

Major Reform to the Thailand Labor Protect Act

International Labor and Employment Law on **May 9, 2019**

On December 13, 2018, the National Assembly of Thailand approved significant amendments to the country's Labor Protection Act ("LPA"). The amendments took effect on May 6, 2019.

Under the amendments, employees with 20 or more uninterrupted years of service will be entitled to receive 400 days' pay as severance. This is an increase from the current maximum payment of 300 days' pay for employees with 10 or more uninterrupted years of service.

The amendments also increase the amount of maternity leave employers must provide pregnant employees. Whereas the current LPA requires employers to provide employees with 90 days of maternity leave, the amendments require employers to provide 98. Public holidays during a period of leave as well as pre-natal doctor visits are counted against the period of maternity leave. Employers are responsible for up to 45 days' wages during an employee's maternity leave.

The current Labor Protection Act provides employees "necessary business leave," but does not define how many necessary business leave days an employee is entitled to. The amendments address this issue, requiring employers to provide employees with a minimum of 3 days of paid necessary business leave per year. Neither the current law nor the amendments define "necessary business leave," however, leaving open the question of when an employee may take such leave.

The amendments also provide that employees cannot be transferred as a result of a change in employer without their consent and a new employer is obligated to assume all of the rights and obligations of the old employer.

An employer who plans to relocate an employee's current work location must provide at least 30 days' advance written notice. Such notice must be placed conspicuously at the workplace and state which employees will be relocated along with the date of the relocation. An employee who believes that his or his family's ordinary course of living will be materially affected may refuse to relocate. In this case, the employee's employment contract will be deemed terminated on the date of relocation and the employee will be entitled to severance.

Under the current LPA, an employer may terminate an employee who has an indefinite term employment contract without cause and without giving otherwise statutorily required notice by making a payment in lieu of notice. The law, however, does not specify when this payment must be made. The amendments address this by requiring that employers make payments in lieu of notice on the effective date of termination.

The new amendments also require all wages, including overtime and holiday pay to be paid equally to male and female employees who engage in the work of the same type, quality, and quantity. Additionally, employers who temporarily suspend business operations (for any reason other than an act of god) are required to pay employees 75% of their usual daily wages, at a minimum, during the suspension of business.

Employers who fail to make payments in lieu of notice of termination, payments pursuant to a temporary suspension of business, or other payments under the Labor Protection Act must pay their employees interest on such payments at a rate of 15% per year.

Failure to comply with the LPA's amendments will subject employers to penalties. Accordingly, employers should review their policies and work rules to ensure compliance with the new amendments to the LPA.

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