

## *Workplace Relations in Thailand*

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### **1. General**

The workplace relations climate in Thailand is generally very stable and hence favourable for foreign investors. Large-scale, acrimonious labour disputes are relatively uncommon in Thailand.

Labour relations are, however, much more highly regulated in Thailand than they are in countries such as the US. For example, Thailand does not have “at will” employment. Terminated employees in Thailand are generally entitled to severance payments based on the term of service.

There are a wide range of laws governing labour relations in Thailand, including, among others, the *Labour Protection Act, B.E. 2541*, the *Labour Relations Act, B.E. 2518*, the *Act Establishing Labour Courts and Procedures, B.E. 2522*, the *Workmen’s Compensation Act, B.E. 2537*, the *Social Security Act, B.E. 2533*, the *Promotion of Careers to Thais Act, B.E. 2499* and regulations promulgated under these *Acts*. Complicating matters further, amendments to Thailand’s primary labour law, the Labour Protection Act, recently came into force.

Labour disputes in Thailand are generally adjudicated in specialised Labour Courts.

### **2. Employment conditions**

The Thai *Civil and Commercial Code* fundamentally governs a “hire of services” contract. Hire of services is defined as a contract where any employee agrees to render services to an employer in return for remuneration for the duration of the services. Unlike any other contract in Thai law, the employer cannot transfer his right to a third person without the consent of his/ her employee and the employee can only have a third person render the services in his/ her place with the consent of the employer.

The Thai *Labour Protection Act* provides for additional and obligatory employment benefits that are applicable to employment relationships in general. Some, but not all, of these obligatory benefits are briefly mentioned below. The *Labour Protection Act* is not applicable to all employees (e.g. academic staff of a school existing under the Thai law governing private schools) and not all of its provisions are applicable to all employees.

There are a number of obligatory obligations.

### 3. Work rules and regulations

An employer hiring 10 or more employees is required to establish, maintain, register and publicise at the place of work rules and regulations that must, at a minimum, contain the following conditions:

- (1) working days, normal working hours and rest period(s);
- (2) holidays and rules for taking holidays;
- (3) rules for overtime pay and work on holidays;
- (4) date and place of payment of wages, overtime, holiday work and holiday overtime pay;
- (5) rules regarding leave and the taking of leave;
- (6) disciplinary rules and measures;
- (7) grievance procedures; and
- (8) rules pertaining to termination of employment, severance pay and special severance pay.

The work rules and regulations must at least provide the minimum benefits prescribed by Thai law.

### 4. Severance

One issue that surprises some foreign investors is the amount of severance pay to which employees are entitled in Thailand. The amount of severance pay is based on term of service and is summarised in the table below.

<b>Time period employed</b>	<b>Severance pay</b>
At least 120 days, but less than one year	30 days salary
At least one year, but less than three years	90 days salary

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<b>Time period employed</b>	<b>Severance pay</b>
At least three years, but less than six years	180 days salary
At least six years, but less than 10 years	240 days salary
At least 10 years	300 days salary

### **“Just cause” termination**

An employer is not required to pay severance to an employee who is terminated for any of the following reasons:

- (1) voluntary resignation;
- (2) dishonesty in the performance of duties or intentionally committing a criminal act against the employer;
- (3) intentionally causing loss to an employer;
- (4) gross negligence causing a substantial loss to an employer;
- (5) under certain narrow circumstances, violation of the work rules and regulations (a prior written warning within the past year is typically required);
- (6) desertion of duties for a period of three consecutive days without reasonable cause, irrespective of whether a holiday intervenes; and
- (7) imprisonment by reason of a final judgment.

In practice, it can be difficult to establish just cause for terminating an employee without paying severance. The new amendments to the Labour Protection Act require an employer claiming a just cause termination to set out the basis for such just cause termination in the termination letter.

### **Notice of termination**

In addition to severance pay, when employees with an unspecified term (most employees) are terminated, they are entitled to notice of termination (or pay in lieu of

notice), which must generally be at least one full wage period in advance.

## **Unfair termination**

Employees can also claim damages from an employer for “unfair termination” on top of the statutory amounts to which they are entitled. Determination of what exactly constitutes “unfair termination” is not clear and is within the discretion of the Labour Court if an unfair termination action is brought.

## **5. Direct liability of directors**

Directors can be held directly liable under some circumstances for violation of Thai labour laws.

This presentation note does not constitute professional or legal advice; for advice, please contact qualified counsel.

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