



Legal Alert | Employment and Benefits

Navigating the Crisis: Legal Obligations of Employers under Thai Employment Law to Ensure Workforce Resilience and New Regulations for Remote Work

The COVID-19 epidemic has disrupted livelihoods and social protections on a global scale, while simultaneously accelerating pre-existing trends in the employment sector, notably the adoption of hybrid work arrangements. Consequently, businesses have been posed with unprecedented and enduring challenges in structuring workforce arrangements. While the transition to this post-pandemic economy, the workforce remains persistently susceptible to inequitable treatments and misconduct, underscoring the crucial roles of employers in fostering workforce resilience during this era.

This article discusses the obligations of employers in private sectors under the primary legal framework of Thai labour law – the Labour Protection Act B.E. 2541 (1998) (“LPA”), emphasizing fundamental roles that employers undertake during the time of crisis while examining recent regulations that address the evolving trend of remote employment.

Fundamental Compliance with Thai Labour Law

Financial stability and individuals well-being emerge as critical aspects during periods of crisis. The LPA establishes fundamental compliance standards, imposing upon employers an unwavering legal obligation to ensure punctual disbursement of wages and other compensations at least once a month, unless otherwise agreed for the benefit of employees¹ irrespective of any business-related financial challenges. Furthermore, despite a reduction in the unemployment rate to the pre-pandemic level in Q1 2023², certain industries, including e-commerce and technology, encountered substantial post-crisis downturns and have been compelled to undertake layoffs. In such instances, employers are obliged to adhere to provisions regarding employment termination as outlined in the LPA, which entails providing termination of notice for a period of at least one

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Get in touch

Thanyaluck Thongrompo

Partner

thanyaluck.t@kap.co.th

Sirapat Chaisarnseri

Associate

sirapat.c@kap.co.th

Napas Udomratanasirichai

Associate

napas.u@kap.co.th



Kudun and Partners

34/3 Vivre Langsuan, 4th,
5th, and 6th Floor, Soi
Langsuan, Lumpini,
Pathumwan, Bangkok 10330,
Thailand

contact@kap.co.th

¹ Section 70, LPA.

² Office of the National Economic and Social Development Council (NESDC). (n.d.). Thailand Social's Outlook of Q1/2023. Retrieved August 4, 2023.

wage payment interval³ and offering severance pay for employees who have worked for a minimum of 120 days (except in instances of exceptional circumstances, such as termination due to dishonesty or disobedience to employer's lawful directives⁴). This legal mechanism has been designed with the ultimate aim of facilitating employees in their pursuit of alternative job opportunities, while mitigating the potential adversities associated to the loss of employment.

In addition, the LPA imposes the obligation to grant paid leave as a fundamental right for employees in order to safeguard employees' health and well-being while enhancing overall job satisfaction and fostering talent retention, especially amid the post-pandemic "quiet-quitting" culture. The LPA sets forth a minimum threshold for paid time off, encompassing sick leave of at least 30 days per year⁵, annual leave of at least 6 days per year⁶, and observance of at least 13 public holidays per year⁷.

While the LPA sets forth minimum requirements pertaining to employee benefits and welfare, employers have discretion to provide additional considerations, such as health and medical insurance, and extended paid leaves.

Alternative Workforce Arrangement

As certain groups of the workforce have been seeking more flexibility and control over their work schedules in the post-covid pandemic, many employers have implemented alternative work arrangements, including remote work measures and hybrid work cultures. To align with this recent shift in corporate norms, the Ministry of Labour recently pushed forward the amendment to the LPA, effective as of April 18, 2023, to address rights and responsibilities of parties under employment contracts that encompass remote work conditions and to endow remote-employees with rights equivalent to those of on-site employees. Any remote employment agreements shall comply with the following requirements;⁸

- (i) The agreement shall be made in writing or electronic forms where the meaning thereto is unalterable;
- (ii) The agreement shall incorporate conditions including;
 - a. the applicable remote work period;
 - b. working hours, working days, break time, overtime policies, and leaves entitlements;
 - c. scope of employees' responsibilities;
 - d. controls and supervision of employer;

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Managing human resource-related matters in an organisation requires empathy but at the same time, proper policies are required to be in place to protect employers from undesirable fallout with employees. Qualified advice on employment laws and trends, labour and human rights, handling demands of labour unions and retaining talents, especially during spinoffs or reorganization are necessary to maintain business success. Contentious employment law disputes are often a worst-case scenario for all parties involved. In an ideal world, things would never have reached this stage, but when legal proceedings become necessary to protect yourself and your interests, it's important to have an experienced lawyer by your side to ensure you get the result you deserve.

³ Section 17, LPA.

⁴ Section 119, LPA.

⁵ Section 57, LPA.

⁶ Section 30, LPA.

⁷ Section 29, LPA.

⁸ Section 23/1, LPA.

- e. responsibilities regarding the provision of tools and equipment and arrangement of any necessary costs which may arise during the course of work.

This regulation not only addresses work-hour regulation in remote work scenarios, but also establishes legal rights for employees to decline any communications by any means with employers, supervisors, inspectors, or evaluators outside of working hours, unless the employee has previously agreed otherwise in writing.

Final Thoughts

The upholding of legal obligations by businesses while adapting to changing circumstances is a promising cornerstone of workforce resiliency, given their pivotal roles in cultivating an equitable work environment. This mutually beneficial relationship emphasizes the importance for employers to fulfill their legal obligations, not only to mitigate potential legal risks and reputational damage but also to prioritize the well-being of their employees. In addressing the enduring impacts of the epidemic on employer-employee relationships, this approach offers a strategic path that contributes to a more robust workforce and sustainability of businesses in a constantly evolving professional landscape for years to come.