

Labour Protection Act - Thailand

Labour Protection Act, 1998 (B.E 2541)

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The Act provides the basis for comprehensive labour legislation in Thailand.

"Basic Pay" is taken to mean:

"the money which the employer and the employee mutually agree is to be paid in return for work done in accordance with the employment contract during normal working hours on an hourly, daily, weekly, monthly, or other periodic basis or to be paid upon the basis of output of the employee during normal working hours, and also includes money which the employer pays whilst the employee is on holiday or taking other leave and during which time the employee did not work but nevertheless is such in respect of which he is entitled to receive payment under this Act."

Chapter 1 - General Provision - includes provisions for equal hiring practices, with one general exception, and prohibits sexual harassment in the workplace:

Section 15 provides that, an employer *"...shall treat male and female employees equally with regard to employment for work, unless such treatment is not possible due to the characteristics or nature of the work."*

Section 16 states that an employer, supervisor or inspector is *"not allowed to sexually harass an employee who is female or a child."*

Chapter 3 - Female Labour - regulates various aspects of employment for women workers. Women are prohibited from working in underground mines, scaffolds over 10 metres high or with explosives (s. 38). Certain activities for pregnant women are also prohibited including night work, overtime work or work on holidays (s.39). The law grants women workers 90 days of maternity leave (s. 41). An employee is entitled to request her employer to change her work temporarily either before or after childbirth, and the employer must consider changing her duties to those that are suitable for the employee (s. 42). Female employees are protected from dismissal due to pregnancy (s. 43)

Regarding the payment of wages, section 59 of the Act requires employers to pay maternity leave *"...equal to the wage on a working day throughout the entire leave period, but the number of such leave days must not exceed forty five days"*. A national social security fund, established in 1990, provides for the remainder of maternity leave benefits. (see [Social Security Act 1990](#)).

Equal wages for equal work between male and female employees is provided for in section 53 which states that an employer:

"shall prescribe wages, overtime pay, holiday pay and holiday overtime pay to employees equitably for work which has the same characteristics and quality and when the amount of work is the same, regardless of whether those employees are male or female".

Section 60 of the Act addresses the issue of enforcement of the minimum wage and other forms of paid leave for sub-contracting or homeworking and provides that:

"In the interests of payment of wages..., when an employee receives a wage on the basis of piece work, on the date of payment of such a wage the boss shall pay holiday or leave pay in an amount equal to the average working day's pay that had been received by that employee prior to the holiday or leave day."

With regard to complaint mechanisms, Chapter 9 of the Act - Supervision - stipulates that employers of 10 or more employees are required to announce and post rules and regulations on, *inter alia*, complaint procedures (s. 108). Protection of employees filing a formal complaint is provided for in subsection 109(b).

The Act provides Labour Inspection Officers with the duty of inspecting places of work and powers to request additional information and issue written orders requiring employers to comply with the Act (s.139). Labour Inspection Officers also respond to petitions, submitted by employees, regarding non-compliance with the Act (s. 123)

Penalties for non-compliance with the Act are covered in Chapter 16. Section 144 provides that violation of restrictions on female labour and prohibition of dismissal due to pregnancy, are subject to imprisonment (no more than 6 months), a fine (no more than 100 thousand baht) or both. Breach of the non-discrimination or sexual harassment clauses are, however, subject to fines of no more than 20 thousand baht (s. 146). If the offender refuses to pay the fine within the time allotted, legal proceedings begin (s. 159, para. 4).

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