

Labour protection and the new law

The new Labour Protection Act 2008 (LPA 2008) which came into force on May 27, provides better protection to employees than the Labour Protection Act of 1998. Today we compare the old and new laws.

The LPA 2008 prohibits an employer from obtaining a security deposit for damage to work. This could be money, other property or a personal guarantee. The only exception is where the nature or conditions of the work require that the employee be responsible for property belonging to the employer, which may expose the employer to losses.

The 1998 law only prohibited an employer from demanding a security deposit for damage. The only exception was when work conditions required that the employee be responsible for money or property belonging to the employer.

The LPA 2008 has a new provision that when the working day is less than eight hours, employer and employee may agree to include the remaining working hours in a normal working day. However, the total working hours must not exceed nine per day or 48 per week.

The employer must pay remuneration at 1.5 times the hourly wage rate if more than eight hours are worked. The LPA of 1998 did not have this provision.

If an employee terminates the employment contract for any reason, or is fired, the employer must pay wages for the accumulated annual leave days to which the employee is entitled. The 1998 law did not provide for this.

Under the new law, the grounds for termination are:

1. performing assigned duties dishonestly.
2. intentionally committing a criminal offence against the employer.
3. willfully causing damage to the employer.
4. violating work rules and regulations or any lawful order of an employer, even after a written notice to this effect has been given by an employer. However, written warnings are effective for not more than one year, except in a serious case when no warning is necessary.
5. abandoning work for three consecutive working days, whether or not there are holidays in between, without justification.
6. committing negligent acts causing

the employer to sustain serious damage.

7. being sentenced to imprisonment by a final court judgment. If the imprisonment is for offences committed by negligence or a petty offence, damage must have been caused to an employer.

If an employer relocates the place of business and the relocation has an important effect on the employee, the new law allows the employee to terminate his agreement and receive special severance pay of not less than the statutory severance. Under the LPA of 1998, the employer was required to provide special severance pay of not less than 50% of statutory severance to the employee.

Statutory severance pay varies depending on the length of the employee's service and is based on the employee's last wage rate, as follows:

- ♦ 120 days but less than one year: 30 days;
- ♦ 1 year but less than three years: 90 days;
- ♦ 3 years but less than six years: 180 days;
- ♦ 6 years but less than 10 years: 240 days;
- ♦ 10 years and more: 300 days.

Under the LPA of 2008, when it is necessary for an employer to temporarily halt operations, wholly or partially, for any cause other than *force majeure*, the employer must pay employees at least 75% of wages that the employees received before the halt of operations, for the entire period the employer does not allow employees to work. Under the LPA of 1998, the employer is obligated to pay only 50% of a normal working days wages to employees.

In order to avoid any possible violation of the LPA 2008, employers should study the LPA 2008 as well as review and revise, if necessary, its Work Rules and Regulations, Employee Handbook, or policies to comply with the LPA 2008 and submit the revised Work Rules and Regulations in the Thai language to the relevant Labour Protection and Welfare office without delay.

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