

Thailand's Ministry of Labor Formalizes Further COVID-19 Relief through Social Security Fund

Implementing [recent cabinet resolutions to introduce social security relief measures to mitigate the impact of the COVID-19 pandemic](#), on April 17, 2020, Thailand's Ministry of Labor published two regulations under the Social Security Act (SSA) in the Government Gazette:

- ▶ Regulation on Entitlement to Compensatory Benefits in the Event of Unemployment Due to Force Majeure from the Pandemic of Dangerous Communicable Disease Under Relevant Law Relating to Communicable Diseases B.E. 2563 (2020) (the **Force Majeure Regulation**); and
- ▶ Regulation on Entitlement to Compensatory Benefits in the Event of Unemployment Due to the Effect of Economic Crisis B.E. 2563 (2020) (the **Economic Crisis Regulation**).

The details of the assistance measures are provided below.

The Force Majeure Regulation

The Ministry of Labor has revised the definition of *force majeure* to include hazards from the COVID-19 pandemic, or other dangerous communicable diseases that affect the public under relevant law relating to communicable diseases, causing an insured person (an employee) to be unable to work, or an employer to be unable to operate their business normally.

This regulation allows the Social Security Office (SSO) to pay compensation to employees who:

- ▶ are insured and eligible to receive unemployment benefits;
- ▶ have to cease working temporarily between March 1 and August 31, 2020;
- ▶ do not receive wages from the employer during the temporary cessation; and,
- ▶ whose employment has not been terminated.

This applies only if the circumstances above result from one or more the following *force majeure* events related to the COVID-19 pandemic:

- ▶ The employee has to cease working because they are required to quarantine, or to comply with a COVID-19 preventive measure.
- ▶ The employer orders the cessation of the employee's work because the employer has to quarantine the employee, or the employer has to comply with a COVID-19 preventive measure.
- ▶ *Force majeure* causes the employer to temporarily cease normal business operations, partially or wholly, because they decide to do so, or must do so to comply with an order in accordance with laws relating to communicable diseases or emergency public administration.

Under this regulation, employees will be entitled to receive compensation at a rate of 62% of their daily wages during the work cessation period, up to a maximum of 90 days, between March 1 and August 31, 2020 (subject to amendment by the cabinet and the Ministry of Labor from time to time). The payment will be calculated based on daily wages, but will be paid monthly. In addition, the employer is obligated to issue a certificate of confirmation containing details prescribed in the regulation.

The Economic Crisis Regulation

Insured employees under the SSA are entitled to receive benefits during periods of unemployment caused by the economic crisis between March 1, 2020, and February 28, 2022 as follows:

- ▶ If employment is terminated by the employer, the employee can receive compensation at the rate of 70% of their daily wages for up to 200 days per termination.
- ▶ If an employee resigns, or their fixed-term employment contract ends, the employee can receive compensation at the rate of 45% of their daily wages for up to 90 days per unemployment period.

To qualify for compensation under this regulation, the employee must have paid contributions to the Social Security Fund for at least six of the prior 15 months, counted from the date of unemployment; must have registered with the SSO; and must comply with regulations provided by the Social Security officer.

These regulations provide general criteria for employees to receive benefits from the Social Security Fund. However, they do not grant employers broad discretion to cease operations without paying wages to employees, temporarily or permanently, and employers must consider the facts on a case-by-case basis to determine whether they should do so, and to avoid unexpected costs under the Labor Protection Act. We therefore recommend that any employer planning to temporarily or permanently cease operations consider seeking legal advice before doing so.

For more information on this issue, please contact Chusert Supasitthumrong on chusert.s@tilleke.com.

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During the COVID-19 outbreak, we are focused on maintaining high-quality client services while ensuring the safety and wellbeing of our team. Over the past several weeks, Tilleke & Gibbins has implemented our Business Continuity Plan across our offices in Cambodia, Indonesia, Laos, Myanmar, Thailand, and Vietnam. The vast majority of our team members are now working remotely, and based on our robust technology infrastructure, we are providing our full range of services as usual. We are now carrying out all client meetings through the use of technology, and, as many of you will have already experienced, this is proving to be a highly effective solution. By implementing a range of technology and agile working measures, we will ensure that you continue to receive the highest quality services with the fastest possible response times from our team. We know that you are facing complex business challenges during this crisis, and we have put together a bank of practical resources tracking the legal developments in the region as they happen—you can access them all at [this link](#). In addition, we want to assure you that our team will be continuously available to help you navigate these issues across Southeast Asia. If you have any queries about these measures, please contact your usual client service partner, or email communications@tilleke.com.

Stay well, safe, and healthy.