the fund from March 2020 to May 2020. In this regard, employers shall be required to pay contribution at a rate of 4% and insured persons at a rate of 1% of the insured person's salary.
- Section 39 insured persons, i.e. those whose employment has ended but wishes to remain insured, shall be entitled to reduction in monthly contribution payments to the fund from March 2020 to May 2020 and therefore required to contribute only 86 Baht per month.
- Employers and insured persons who have paid contributions in excess of what is specified in this Draft Notification shall be entitled to a refund.

4. Fund Contribution Time Extensions

The Cabinet resolution on 31 March 2020 also provides an extension for employers' and employees' legal obligation to make contribution payments to the social security fund. Employers and employees can now extend the payment for the contribution of their salary in March, April and May in accordance with the following timeline:

Salary in March 2020 - contribution to be paid by 15 July 2020

Salary in April 2020 - contribution to be paid by 15 August 2020

Salary in May 2020 - contribution to be paid by 15 September 2020

5. Conclusion

COVID-19 and its effect remain a significant threat to the Thai economy with many businesses significantly impacted. The Thai government continues to introduce measures to combat the spread of COVID-19 as well other measures to ease its impact on the economy, but it is uncertain whether these measures will be sufficient given the scale of the impact. Notwithstanding, the aforementioned measures do serve as preliminary financial relief to affected employers and employees as the Thai government seeks to keep the Thai economy afloat amidst this pandemic. We expect further measures to be announced as the situation develops.

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