

## The employee committee explained

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Many companies have labour unions and employee committees, but few fully understand the potential significance or impact of these organisations. Unfortunately, even fewer understand the possible legal ramifications of taking disciplinary action against employee committee members.

### Membership requirements

Employees	Committee members
50 to 100	5
101 to 200	7
201 to 400	9
401 to 800	11
801 to 1,500	13
1,501 to 2,500	15
2,500+	17-21

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Employers may face severe criminal penalties if they violate an employee committee member's rights, and so it is vital for them to understand these principles before taking any form of disciplinary and/or obstructive action against an employee committee member.

**Purpose and composition:** The fundamental purpose of the employee committee is to maintain friendly relations and open communication channels between employers and employees through regular meetings. The law provides for the existence of such a structure under the Labour Relations Act (BE 2518) to ensure that there is an official forum for both sides to discuss workplace matters.

Any employer who employs at least 50 people is required by law to facilitate the establishment of such an employee committee. Members can be elected \_ or, where appropriate, appointed by a labour union \_ for three-year terms of office. The table shows the minimum membership numbers.

If a workplace has a labour union whose members account for more than 20% of all employees, the union must appoint the majority of committee members. If more than 50% of all employees are members of the union, it is technically entitled to appoint all committee members.

The law also requires an employer to meet with the committee at least once every three months, or when the labour union or more than 50% of committee members request such a meeting with reasonable grounds. The following topics may be discussed at such a meeting:

- the provision of welfare for employees;
- the prescription of new working regulations beneficial to both employer and employees;
- potential employee complaints; and
- settlement of disputes and compromises in the workplace.

**Taking disciplinary action:** Under Thai law, an employer cannot terminate, reduce the wages, take disciplinary action or otherwise obstruct the performance of an employee committee member's duty without prior permission of the Labour Court. An employer who breaches the law could face criminal penalties, including a fine not exceeding 1,000 baht and/or jail of up to one month.

The Supreme Court recognises that these penalties remain, even if the employer submits a successful petition to the Labour Court obtaining permission to terminate the employee, since the offence was committed before the court order for termination was granted.

The court order requirements include any scenario in which an employee committee member commits an offence that violates the company work rules. The disciplinary action ultimately taken against a committee member depends on both the employer's work rules and the court's consideration. This means that even if the work rules state that an offence is punishable by termination, the court has discretion to punish the offender less severely than what the rules would otherwise prescribe, particularly if it considers that the offence is not grievous enough to warrant termination of the employee. This position is supported by Supreme Court precedent.

However, if the court does issue an order permitting the termination of an employee, any subsequent act of termination would not be considered an unfair labour practice. In this case, the employee would not be entitled to submit a complaint to the Labour Relations Committee.

For these reasons, employers should be aware of the potential risks before taking any disciplinary action against a member of an employee committee. Any act obstructing the duty of an employee committee member taken without the prior permission of the Labour Court can and will be construed as a violation of the employee committee rules, regardless of the employee's subsequent actions or any permission later obtained through legal channels.