



## Legal Alert | Employment and Benefits

### Navigating the Crisis: Legal Obligations of Employers under Thai Employment Law

The epidemic has disrupted livelihoods and social protections on a global scale, while at the same time accelerating pre-existing trends in the employment sector, notably the adoption of hybrid work arrangements. As a result, businesses have been faced with unprecedented and lasting challenges in structuring workforce arrangements. While transitioning to this post-pandemic economy, the workforce remains consistently vulnerable to inequitable treatments and misconduct, underscoring the critical roles of employers in fostering workforce resilience during this era.

This article discusses the obligations of employers in the private sector under the primary legal framework of Thai labor law – the Labor Protection Act B.E. 2541 (1998) (LPA). It highlights the fundamental roles that employers assume during times of crisis, while also examining recent regulations that deal with the growing trend of remote employment.

### Fundamental Compliance with Thai Labor Law

Financial stability and individual well-being emerge as crucial aspects during times of crisis. The LPA establishes core compliance standards, imposing upon employers an unwavering legal duty to ensure prompt payment of wages and other compensations at least once a month, unless otherwise agreed upon for the benefit of employees<sup>1</sup>, regardless of any business-related financial challenges. Furthermore, despite a decrease in the unemployment rate to pre-pandemic levels in Quarter 1 2023<sup>2</sup>, certain industries, including e-commerce and technology, faced significant post-crisis declines and have been forced to carry out layoffs. In such cases, employers are required to follow provisions regarding employment termination as outlined in the LPA. This involves giving notice of termination for a period of at least one wage payment interval<sup>3</sup> and providing severance pay to employees who have worked for a minimum of 120 days (except in cases of extraordinary circumstances, such as termination due to dishonesty or refuse to follow employer's lawful

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<sup>1</sup> Section 70, LPA.

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

<sup>3</sup> Section 17, LPA.

directives<sup>4</sup>). This legal mechanism has been designed with the ultimate goal of assisting employees in finding alternative job opportunities, while mitigating the potential adversities associated with job loss.

In addition, the LPA imposes the provision of 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 a baseline for paid time off, including sick leave of at least 30 days per year<sup>5</sup>, annual leave of at least 6 days per year<sup>6</sup>, and observance of at least 13 public holidays per year<sup>7</sup>.

While the LPA outlines minimum requirements regarding employee benefits and welfare, employers have the 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 increased flexibility and control over their work schedules in the post-pandemic era, many employers have introduced alternative work arrangements, including remote work provisions and hybrid work cultures. To align with this recent shift in corporate norms, the Ministry of Labor has recently pushed forward the amendment to the LPA, effective as of April 18, 2023, aimed at addressing the rights and responsibilities of parties within employment contracts that encompass remote work conditions. This amendment grants remote-employees' rights equivalent to those of on-site employees. Any remote employment agreements must comply with the following requirements:<sup>8</sup>

- (i) The agreement must be documented in writing or electronic forms where the intended meaning is unalterable.
- (ii) The agreement must encompass conditions such as;
  - a. the designated remote work period.
  - b. working hours, workdays, break times, overtime policies, and entitlements to leaves.
  - c. the scope of employees' responsibilities;
  - d. Employer controls and supervision;
  - e. responsibilities regarding the provision of tools, equipment, and arrangement of any necessary costs which may arise during the course of work.

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<sup>4</sup> Section 119, LPA.

<sup>5</sup> Section 57, LPA.

<sup>6</sup> Section 30, LPA.

<sup>7</sup> Section 29, LPA.

<sup>8</sup> Section 23/1, LPA.

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

### **Final Thoughts**

The commitment of businesses to uphold legal obligations while adapting to evolving circumstances stands as a promising cornerstone of workforce resiliency, given their pivotal roles in cultivating an equitable work environment. This mutually beneficial relationship underscores the importance for employers to meet their legal obligations, not only to mitigate potential legal risks and damage to reputation but also to prioritize the well-being of their employees. When addressing the lasting impacts of the epidemic on employer-employee relationships, this approach provides a strategic path that contributes to a stronger workforce and the long-term sustainability of businesses in an ever changing professional landscape for years ahead.