

**LABOR PROTECTION ACT,
B.E. 2541 (1998)**

BHUMIBOL ADULYADEJ, REX.
Given on 12th Day of February B.E. 2541;
Being the 53rd Year of the Present Reign.

His Majesty the King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on labor protection;

Be it, therefore, enacted by the King by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act is called the “Labor Protection Act, B.E. 2541”.

Section 2. This Act shall come into force after the expiration of one hundred and eight days from the date of its publication in the Government Gazette.¹

Section 3. The following shall be repealed:

(1) Announcement of the Revolutionary Council No. 103, dated 16th March B.E. 2515;

(2) Act Amending the Announcement of the Revolutionary Council No. 103, dated 16th March B.E. 2515 (No. 1), B.E. 2533.

All laws, rules and other regulations in so far as they have been provided in this Act, or are contrary to or inconsistent with the provisions of this Act, shall be replaced by this Act.

Section 4. This Act shall not apply to:

(1) central, provincial and local administration;

(2) State enterprise under the law on State enterprise labor relations.

Otherwise prescribed in paragraph one, the employer of any category, wholly or partly thereof, may be exempted from the application of this Act upon the provisions of the Ministerial Regulations.

Section 5. In this Act:

“Employer” means a person who agrees to accept the employee to work and pays wage in return thereof, including:

(1) a person who is entrusted to do work for the employer;

(2) a representative of a juristic person and a person entrusted by a representative of a juristic person if the employer is a juristic person;

(3) in the case where the entrepreneur pay lump sum wage to any person having duty to control the working of, and pay wage to, the employee or duty to procure the employee to do work for the employer whereby such procurement of employee is not a part of the employment business, and such work is a part or the

¹Published in the Government Gazette, Vol. 115, Part 8 *Kor*, page 1, dated 20th February B.E. 2541 (1998).

whole of production process or business under responsibility of the entrepreneur, such entrepreneur is deemed to be the employer of such employee;

“Employee” means a person who agrees to work for the employer in return of wage, irrespective of the name of such relationship;

“Hirer” means a person who agrees to hire another person to carry out any work, wholly or partly, for his or her own benefit and agrees to pay consideration for the completion of such work;

“First contractor” means a person who agrees to complete any work, wholly or partly, of the hirer;

“Sub-contractor” means a person who enters into a contract with the first contractor with a view to carry out any responsible work of the first contractor, wholly or partly, for the benefit of the hirer, including a person who enters into a contract with the sub-contractor to carry out any responsible work of the sub-contractor, irrespective of the numbers of the sub-contraction;

“Employment contract” means a contract made in writing or orally which its context is clearly expressed, or may be implied, that a person called the employee agrees to work for a person called the employer and the employer agrees to pay wage in return of work through out the working period;

“Working day” means a day determined as the ordinary working day of the employee;

“Holiday” means a day determined as the weekly holiday, traditional holiday or annual holiday of the employee;

“Leave” means a day which the employee leaves from working due to sickness, sterilization, necessary business, military service, training or knowledge and skill development or parturition;

“Wage” means money agreed upon by the employer and employee to be paid in return of work under the employment contract upon such ordinary working period basis as hourly, daily, weekly, monthly or other period, or upon the result of work done by the employee during the ordinary working period of a working day, including money paid by the employer to the employee on holiday and leave which the employee is not working, but entitling to such money under this Act;

“Working day wage” means the wage paid for the full time work on the ordinary working period;

“Minimum wage rate” means the wage rate determined by the Wages Committee under this Act;

“Basis rate” means the wage rate determined by the Wages Committee to be basis for determining of the minimum wage rate;

“Overtime work” means the work done after, or in excess of, the ordinary working period or the daily working hours on the working day or holiday, as the case may be, as agreed upon by the employer and employee under section 23;

“Overtime pay” means money paid by the employer to the employee in return of the overtime work done on a working day;

“Holiday pay” means money paid by the employer to the employee in return of work done on a holiday;

“Holiday overtime pay” means money paid by the employer to the employee in return of the overtime work done on a holiday;

“Severance pay” means money paid by the employer to the employee upon termination of employment other than money agreed to be paid by the employer;

“Special severance pay” means money paid by the employer to the employee upon the expiration of the employment contract due to special circumstances prescribed by this Act;

“Cumulative money” means money remitted by the employee to the Employees Welfare Fund;

“Counterpart fund” means money paid by the employer to the employee so as to remit to the Employees Welfare Fund;

“Labor inspector” means a person appointed by the Minister for the execution of this Act;

“Director-General” means the Director-General of the Department of Labor Welfare and Protection;

“Minister” means the Minister having charge and control for the execution of this Act.

Section 6. The Minister of Labor and Social Welfare shall have charge and control for the execution of this Act, and the power to appoint labor inspectors and to issue the Ministerial Regulations and notifications for the execution of this Act.

In making an appointment of the labor inspectors, the scope of powers and duties and conditions on the performance of duties may be made.

Such Ministerial Regulations and notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I General Provisions

Section 7. A claim for, or the acquisition of, the rights or benefits under this Act shall not deprive the employee of any right or benefit which is entitled by such employee under other laws.

Section 8. The Minister shall have the power to appoint the competent official having not lower than a Bachelor’s degree in law to institute or defend a labor case for the employee or the statutory heir of the dead employee. In this regards, such appointed competent official shall, after such appointment has been informed to the Court by the Ministry of Labor and Social Welfare, have the power to act in relation to all proceedings until the case comes to an end.

Section 9. In the case where the employer fails to return the security money under section 10 paragraph two or fails to pay wage, overtime pay, holiday pay and holiday overtime pay within the period as prescribed under section 70 or fails to pay severance pay under section 118, special severance pay under section 120, section 121 and section 122, the employer shall pay interest upon default to the employee through out the default period at a rate fifteen per cent per annum.

In the case where the employer willfully withholds or fails to pay the money under paragraph one without reasonable cause, the employer shall, as from the expiration of seven days after the due date of such return or payment, pay surcharge to the employee every seven days at the rate fifteen per cent of the unpaid or unreturned money.

In the case where the employer is ready to return or pay money under paragraph one and paragraph two and hand over such money to the Director-General or a person entrusted by the Director-General with a view to return or pay it to the employee, the employer shall not be responsible for interest or surcharge as from the date the employer hand over such money.

Section 10. Subjected to the provisions of section 51 paragraph two, no employer shall execute or accept security money for work or damage caused by working from the employee, provided that the employee has, upon the nature or conditions of work, to be responsible for finance or properties of the employer which may cause damage to the employer. In this regards, the nature or conditions of work which the employer may execute or accept security money from the employee as well as the amount and keeping method of such money shall be in accordance with the rule and procedure as notified by the Minister.

In the case where the employer has executed or accepted security money or has concluded the security agreement with the employee with a view to fulfill any damage which may occurred upon any act of the employee, if the employer terminates the employment or the employee resigns or the security agreement is expired, the employer shall return the security money together with interest, if any, to the employee within seven days as from the date the employer terminates the employment, the employee resigns or the security agreement is expired, as the case may be.

Section 11. All obligations incurred from the failure to pay wage, overtime pay, holiday pay, holiday overtime pay, severance pay, special severance pay, cumulative money, counterpart fund or surcharge to the employee or the Department of Labor Welfare and Protection, as the case may be, shall be the preferential right over all properties of the employer who is a debtor at the same rank as the preferential right over taxes and duties under the Civil and Commercial Code.

Section 12. In the case where the employer is a sub-contractor, all sub-contractors before him or her, if any, as well as the first contractor shall be jointly responsible with the sub-contractor who is the employer in an obligation related to wage, overtime pay, holiday pay, holiday overtime pay, severance pay, special severance pay, cumulative money, counterpart fund or surcharge.

The first contractor or sub-contractor under paragraph one shall have the right to take recourse for the money paid under paragraph one from the sub-contractor who is the employer.

Section 13. In the case where the employer of any undertaking has been changed due to the transfer of such undertaking, inheritance or other reasons or, in the case where the employer is a juristic person, its register has been changed or it has been transferred or merged with other juristic persons, all rights which are entitled to the employee due to the employment with the former employer shall be continued and the new employer shall be responsible to all rights and duties related to such employee.

Section 14. The employer shall treat the employee in accordance with the rights and duties as prescribed in the Civil and Commercial Code, except where otherwise prescribed by this Act.

Section 15. The employer shall, in employment, treat male and female employees equally, except where it is not possible to do so due to the nature or conditions of work.

Section 16. No employer or any person who is a chief, supervisor or inspector shall perform any sexual harassment against female or child employee.

Section 17. The employment contract shall be expired upon the period as specified therein without regards to advance notice.

In the case where there is no such specified period, the employer or employee may terminate the employment contract by giving advance notice, in writing, to another party on or before any payment date in order to terminate the employment contract at the next payment date. Such advance notice shall not be given longer than three months.

If the employer gives advance notice to terminate the employment contract but fails to specify reason for termination, the employer shall not raise the reasons under section 119 as defenses later on.

In giving advance notice to terminate the employment contract under paragraph two, the employer may pay wage in an amount to be paid through out the termination period as specified in the notice so as to discharge the employee from the employment abruptly. The payment of wage to the employee under this paragraph shall be deemed as the payment of remuneration to the employee under section 582 under the Civil and Commercial Code.

The giving of advance notice to terminate the employment contract under this section shall not apply to the termination of employment under section 119 of this Act and section 583 of the Civil and Commercial Code.

Section 18. In the case where this Act prescribed that the employer shall have to notify any act to the labor inspector, the employer may make such notification by his or her own or by mail or facsimile, as the case may be, at the place notified by the Director-General.

Section 19. For the purpose of calculating the period of employment of the employee under this Act, all holidays, leaves, days off for the benefit of the employee permitted by the employer and days off for the benefit of the employer permitted by the employer shall also be counted as the employment period of the employee.

Section 20. In the case where the employee has not worked continuously on account of an intention of the employer to deprive the employee of any right under this Act, irrespective of whether the employer assigns the employee to do whatever duty and period of each employment, the period of each employment shall, in calculating right of such employee, be counted altogether.

Section 21. In the case where this Act prescribed that the employer shall have to do any act which cost any expense, the employer shall bear all expenses for such act.

Section 22. As for the agricultural work, sea fishing work, sea-going vessel cargo work, housework, transport work and other works as prescribed by the

Royal Decree, otherwise labor protection measures may be prescribed by the Ministerial Regulations.

CHAPTER II

General Employment

Section 23. The employer shall notify the ordinary working period to the employee. The daily commencing and ending time of work of the employee shall no longer than the working period of each category of work as prescribed by the Ministerial Regulations, but such working period shall no longer than eight hours a day and the total working period shall not more than forty-eight hours a week. In the case of work which may be harmful to health and safety of the employee as prescribed by the Ministerial Regulations, the ordinary working period shall no longer than seven hours a day and the total working period shall not more than forty-two hours a week.

In the case where the employer is unable to notify the daily commencing and ending time of work due to the nature or conditions of work, the employer and the employee shall conclude the daily working hours which shall no longer than eight hours a day and the total working period shall not more than forty-eight hours a week.

Section 24. No employer shall demand the employee to do overtime work in each working day, except where prior consent is given by the employee on each occasion.

In the case where the work has to be done continuously upon its nature or conditions or in case of emergency, or there is the work as prescribed by the Ministerial Regulations, the employer may demand the employee to do overtime work as necessary.

Section 25. No employer shall demand the employee to do work on holiday, except where such work has to be done continuously upon its nature or conditions in which the stopping of such work may be detrimental thereto or in case of emergency, or there is the work as prescribed by the Ministerial Regulations, the employer may demand the employee to do overtime work as necessary.

The employer may demand the employee to do work on holiday for the hotel, entertainment, transportation, restaurant, beverage, club, association or infirmary undertaking or other undertakings as prescribed by the Ministerial Regulations.

The employer may, for the purpose of production, distribution and service, demand the employee to do work on holiday otherwise prescribed in paragraph one and paragraph two as necessary if prior consent is given by the employee on each occasion.

Section 26. The total working hours of the overtime work under section 24 paragraph one and the holiday work under section 25 paragraph two and paragraph three shall not exceed the rate as prescribed by the Ministerial Regulations.

Section 27. The employer shall, on the working day and during the working period, provide the rest period for the employee. The rest period shall not

less than one hour after the employee has worked for not more than five consecutive hours. The employer and employee may conclude in advance that each rest period shall be less than one hour, but the total of the rest period per day shall not less than one hour.

In the case where the employer and employee otherwise agree upon the rest period under paragraph one, such agreement shall be in force if it is beneficial to the employee.

The rest period during the working period shall not be counted as the working period, except where the total of the rest period per day is more than two hours; the excess of such two hours shall be counted as ordinary working period.

In the case where there is the overtime work after the ordinary working period and such overtime work shall take not less than two hours, the employer shall provide the rest period for the employee for not less than twenty minutes before commencing the overtime work.

The provisions under paragraph one and paragraph four shall not apply to the case where the employee do work which its nature or conditions requires working continuously and consent is given by the employee or it is an emergency work.

Section 28. The employer shall provide the weekly holiday to the employee for not less than one day per week. The interval period between each weekly holiday shall no longer than six days. The employer and employee may conclude in advance to provide any day as the weekly holiday.

In the case where the employee works in hotel or transportation undertaking, in-forest undertaking, in-desolate place undertaking or other undertakings as prescribed by the Ministerial Regulations, the employer and employee may conclude in advance that the weekly holiday may be cumulated and it may be postponed to be taken any time, but it shall be taken within four consecutive weeks.

Section 29. The employee shall notify the traditional holiday to the employee in advance. Such holiday shall not less than thirteen days, including the National Labor Day as determined by the Minister.

The employer shall provide the traditional holiday with regards to the annual public holiday, religious holiday and local custom of each locality.

In the case where any traditional holiday is the same day of the weekly holiday, the employee shall have a day off in replace of such traditional holiday on the next working day.

In the case where the employer is unable to let the employee to stop working on the traditional holiday due to the work of such employee having nature or conditions as prescribed by the Ministerial Regulations, the employer shall conclude with the employee to have a day off in replace of such traditional holiday or the employer may pay holiday pay in stead.

Section 30. The employee who has worked consecutively for one year shall have the right to the annual holiday for not less than six working days a year. The annual holiday shall be provided in advance by the employer or upon the agreement between the employer and the employee.

The employer may, in the following year, provide the annual holiday for the employee more than six working days.

The employer and employee may conclude in advance that the annual holiday may be cumulated and the unused annual holiday of each year may be cumulated for the following year.

In the case where the employee who has worked for less than one year, the employer may provide the annual holiday to such employee upon *pro rata* basis.

Section 31. No employer shall demand the employee to do work overtime or on holiday in the case where the work may be harmful to health and safety of the employee under section 23 paragraph one.

Section 32. The employee shall have the right to leave for his or her sickness during the actual sickness period. The employer may require the employee to express the medical certificate issued by the first class physician or the government infirmary if the sick leave takes more than three days. In the case where the employee is unable to express such medical certificate, he or she shall notify the employer for acknowledgement.

In the case where the physician is provided by the employer, such physician shall be a person who issues the medical certificate, except where the employee could not be examined by such physician.

The day in which the employee is unable to do work because he or she is in danger or sick from working, and the day the employee leave for parturition under section 41 shall not be deemed as sick leave under this section.

Section 33. The employee shall have the right to leave for sterilization and for rehabilitation from sterilization in accordance with the period determined and certified by the first class physician.

Section 34. The employee shall have the right to leave for his or her necessary business in accordance with the working regulations.

Section 35. The employee shall have the right to leave for military service in the case where the military has to mobilize troop for inspection, to provide military training or to test of alert under the law on military service.

Section 36. The employee shall have the right to leave for training or knowledge and skill development under the rules and procedure as prescribed by the Ministerial Regulations.

Section 37. No employer shall demand the employee to lift, carry by shoulder, carry by head, drag or push a thing having weight over the weight rate as prescribed by the Ministerial Regulations.

CHAPTER III

Female Labor Employment

Section 38. No employer shall demand female employee to do works as follows:

(1) mining or construction to be made underground or underwater or in a cave, tunnel or crater, except where the nature of work is not harmful to health or safety of such employee;

(2) work to be done on the scaffold with ten meters high or over from the ground;

(3) production or transportation of explosive or inflammable material;

(4) other works as prescribed by the Ministerial Regulations.

Section 39. No employer shall demand female employee who is pregnant to do work during 22.00 hours to 06.00 hours, overtime work, holiday work or other works as follows:

(1) work related to machine or engine which is vibrated;

(2) work related to driving of, or boarding on, any vehicle;

(3) work related to lifting, carrying by shoulder, carrying by head, dragging or pushing a thing having weight over fifteen kilograms;

(4) work to be done on a boat;

(5) other works as prescribed by the Ministerial Regulations.

Section 40. In the case where the employer demand the female employee to work during 22.00 hours to 06.00 hours and the labor inspector is of opinion that such work may be harmful to health and safety of such female employee, the labor inspector shall report to the Director-General or a person entrusted by the Director-General to consider and order the employer to change period of work or reduce the working hours of the female employee as he or she thinks fit. In this case, the employer shall act in compliance with such order.

Section 41. A female employee who is pregnant shall have the right to leave for parturition for a period of not exceeding ninety days each time.

The leave under paragraph one shall include holidays during the leave period.

Section 42. In the case where the female employee who is pregnant has a medical certificate of the first class physician certifying that she can no longer do her present duties, such female employee shall have the right to request the employer to change her duties temporarily either before or after parturition. In this case, the employer shall have to move such female employee to do any suitable duties.

Section 43. No employer shall terminate the employment of female employee on account of pregnancy.

CHAPTER IV

Child Labor Employment

Section 44. No employer shall employ a child less than fifteen years of age as employee.

Section 45. In the case where there is an employment of a child less than eighteen years of age as employee, the employer shall:

(1) notify such child employment to the labor inspector within fifteen days as from the date such child has started the work;

(2) make a record on working conditions if there is a change thereof, and shall keep such record at the work place or office of the employer in ready condition for inspection of the labor inspector during working hours;

(3) notify the termination of child employment to the labor inspector within seven days as from the date such child is dismissed.

The notification or record under paragraph one shall be made in the form as determined by the Director-General.

Section 46. The employer shall provide the rest period for the employee who is a child for not less than one consecutive hour per day after work for not more than four hours. The employer shall also provide the rest period during such four hours.

Section 47. No employer shall demand the employee who is a child less than eighteen years of age to work during 22.00 hours to 06.00 hours, except where written permission is given by the Director-General or a person entrusted by the Director-General.

The employer may demand the employee who is a child less than eighteen years of age and being film or drama actor or similar performances to do work during such period. In this case, the employer shall enable the employee who is a child to have a suitable rest.

Section 48. No employer shall demand the employee who is a child less than eighteen years of age to do overtime work or to work on holiday.

Section 49. No employer shall demand the employee who is a child less than eighteen years of age to do works as follows:

(1) metal smelting, blowing, casting or rolling;

(2) metal pressing;

(3) work related to heat, cold, vibration, noise and light at the difference level from normal level which may be harmful as prescribed by the Ministerial Regulations;

(4) work related to chemical substances which may be harmful as prescribed by the Ministerial Regulations;

(5) work related to poisonous microorganisms which may be a virus, bacteria, fungus or other germs as prescribed by the Ministerial Regulations;

(6) work related to poisonous substances or explosive or inflammable materials, except works in fuel service station as prescribed by the Ministerial Regulations;

(7) driving or controlling a fork lift truck or crane as prescribed by the Ministerial Regulations;

(8) work with an electric or motor saw;

(9) underground or underwater works or works to be done in a cave, tunnel or crater;

(10) work related to radioactivity as prescribed by the Ministerial Regulations;

(11) machines or engines cleaning while they are in operation;

- (12) work to be done on the scaffold with ten meters high or over from the ground;
- (13) other works as prescribed by the Ministerial Regulations.

Section 50. No employer shall demand the employee who is a child less than eighteen years of age to do work in the place as follows:

- (1) a slaughter house;
- (2) a gambling place;
- (3) a place for dancing, *rum-wong* or *rong-ngeng*;
- (4) a place having food, liquor, tea or other beverages for sell and service to its customers accompanying with mistresses, place for relaxing or sleeping or massage service;
- (5) other places as prescribed by the Ministerial Regulations.

Section 51. No employer shall pay wage of the employee who is a child to other persons.

No employer shall execute or accept security money for any reason from the employee who is a child.

In the case where the employer, employee who is a child, parent or guardian of the employee who is a child, pays or accepts money or other interests before employment, at the time of employment or before each payment of wage to the employee who is a child, such money or other interests shall not be deemed as the payment or acceptance of payment of wage for such employee who is a child, and no employer shall deduct such money or interests from the wage to be paid to the employee who is a child upon due time.

Section 52. In order to develop and promote quality of life and work of a child, the employee who is a child less than eighteen years of age shall have the right to leave for attending any meeting, seminar, training, practice or other courses organized by the educational institution or State or private agency which is approved by the Director-General. In this case, such employee shall clearly notify the reason for such leave together with relevant evidences, if any, to the employer in advance, and the employer shall pay wage to such employee equal to the wage to be paid on the working days through out the period of such leave, but shall not more than thirty days per year.

CHAPTER V

Wage, Overtime Pay, Holiday Pay and Holiday Overtime Pay

Section 53. As for works having the same nature and quality and having equal quantity, the employer shall set wage, overtime pay, holiday pay and holiday overtime pay to be paid to the employees equally, irrespective of whether those employees are male or female.

Section 54. The employer shall pay wage, overtime pay, holiday pay, holiday overtime pay and other money to be paid on account of employment in Thai currency, except where consent that such money shall be paid by bill or in foreign currencies is given by the employee.

Section 55. The employer shall pay wage, overtime pay, holiday pay, holiday overtime pay and other money to be paid on account of employment to the employee at the work place of the employee, except where consents that such money shall be paid at other places or by other means is given by the employee.

Section 56. The employer shall pay wage to the employee in an amount equal to wage to be paid on the working day for the following holidays:

- (1) a weekly holiday, except where the employee who agrees to receive wage calculated upon a daily, hourly or piece-work basis;
- (2) a traditional holiday;
- (3) an annual holiday.

Section 57. The employer shall pay wage to the employee who takes a sick leave under section 32 in an amount equal to the wage to be paid for the working day through out such leave, but shall not exceed thirty working days per year.

In the case where the employee takes a sterilization leave under section 33, the employer shall pay wage to the employee through out such leave.

Section 58. The employer shall pay wage to the employee who takes military service leave under section 35 in an amount equal to the wage to be paid for the working day through out such leave, but shall not exceed sixty days per year.

Section 59. The employer shall pay wage to the female employee who leaves for parturition in an amount equal to the wage to be paid for the working day through out such leave, but shall not exceed forty-five days per year.

Section 60. For the purpose of wage payment under section 56, section 57, section 58, section 59, section 71 and section 72, the employer shall, in the case where the employee agrees to receive wage upon piece-work basis, pay the holiday pay or pay for the leave in an amount equal to the average wages paid to such employee for work on the last period of payment before such holiday or leave.

Section 61. In the case where the employer demands the employee to do work overtime, the employer shall pay the overtime pay to the employee at the rate of not less than one and a half times of the hourly wage rate to be paid on the working day for the overtime hours, or not less than one and a half times of the wage to be paid upon piece-work basis for the unit of works done by the employee who agrees to receive wage upon piece-work basis.

Section 62. In the case where the employer demands the employee to do work on holiday under section 28, section 29 or section 30, the employer shall pay the holiday pay to the employee at the rate as follows:

(1) if the employee has the right to the holiday pay, the holiday pay shall be paid at the rate of not less than one time of the hourly wage rate to be paid on the working day per the actual working hours, or at the rate of not less than one time of the wage paid upon piece-work basis on the working day per the piece of work done by the employee for the employee who agrees to receive wage upon piece-work basis;

(2) if the employee has no right to the holiday pay, the holiday pay shall be paid at the rate of not less than two times of the hourly wage rate to be paid

on the working day per the actual working hours, or at the rate of not less than two times of the wage paid upon unit of work basis on the working day per the unit of work done by the employee for the employee who agrees to receive wage upon unit of work basis.

Section 63. In the case where the employer demands the employee to do overtime work on holiday, the employer shall pay the holiday overtime pay to the employee at the rate of not less than three times of the hourly wage rate to be paid on the working day per the actual working hours, or at the rate of not less than three times of the wage paid upon unit of work basis on the working day per the unit of work done by the employee for the employee who agrees to receive wage upon piece-work basis.

Section 64. In the case where the employer fails to provide holidays for the employee or provides holidays less than the provisions of section 28, section 29 and section 30, the employer shall pay holiday pay and holiday overtime pay to the employee at the rate as prescribed in section 62 and section 63 as if the employer demands the employee to do work on holiday.

Section 65. The employee who has powers and duties, or has been demanded by the employer, to do any of the following works shall not be entitled to the overtime pay under section 61 and the holiday overtime pay under section 63, provided that the employee who has been demanded by the employer to do work under (2), (3), (4), (5), (6), (7) or (8) shall be entitled to the remuneration in form of money in an amount equal to the hourly wage on the working day for his or her working hours:

- (1) the employee having powers and duties to act on behalf of the employer in employment, granting gratuity, reducing of wage or termination of employment;
- (2) railway service, *viz.*, work to be done on board and rail transportation management;
- (3) opening or closing of Watergate or floodgate;
- (4) recording water levels and measuring water quantity;
- (5) fire fighting or public disaster prevention;
- (6) work which its nature or conditions has to be done outdoor and the working period thereof is uncertain;
- (7) guarding or caretaking of any place or property which is not an ordinary duty of the employee;
- (8) other works as prescribed by the Ministerial Regulations, provided that the employer agrees to pay the overtime pay or holiday overtime pay to the employee.

Section 66. The employee under section 65 (1) shall not be entitled to the holiday pay under section 62, except where the employer agrees to pay the holiday pay to the employee.

Section 67. In the case where the employer terminates the employment without any fault made by the employee under section 119, the employer shall pay wage to the employee for the annual holidays of the year the employment is terminated in

accordance with the proportion of the annual holidays entitling by the employee, including the cumulative of the annual holidays under section 30.

Section 68. For the purpose of calculating the overtime pay, holiday pay and holiday overtime pay in the case where the employee agrees to receive monthly wage, the hourly wage rate on the working day means the result of calculation which the monthly wage is divided by the result of thirty multiplied by average working hour per day.

Section 69. For the purpose of calculating the hours of overtime work in the case where the employer determines the ordinary working period upon weekly basis, the traditional holidays, annual holidays and leaves shall be counted as working days.

Section 70. The employer shall pay wage, overtime pay, holiday pay and holiday overtime pay in accordance with the following terms:

(1) in the case where the wage is calculated upon monthly, daily, or hourly basis or other period which is less than one month, or upon piece-work basis, it shall be paid at least once a month, except where otherwise agreed for the benefit of the employee;

(2) in the case where the wage is calculated upon any basis other than (1), it shall be paid at the time agreed upon by the employer and employee;

(3) overtime pay, holiday pay and holiday overtime pay shall be paid at least once a month.

In the case where the employer terminates the employment of the employee, the employer shall pay wage, overtime pay, holiday pay and holiday overtime pay entitling to the employee within three days as from the employment termination date.

Section 71. In the case where the employer demands the employee to do work on holidays at any locality other than the locality for ordinary working, the employer shall pay wage for such work to the employee who is not entitled to the holiday pay under section 56 (1) in an amount equal to the wage to be paid on the working day.

Section 72. In the case where the employer demands the employee to do work at any locality other than the locality for ordinary working, the employee shall not be entitled to the overtime pay under section 61 and holiday overtime pay under section 63 for such work. If such work has to be made on holidays, the employer shall pay wage for such work to the employee who is not entitled to the holiday pay under section 56 (1) in an amount equal to the wage to be paid on the working day, provided that the employer agrees to pay the overtime pay or holiday overtime pay to the employee.

Section 73. The employer shall be responsible for all transport expenses incurred under section 71 and section 72.

Section 74. In the case where the employer agrees to pay overtime pay, holiday pay and holiday overtime pay at the higher rate that the rate prescribed under

section 61, section 62 and section 63, the payment thereof shall be in accordance with such agreement.

Section 75. In the case where there is necessary to the employer to cease business temporarily, wholly or partly thereof, with any reason other than the *force majeure*, the employer shall, through out such period, pay money at the rate of not less than fifty per cent of wage to be paid to the employee on the working day before the cease.

The employer shall have to inform the employee and the labor inspector before ceasing business under paragraph one.

Section 76. No employer shall deduct the wage, overtime pay, holiday pay and holiday overtime pay, except where such deduction has been made in order to:

(1) pay income tax to be paid by the employee or other money to be paid by the employee under the provisions of laws;

(2) pay the labor union dues in accordance with the regulations of the labor union;

(3) perform obligations owed to the credit union or other co-operatives having the same nature of the credit union, or obligations made for the welfare of the employee *ex parte* with prior consent of the employee;

(4) pay for security money under section 10 or for damages to the employer so as to compensate any damage caused by the employee intentionally or gross negligence with prior consent of the employee;

(5) pay for cumulative money in accordance with the agreement related to the provident fund.

The deductions under (2), (3), (4) and (5) for each case shall not be made exceeding ten per cent, and the aggregate amount thereof shall not exceed one-fifth of the money entitling to the employee at the term of payment under section 70, except where prior consent is given by the employee.

Section 77. In the case where the employer is required to have consent of the employee or has agreed with the employee related to payment under section 54, section 55 or to deduction under section 76, the employer shall make such consent or agreement in writing signed by the employee.

CHAPTER VI Wages Committee

Section 78. There shall be a Wages Committee, consisting of the Permanent Secretary of the Ministry of Labor and Social Welfare as Chairperson, four representatives of the government, five representatives of the employers and five representatives of the employees appointed by the Council of Ministers as members, and an official of the Ministry of Labor and Social Welfare appointed by the Minister shall be secretary.

The rules and procedure for obtaining the representatives of the employers and employees under paragraph one shall be in accordance with the regulations determined by the Minister.

Section 79. The Wages Committee shall have the powers and duties as follows:

- (1) to give advice to the Council of Ministers related to wage policy;
- (2) to give advice to the Council of Ministers in giving recommendations to the private sector related to the determination of wage and wage adjustment annually;
- (3) to determine the basic minimum wage rate;
- (4) to determine the minimum wage rate in compliance with economic and social conditions;
- (5) to give advice to the Council of Ministers related to wage system development;
- (6) to give technical advice and guidance on beneficial cooperation among any private sector agency;
- (7) to report the Minister at least once a year related to wage conditions and trends, including appropriate measures to be taken;
- (8) to perform other works which are prescribed as the powers and duties of the Wages Committee by the provisions of this Act or other laws or which are entrusted by the Council of Ministers or the Minister.

In giving advice to the Council of Ministers, the Wages Committee may have comments related to the development of the national income system.

Section 80. A member of the Wages Committee appointed by the Council of Ministers shall hold office for a term of two years. A member who vacates from office may be re-appointed.

In the case where a member of the Wages Committee appointed by the Council of Ministers vacates from office before term, the Council of Ministers shall appoint another person of the same party to replace him or her, and such person shall remain in office for the unexpired term of office of the member he or she replace. If the term of office of the member is less than one hundred and eighty days, the appointment of a member to fulfill the vacancy may not be made.

In the case where the members of the Wages Committee appointed by the Council of Ministers vacate from office at the end of the term, but the new members have not been appointed, such members shall remain in office to continue their duties until the new members have been appointed which shall be made within ninety days as from the date such members vacate from office.

Section 81. In addition to vacating from office upon the end of the term under section 80, a member of the Wages Committee appointed by the Council of Ministers vacates from office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers on the ground that such member absents from the meetings for three consecutive times without reasonable cause;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent;
- (6) having been sentenced by a final judgment of the Court to a term of imprisonment, except for an offence committed through negligence or a petty offence.

Section 82. At a meeting of the Wages Committee, the presence of not less than one-half of the total number of the members with at least one representative of the employers and at least one representative of the employees shall constitute a quorum.

At a meeting to consider the basic minimum wage rate or the minimum wage rate under section 79, the presence of not less than two-third of the total number of the members with at least two representatives of the employers and at least two representatives of the employees shall constitute a quorum. A decision in this regards shall be made by at least two-third of the members who attend the meeting.

At a meeting to consider the minimum wage rate, if it is unable to constitute the quorum under paragraph two, the new meeting on such matter shall be held within fifteen days as from the date the former meeting has been held. At the latter meeting, if at least two-third of the total number of members present at the meeting even though no members who are the representatives of the employers or employees attend the meeting, such number shall be deemed a quorum. A decision in this regards shall be made by at least two-third of the members who attend the meeting.

Section 83. At a meeting, if the Chairperson is unable to attend the meeting, or is unable to perform his or her duty, the members shall select one among themselves to preside over at the meeting.

A decision shall be made by a majority of votes. In casting votes, each member shall have one vote. In case of an equality of votes, the person who presides over at a meeting shall cast an additional vote as a casting vote.

Section 84. The Wages Committee shall have the power to appoint the following sub-committees to consider or perform any duty on its behalf:

- (1) the Minimum Wage Sub-committee;
- (2) the *Changwat* Minimum Wage Sub-committee;
- (3) other sub-committees as it deems appropriate.

The Wages Committee shall determine the quorum and *modus operandi* of each the sub-committee as appropriate.

Section 85. For the performance of their duties, the Wages Committee, sub-committees or a person entrusted by the Wages Committee or sub-committees shall have the powers as follows:

- (1) to summon, in writing, any person to testify or submit documents or any objects for consideration as necessary;
- (2) to require any agency or person to provide assistance in surveying any undertaking which may affect the economy;
- (3) to enter into the work place or office of the employer during its working hours to study, survey, research, examination or inquire into facts in order to obtain information to be considered under section 79. In this regards, the employer or any relevant person shall render facilities, submit or present documents or provide facts and refrain from obstructing the performance of duties of such persons.

Section 86. For the performance of their duties under section 85, the members of the Wages Committee, member of the sub-committees or a person entrusted by the Wages Committee or sub-committee shall present their identification cards or letter of authorization, as the case may be, to all relevant persons.

The form of the identification card of the member of the Wages Committee or member of the sub-committees under paragraph one shall be determined by the Minister.

Section 87. In considering the minimum wage rate and basic minimum wage rate, the Wages Committee shall study and consider the fact related to the existing wage rate in conjunction with other facts, particularly, the cost of living index, inflation rate, living standard, production cost, prices of goods, capacity of business, labor productivity, gross national product and economic and social circumstances.

The minimum wage rate may be categorized to be used for any or all undertakings or in any specific locality.

The minimum wage rate shall not less than the basic minimum wage rate determined by the Wage Committee.

If the minimum wage rate of any locality is not determined, the basic minimum wage rate shall be deemed as the minimum wage rate of such locality.

Section 88. After having considered all relevant information and facts as prescribed under section 87, the Wages Committee shall determine and propose the minimum wage rate notification together with other details as it deems appropriate to the Minister in order to publish in the Government Gazette.

Section 89. The minimum wage rate notification under section 88 shall apply to all employers and employees, irrespective of their nationality, religion or sex.

Section 90. Once the minimum wage rate notification has come into force, no employer shall pay wage to the employee lower than the minimum wage rate.

The employer who is subjected to the minimum wage rate notification shall post such notification to be obviously seen by the employee at the work place of the employee through out the period which such notification is effective.

Section 91. There shall be the Wages Committee Office in the Ministry of Labor and Social Welfare, having the powers and duties as follows:

(1) to make and propose a plan and project to the Wages Committee and sub-committees;

(2) to synchronize plans and performance of the Wages Committee and sub-committees as well as all related agencies;

(3) to collect, study, research, analyze and evaluate situation on economy, labor, living conditions, labor market expansion, labor productivity, investment, migration and other relevant information for the consideration of the Wages Committee and sub-committees;

(4) to propose the study and technical information report and other supplementary measures to the Ministry of Labor and Social Welfare and all relevant agencies in order to develop wage and income systems;

(5) to monitor and evaluate an implementation upon the resolutions of the Wages Committee;

(6) to perform other works entrusted by the Wages Committee or sub-committees.

CHAPTER VII

Welfare

Section 92. There shall be the Labor Welfare Committee, consisting of the Permanent Secretary of the Ministry of Labor and Social Welfare as Chairperson, four representatives of the government, five representatives of the employers and five representatives of the employees appointed by the Council of Ministers as members, and an official of the Ministry of Labor and Social Welfare appointed by the Minister shall be secretary.

Section 93. The Labor Welfare Committee shall have the powers and duties as follows:

(1) to give advice to the Minister related to policy, guideline and measure on labor welfare;

(2) to give advice to the Minister on the issuance of the Ministerial Regulations, notifications or regulations related to the providing of welfare in the work place;

(3) to give advice related to the providing of welfare for each category of the work place;

(4) to monitor, evaluate and report an implementation to the Minister;

(5) to perform other works which are prescribed as the powers and duties of the Labor Welfare Committee by the provisions of this Act or other laws or which are entrusted by the Minister.

Section 94. Section 78 paragraph two, section 80, section 81, section 82 paragraph one, section 83 and section 84 shall apply *mutatis mutandis* to the Labor Welfare Committee.

Section 95. The Minister shall have the power to issue the Ministerial Regulations prescribing any welfare to be provided by the employer or prescribing standards of the welfare to be provided.

Section 96. The employer shall, in the case where there are fifty employees or more in the work place, establish the welfare committee of the work place, consisting of at least five representatives of the employees.

Members of the welfare committee of the work place shall be elected in accordance with the rules and procedure as determined by the Director-General.

In the case where the employees' committee under the law on labor relations has been established in the work place of the employer, the employees' committee shall act as the welfare committee of the work place under this Act.

Section 97. The welfare committee of the work place shall have the powers and duties as follows:

(1) to jointly consult with the employer in providing welfare for the employees;

(2) to give advice and recommendations to the employer in providing welfare for the employees;

(3) to inspect, control and supervise the welfare provided for the employees by the employer;

(4) to give recommendation and guideline in providing welfare for the employees to the Labor Welfare Committee.

Section 98. The employer shall organize the meeting with the welfare committee of the work place within the work place at least once for every three months or upon reasonable request of more than one-half of the total number of the member of the welfare committee of the work place or upon reasonable request of the labor union.

Section 99. The employer shall post the notification on welfare to be provided under the Ministerial Regulations issued in accordance with section 95, or the agreement on welfare to be provided concluded with the employees, to be obviously seen by the employee at the work place of the employee.

CHAPTER VIII

Work Safety, Hygiene and Environment

Section 100. There shall be the Committee on Work Safety, Hygiene and Environment, consisting the Permanent-Secretary of the Ministry of Labor and Social Welfare as Chairperson, the Director-General of the Department of Labor Protection and Welfare, a representative of the Department of Health, a representative of the Department of Industrial Works, a representative of the Public Works Department, a representative of the Pollution Control Department, seven representatives of the employers and seven representatives of the employees appointed by the Minister as member, and an official of the Ministry of Labor and Social Welfare appointed by the Minister shall be member and secretary.

Section 101. The Committee on Work Safety, Hygiene and Environment shall have the powers and duties as follows:

- (1) to give advice to the Minister related to policy, work plan or measures on work safety, hygiene and environmental development of the employees;
- (2) to give advice to the Minister in the issuance of the Ministerial Regulations, notifications or regulations for the execution of this Act;
- (3) to give recommendation to the government agencies related to the promotion of work safety, hygiene and environment of the employees;
- (4) to perform other works which are prescribed as the powers and duties of the Committee on Work Safety, Hygiene and Environment by the provisions of this Act or other laws or which are entrusted by the Minister.

Section 102. Section 78 paragraph two, section 80, section 81, section 82 paragraph one, section 83 and section 84 shall apply *mutatis mutandis* to the Committee on Work Safety, Hygiene and Environment.

Section 103. The Minister shall have the power to issue the Ministerial Regulations prescribing standard for the administration and management of work safety, hygiene and environment to be complied by the employer.

In the case where the Ministerial Regulations under paragraph one prescribes that the making of any document, evidence or report shall be certified or examined by any person in accordance with the determined rules and procedure, the rules and procedure for registration and revocation, registration fee rate not exceeding

the rate hereto attached and maximum rate of the service charge to be collected by such person may be prescribed in such Ministerial Regulations.

Section 104. If it appears to the labor inspector that the employer violates or fails to comply with the Ministerial Regulations issued under section 103, the labor inspector shall have the power to order, in writing, the employer to improve working environment, building, place or to provide or to fix the machine or equipment to be used by the employees under, or related to, the employment to be in good or suitable condition within specific period.

Section 105. If it appears to the labor inspector that the working condition, building, place, machine or equipment to be used by the employees may be unsafe to the employee, or the employer fails to comply with the order of the labor inspector under section 104, the labor inspector shall, upon approval of the Director-General or a person entrusted by the Director-General, have the power to order the employer to temporarily stop using such machine or equipment, wholly or partly.

The employer shall pay the employees who work with the machine or equipment under the order to temporarily stop using under paragraph one in an amount equal to the wage to be paid on the working day through out the period the employees have to stop working until the employer acts in compliance with the order of the labor inspector.

Section 106. An appeal against the order of the labor inspector under section 104 or section 105 shall be made to the Committee on Work Safety, Hygiene and Environment within thirty days as from the date the appellant has acknowledged to such order. The decision of the Committee on Work Safety, Hygiene and Environment shall be final.

An appeal under paragraph one shall not stay the execution of the order of the labor inspector, except where otherwise order is made by the Committee on Work Safety, Hygiene and Environment.

Section 107. The employer shall provide medical examination to the employees and shall submit the results thereof to the labor inspector in accordance with the rules and procedure as prescribed by the Ministerial Regulations.

CHAPTER IX

Control

Section 108. The employer who employs ten or more employees shall provide the working regulations in Thai. Such regulations shall, at least, have the details as follows:

- (1) working days, ordinary working period and rest period;
- (2) holidays and rules on holidays;
- (3) rules on overtime and holiday work;
- (4) date and place of payment of wage, overtime pay, holiday pay and holiday overtime pay;
- (5) leave and rules on leave;
- (6) discipline and disciplinary sanctions;
- (7) complaint;

(8) termination of employment, severance pay and special severance pay.

The employer shall notify the application of the working regulations within fifteen days as from the date the aggregate amount of the employees employed by the employer reach to ten in number, and shall always keep the copy thereof at the work place or office of the employer. The employer shall also submit the copy thereof to the Director-General or a person entrusted by the Director-General within seven days as from the date the working regulations has been notified.

The Director-General or a person entrusted by the Director-General shall have the power to order the employer to amend the illegal working regulations within specific period.

The employer shall distribute such working regulations to the employee and post them to be obviously seen by the employee at the work place of the employee.

Section 109. The complaint under section 108 (7) shall, at least, have details as follows:

- (1) scope and meaning of complaint;
- (2) procedure and steps for lodging of complaint;
- (3) investigation to, and consideration of, complaint;
- (4) settlement procedure;
- (5) protection of the complaint maker and relevant persons.

Section 110. In the case where there is an amendment of working regulation, the employer shall notify the application of such amendment within seven days as from the date the amendment has been notified. In this case, section 108 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

Section 111. When the application of the working regulations has been notified under section 108, the employer shall have to continue the duties under section 108 and section 110 even though an amount of the employees is less than ten in number.

Section 112. The employer who employs ten or more employees shall make the employees register in Thai. Such register shall be kept at the work place or office of the employer for the inspection of the labor inspector during the working period.

The employees register under paragraph one shall be made within fifteen days as from the date the employees start working.

Section 113. The employees register shall, at least, have details as follows:

- (1) first name and surname;
- (2) sex;
- (3) nationality;
- (4) date of birth or age;
- (5) present address;
- (6) commencement date of employment;
- (7) position or job description;
- (8) wage rate and other benefits in which the employer agrees to pay to the employees;
- (9) date of the termination of employment.

If it is necessary to change any particular of the employees register, the employer shall finish the amendment thereof within fifteen days as from the date of such change or as from the date the employee informs the change to the employer.

Section 114. The employer who employs ten or more employees shall provide documents related to the payment of wage, overtime pay, holiday pay and holiday overtime pay having, at least, details as follows:

- (1) working days and periods;
- (2) piece-work done by the employee in the case where the employee agrees to receive wage upon piece-work basis;
- (3) rate and amount of wage, overtime pay, holiday pay and holiday overtime pay entitling by each employee.

In payment of wage, overtime pay, holiday pay and holiday overtime pay, the employer shall keep the documents under paragraph one signed by the employees as evidences.

The details of documents under paragraph one may be specify in one document or many documents.

In the case where the employer pay wage, overtime pay, holiday pay and holiday overtime pay by transferring of money to the bank account which the employee having with the commercial bank or other financial institutions, the transferring evidence shall be deemed as the documents related to such payment.

Section 115. The employer shall keep the employees register for not less than two years as from the date of termination of employment of each employee, and shall keep the documents related to the payment of wage, overtime pay, holiday pay and holiday overtime pay for not less than two years as from the date of payment.

If there is a complaint under Chapter XII of this Act or there is a labor dispute under the law on labor relations or there is a labor case, the employer shall keep the employees register and the documents related to the payment of wage, overtime pay, holiday pay and holiday overtime pay until the order or final judgment on such matter is given.

CHAPTER X

Suspension from Work

Section 116. In the case where the employer investigates the employee who is accused of wrongdoing, no employer shall suspend such employee during such investigation, except where the working regulations or working conditions agreement empower the employer to do so. In this case, the employer shall make such order in writing specifying wrongdoing and suspension period of not exceeding seven days and shall inform the employee in advance.

During the suspension period under paragraph one; the employer shall pay money to the employee at the rate as specified by the working regulations or as agreed upon between the employer and employee in the working conditions agreement. Such rate shall not less than fifty per cent of the wage paid on the working day before the employee is suspended from work.

Section 117. If it appears after an investigation that the employee has done nothing wrong, the employer shall pay wage to the employee in an amount equal

to wage to be paid on the working day as from the date the employee has been suspended from work. In this case, the money paid by the employer under section 116 shall be counted as a part of the wage under this section together with interest at the rate fifteen per cent per annum.

CHAPTER XI

Severance Pay

Section 118. The employer shall pay the severance pay to the employee upon the termination of employment as follows:

(1) if the employee has worked consecutively for one hundred and twenty days but less than one year, the final wage rate of the employee shall be paid for not less than thirty days or not less than the total amount of wage paid for the last thirty days for the employee who agrees to receive wage upon piece-work basis;

(2) if the employee has worked consecutively for one year but less than three years, the final wage rate of the employee shall be paid for not less than ninety days or not less than the total amount of wage paid for the last ninety days for the employee who agrees to receive wage upon piece-work basis;

(3) if the employee has worked consecutively for three years but less than six years, the final wage rate of the employee shall be paid for not less than one hundred and eighty days or not less than the total amount of wage paid for the last one hundred and eighty days for the employee who agrees to receive wage upon piece-work basis;

(4) if the employee has worked consecutively for six years but less than ten years, the final wage rate of the employee shall be paid for not less than two hundred and forty days or not less than the total amount of wage paid for the last two hundred and forty days for the employee who agrees to receive wage upon piece-work basis;

(5) if the employee has worked consecutively for ten years or more, the final wage rate of the employee shall be paid for not less than three hundred days or not less than the total amount of wage paid for the last three hundred days for the employee who agrees to receive wage upon piece-work basis.

The termination of employment under this section means any act of the employer to refuse the employee to continue working and refuse to pay wage, irrespective of the end of the employment contract or otherwise, including the case where the employee has not worked and has not received wage on account of the employer is unable to continue the undertaking.

The provisions of paragraph one shall not apply to the employee whose employment is subjected to the specific period and the employment is terminated at the end of such period.

The employment which is subjected to the specific period under paragraph three shall be the employment under the specific project which is not an ordinary business or trade of the employer having the definite commencement and ending date, work to be done occasionally with the definite ending date or the completion of work or seasonal work which the employment has been done during such season. In this case, these works shall finish within the period of two years and the employer and employee has concluded the employment contract at the commencement of the employment.

Section 119. The severance pay shall not be paid to the employee whose employment is terminated upon any of the following grounds:

(1) being dishonest in the discharge of duties or commit a criminal offense against the employer intentionally;

(2) willfully cause damage to the employer;

(3) do any negligent act which cause serious damage to the employer;

(4) violate the working regulations or any legal and just regulations or order of the employer and the written warning has been given by the employer. In the case where there is serious situation, the giving of written warning by the employer is not required.

Such written warning shall be valid for not more than one year as from the date the violation has been made;

(5) absent from service for three consecutive days, irrespective of whether there is a holiday in-between;

(6) having been sentenced by a final judgment of the Court to a term of imprisonment, except for an offence committed through negligence or a petty offence.

Section 120. In the case where the employer relocates the work place and such relocation has adverse effect to the ordinary way of life of the employees or their families, the employer shall notify such relocation to the employees at least thirty days in advance before the relocation date. In the case where the employees do not desire to continue working, the employees shall have the right to terminate the employment contract and shall be entitled to the special severance pay for not less than fifty per cent of the rate of the severance pay entitling by the employee under section 118.

In the case where the employer fails to notify such relocation to the employees in advance under paragraph one, the employer shall pay the special severance pay in lieu thereof in an amount equal to the final wage rate of the employee for the period of thirty days or the total amount of wage paid for the last thirty days for the employee who agrees to receive wage upon piece-work basis.

The employee shall have the right to request the Labor Welfare Committee within thirty days as from the relocation date so as to consider whether the employer has to notify the relocation in advance or the employee has the right to terminate the employment contract and entitling to the special severance pay under paragraph one.

The decision of the Labor Welfare Committee shall be final, except where the employer or the employee appeals against the decision to the Court within thirty days as from the date of receiving the decision. In the case where the employer is a party who institutes the case to the Court, the employer shall deposit money in an amount equal to an amount to be paid to the employee who makes a request under paragraph three before instituting the case.

The employee shall exercise the right to terminate the employment contract under this section within thirty days as from the relocation date or the date on which the decision of the Labor Welfare Committee or the judgment of the Court is final.

Section 121. In the case where the employer has to terminate the employment on account of the reorganization of the undertakings or production, distribution or service line because the use of machine or the changing of machine or

technology which cause the need for reduction of employees, section 17 paragraph two shall not be applied. In this case, the employer shall notify the termination date of employment, reason thereof and list of the employees whose employment shall be terminated to the labor inspector and all relevant employees in advance which shall not less than sixty days before the termination date.

In the case where the employer fails to notify the employees in advance or the period of such notification is less than the period as prescribed in paragraph one, the employee is entitled to the severance pay under section 118 and the employer shall pay the special severance pay in lieu of advance notification in an amount equal to the final wage rate of the employee for the period of sixty days or the total amount of wage paid for the last sixty days for the employee who agrees to receive wage upon piece-work basis.

If there is the payment of the special severance pay in lieu of advance notification under paragraph two, it shall be deemed that the remuneration in lieu of advance notification under the Civil and Commercial Code has been paid by the employer.

Section 122. In the case where the employer terminates the employment of employee under section 121 and such employee has worked for six consecutive years, the employer shall pay the special severance pay in addition to the severance pay under section 118 in an amount of not less than the final wage rate of the employee for the period of fifteen days per each year of work or in an amount of not less than the wage paid for the last fifteen days per each year of work for the employee who agrees to receive wage upon piece-work basis. The total severance pay under this section shall not exceed the final wage rate of the employee for the period of three hundred and sixty days or the wage paid for the last three hundred and sixty days for the employee who agrees to receive wage upon piece-work basis.

For the purposes of calculation of the special severance pay, if the period of work is less than one year but more than one hundred and eighty days, it shall be counted as one year of employment.

CHAPTER XII

Submitting and Considering of Request

Section 123. In the case where the employer violates, or fails to comply with, the provisions related to right to any money under this Act and the employee requires any execution of the competent official under this Act, the employee shall have the right to request, in accordance with the form determined by the Director-General, the labor inspector of the locality where the employee is working or where the employer has domicile.

In all cases on the right to any money under this Act, if the employee is dead, the statutory heir of the dead employee shall have the right to request the labor inspector.

Section 124. If there is a request under section 123, the labor inspector shall investigate the fact and deliver the order within sixty days as from the date of receiving the request.

If the order could not be delivered within the period under paragraph one due to any necessary reason, the labor inspector may request the Director-General or a

person who is entrusted by the Director-General to extend such period. The Director-General or a person who is entrusted by the Director-General may extend such period as he or she thinks fit, but the extended period shall not exceed thirty days as from the completion date of the period under paragraph one.

If it appears after investigation that the employee is entitled to any money to be paid by the employer under this Act, the labor inspector shall order the employer to pay such money to the employee or statutory heir of the dead employee in accordance with the form as determined by the Director-General within fifteen days as from the date of acknowledgement or deemed to be acknowledgement of such order.

The employer shall pay money under paragraph three to the employee or statutory heir of the employee at the work place of the employee. The labor inspector shall, upon request of the employee or statutory heir of the dead employee, order the employer to pay such money at the office of the labor inspector or other places as agreed upon by the employer and the employee or statutory heir of the dead employee.

In the case where the employee or statutory heir of the dead employee fails to receive such money within fifteen days as from the date the order of the labor inspector has been made, the labor inspector shall remit such money to the Employee Welfare Fund by depositing with the bank. In this case, all incurred interest or other fruits due to such deposit shall be entitled to the employee or statutory heir of the dead employee who is entitled to the deposit money.

In the case where the labor inspector is of opinion that the employee or statutory heir of the dead employee is not entitled to the money under section 123, the labor inspector shall have a written order thereon and notify such order to the employee or statutory heir of the dead employee.

Section 125. The employer, employee or statutory heir of the dead employee is not satisfy with the order of the labor inspector under section 124, he or she shall institute the case to the Court within thirty days as from the date he or she has acknowledged to such order.

In the case where the employer, employee or statutory heir of the dead employee fails to institute the case to the Court within the prescribed period, such order shall be final.

In the case where the employer is a party who institutes the case to the Court, the employer shall deposit money in an amount equal to an amount to be paid upon such order before instituting the case.

In the case where the case is final and the employer shall have duty to pay any money to the employee or statutory heir of the dead employee, the Court shall have the power to pay money deposited to the Court to the employee or statutory heir of the dead employee.

CHAPTER XIII

The Employee Welfare Fund

Section 126. There shall be the Employee Welfare Fund in the Department of Labor Protection and Welfare. The objective of the Employee Welfare Fund is to provide assistance to the employee in the case where the employment is terminated or upon the death of the employee or other cases as determined by the Employee Welfare Fund Committee.

Section 127. The Employee Welfare Fund composes of:

- (1) the cumulative money and the counterpart fund;
- (2) money devolve on the Employee Welfare Fund under section 133 and section 136;
- (3) surcharge under section 131;
- (4) fine collected from the offender under this Act;
- (5) donated money or properties;
- (6) government subsidy;
- (7) other incomes;
- (8) interest or fruit of the Employee Welfare Fund.

The Employee Welfare Fund shall have the following accounts:

- (1) the money of member account which states cumulative money, counterpart fund and interest thereof of each member;
- (2) the main account which states money other than that of (1).

Section 128. The remittance of a fine under section 127 (4) to the Employee Welfare Fund and the due date thereof shall be in accordance with the regulations determined by the Employee Welfare Fund Committee and published in the Government Gazette.

Section 129. For the purpose of the execution of this Act, money and properties of the Employee Welfare Fund under section 127 shall be ownership of the Department of Labor Protection and Welfare without remitting to the Ministry of Finance as State revenue.

There shall be the Employee Welfare Fund Committee, consisting of the Permanent Secretary of the Ministry of Labor and Social Welfare as Chairperson, a representative of the Ministry of Finance, a representative of the National Economic and Social Development Board, a representative of the Bank of Thailand, five representatives of the employers and five representatives of employees appointed by the Minister as members, and the Director-General of the Department of Labor Protection and Welfare as a member and secretary.

The Employee Welfare Fund Committee shall have the powers and duties as follows:

- (1) to prescribe policy related to the administration and payment of the Employee Welfare Fund with consent of the Minister;
- (2) to give advice to the Minister in the issuance of the Royal Decrees, Ministerial Regulations, notifications or rules for execution under this Act;
- (3) to lay down the regulations related to the receipt, payment and keeping of money of the Employee Welfare Fund with consent of the Minister;
- (4) to lay down the regulations related to the earnings of the Employee Welfare Fund with consent of the Minister;
- (5) to allocate money of the Employee Welfare Fund not exceeding ten per cent per annum of the fruit thereof as the administrative expense of the Employee Welfare Fund;
- (6) to perform other works which are prescribed as the powers and duties of the Employee Welfare Fund Committee by the provisions of this Act or other laws or which are entrusted by the Minister.

Section 78 paragraph two, section 80, section 81, section 82 paragraph one, section 83 and section 84 shall apply to the Employee Welfare Fund Committee *mutatis mutandis*.

Section 130. The employees in any undertaking having ten employees or more shall be members of the Employee Welfare Fund.

The provisions of paragraph one shall not apply to the undertaking which the employer provides the Provident Fund under the law on provident fund or provides welfare to the employees in the case where the employments are terminated or where the employees are death in accordance with the rules and procedure as prescribed by the Ministerial Regulations.

The provisions of paragraph one shall apply to the employees in any undertaking having less than ten employees upon the enactment of the Royal Decrees.

The Employee Welfare Fund Committee may lay down the regulations determining the employee in any undertaking which is not subjected to the provisions of this Act to apply for the membership of the Employee Welfare Fund if such employee desire to do so with consent of the employer. In this case, the employer shall have duties under this Act as if his or her undertaking is subjected to the provisions of this Act.

The employer whose employees being member of the Employee Welfare Fund under paragraph one shall submit the list stating the names of the employees and other details. The Department of Labor Protection and Welfare shall, upon receiving such list, issue the certificate of registration to the employer.

In the case where the fact related to the details of the submitted list has changed, the employer shall request the Department of Labor Protection and Welfare to amend or revise such list.

The request for amendment or revision of the list and the certification of registration shall be in accordance with the rule and procedure determined by the Employee Welfare Fund Committee.

It shall be deemed that the person who submits the list or request for the amendment or revision thereof under the law on social security has acted in compliance with the provisions of paragraph five, paragraph six and paragraph seven of this section.

Section 131. As from the date the employee becomes a member of the Employee Welfare Fund, the employee shall remit the cumulative money. In this case, the employer shall, at each payment, remit such cumulative money which is deducted from the wage to be paid to the employee together with the counterpart fund to be remitted by the employer to the Employee Welfare Fund. The money to be remitted shall be at the rate as prescribed by the Ministerial Regulations, but not exceeding five per cent of the wage.

If the employer fails to pay wage on time, the employer shall have duty to remit the cumulative money and the counterpart fund as if the wage has been paid.

In the case where the employer fails to remit the cumulative money or the counterpart fund or fails to remit such money in full amount within the period as prescribed in paragraph four, the employer shall pay surcharge to the Employee Welfare Fund at the rate five per cent per month of the total amount of the cumulative money or the counterpart fund which has not been remitted or which is left as from the remitting date of such money. If the remaining period of each month is fifteen days or more, it shall be counted as one month. If the remaining thereof is less than that, it shall not be counted. In this case, no employer shall raise the ground that he or she fails to deduct wage or deducts the wage in an incomplete amount as defense for liability in remitting such money.

The remitting of the cumulative money, counterpart fund and surcharge to the Employee Welfare Fund shall be in accordance with the rules and procedure as determined by the Employee Welfare Fund Committee.

Section 132. In the case where the employer fails to remit the cumulative money or the counterpart fund or fails to remit such money in full amount within the prescribed period, the labor inspector shall have a written warning to the employer to remit the unpaid amount within the specified period which shall not less than thirty days as from the date of receiving such warning.

In warning under paragraph one, if the definite unpaid amount is unknown, the labor inspector shall have the power to evaluate the cumulative money and counterpart fund to be remitted in accordance with the rules and procedure as determined by the Employee Welfare Fund Committee.

Section 133. In the case where the employment of the employee is terminated, the Department of Labor Protection and Welfare shall pay the cumulative money, counterpart fund and fruit thereof to the employee.

In the case where the employee is dead and he or she has failed to specify the Department of Labor Protection and Welfare in the form determined by the Director-General a person who is entitle to money from the Employee Welfare Fund or the specified person has died before the time of payment, the money under paragraph one shall be paid to the living child, husband, wife, father, mother of the entitling person equally.

If there is no person who is entitled to the money to be paid from the Employee Welfare Fund under paragraph two, such money shall devolve on the Employee Welfare Fund.

Section 134. The Employee Welfare Fund Committee shall, for the payment of money from the Employee Welfare Fund other than the payment under section 133, lay down the regulations on payment, rate to be paid and payment period by considering the amount of money of the Employee Welfare Fund which is not the part to be paid under section 133.

Section 135. In the case where the Department of Labor Protection and Welfare has paid money from the Employee Welfare Fund to the employee, wholly or partly, under section 134, the Employee Welfare Fund shall have the right to take recourse for the paid money together with interest at the rate fifteen per cent per annum from a person who has duty to pay such money.

The prescription of the right to take recourse of the Employee Welfare Fund is ten years as from the date the Employee Welfare Fund has paid money under paragraph one.

Section 136. The labor inspector shall have the power to make, in writing, an order to seize, attach and auction of properties of a person who fails to remit the cumulative money, counterpart fund or surcharge or a person who fails to remits the full amount thereof or a person who fails to pay money under section 135.

The seizure or attachment order under paragraph one shall be made when the written warning requiring the person who fails to remit the cumulative money, counterpart fund or surcharge or a person who fails to remits the full amount thereof or a person who fails to pay money under section 135, to pay such money within

the prescribed period which shall not less than thirty days as from the date such person receive the warning has been given, but such person fails to do so.

The rules and procedure in seizing, attachment and auction of properties under paragraph one shall be in accordance with the regulations determined by the Minister. In this case, the rules and procedure under the Civil Procedure Code shall apply *mutatis mutandis*.

The remaining of money earned by auction of properties after deduction of the expense in seizing, attachment and auction and the unpaid cumulative money, counterpart fund or surcharge or money to be paid by a person under section 135 shall be returned to the entitling person without delay. The labor inspector shall notify, in writing, the entitling person to collect the remaining of money by registered mail with advice of delivery. If the collection is not made within five years, such money shall devolve on the Employee Welfare Fund.

Section 137. The right to receive money from the Employee Welfare Fund shall not be transferred and shall not be liable for execution.

Section 138. The Employee Welfare Fund Committee shall, within one hundred and twenty days as from the expiration date of the calendar year, submit the balance sheet and financial report of the Employee Welfare Fund of last year to the State Audit Office for certification before submitting to the Minister.

The Minister shall submit such balance sheet and financial report to the Council of Ministers for acknowledgement and shall publish them in the Government Gazette.

CHAPTER XIV

Labor Inspector

Section 139. The labor inspector shall, in the performance of duties, have the powers as follows:

(1) to enter into the work place or office of the employer and the work place of the employee during working period so as to inspect working environment of the employee and working conditions, testify any fact, take photograph, make copies of documents related to the employment, payment of wage, overtime pay, holiday pay, holiday and overtime pay and the employee register, collect example materials or products for the purpose of work safety analysis, and to perform any act so as to inquire into fact for the execution of this Act;

(2) to issue letter of inquiry or summon the employer, employee or other relevant persons to testify or submit any relevant object or documents for its consideration;

(3) to order, in writing, the employer or employee to act in compliance with this Act.

Section 140. The labor inspector shall, in the performance of his or her duty under section 139 (1), present his or her identification card to the employer or other relevant persons. In this case, the employer or other relevant persons shall facilitate and do not obstruct the performance of duty of the labor inspector.

The form of the identification card shall be determined by the Minister.

Section 141. In the case where the employer or employee acts in compliance with the order of the labor inspector under section 139 (3) within the prescribed period, the criminal proceedings against such employer or employee shall be extinguished.

Section 142. In inspecting the work place or office of the employer or the work place of the employee, the Director-General or a person entrusted by the Director-General may request the physician, social worker or expert appointed by the Minister to enter into such place in order to give advice or assistance to the labor inspector for the execution of this Act.

The employer or relevant persons shall facilitate and do not obstruct the performance of duties of the any concerned persons shall render all conveniences and not obstruct the performance of duty of the physician, social worker or expert under paragraph one.

CHAPTER XV

Contact

Section 143. The order or letter of the Director-General or labor inspector made under this Act shall be delivered by registered mail with advice of delivery or by hand of the labor inspector or official at the domicile, residence or office of the employer during working hours of the employer. In the case where the employer is not found at the domicile, residence or office of the employer or where the employer is found but refuses to accept such order or letter, it shall be delivered to any *sui juris* person who live or work in the house or office of the employer. Upon such implementation, the employer is deemed to receive the order or letter of the Director-General or labor inspector.

If it is unable to make the delivery under paragraph one, the order or letter of the Director-General or labor inspector shall be posted at the place where it could be obviously seen in the office of the employee, work place of the employee, or domicile or residence of the employer. If such implementation has been made for not less than fifteen days, the employer is deemed to receive the order or letter of the Director-General or labor inspector.

CHAPTER XVI

Penalties

Section 144. Any employer who violates or fails to comply with section 10, section 22, section 24, section 25, section 26, section 37, section 38, section 39, section 40, section 42, section 43, section 46, section 47, section 48, section 49, section 50, section 51, section 61, section 62, section 63, section 64, section 67, section 70, section 71, section 72, section 76, section 90 paragraph one, or the Ministerial Regulations issued under section 95, section 107 or section 118 paragraph one, or fails to pay the special severance pay under section 120 paragraph one or paragraph two, section 121 paragraph two or section 122, shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding one hundred thousand Baht, or to both.

In the case where the employer violates or fails to comply with section 37, section 38, section 39, section 42, section 47, section 48, section 49 or section 50 and such violation or failure cause physical or mental harm or death to the employee shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding two hundred thousand Baht, or to both.

Section 145. Any employer who fails to comply with section 23 shall be liable to a fine of not exceeding five thousand Baht.

Section 146. Any employer who fails to comply with section 15, section 27, section 28, section 29, section 30 paragraph one, section 45, section 53, section 54, section 56, section 57, section 58, section 59, section 65, section 66, section 73, section 74, section 75 paragraph one, section 77, section 99, section 105 paragraph two, section 108, section 111, section 112, section 113, section 114, section 115 or section 117, or fails to give advance notice under section 120, section 121 paragraph one or section 139 (2) or (3), shall be liable to a fine of not exceeding twenty thousand Baht.

Section 147. Whoever violates section 16 shall be liable to a fine of not exceeding twenty thousand Baht.

Section 148. Any employer who violates section 31 or section 44 or fails to comply with the Ministerial Regulations issued under section 103 paragraph one shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding two hundred thousand Baht, or to both.

Section 149. Any employer who fails to comply with section 52, section 55, section 75 paragraph two, section 90 paragraph two, section 110 or section 116 shall be liable to a fine of not exceeding ten thousand Baht.

Section 150. Whoever fails to render facilities or statement or fails to submit any document or object upon written notice of the Wages Committee or its sub-committee or a person entrusted by the Wages Committee or its sub-committee, or fails to render facilities to the labor inspector, physician, social worker or expert, shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding two thousand Baht, or to both.

Section 151. Whoever obstructs the performance of duties of the Wage Committee or its sub-committee or a person entrusted by the Wage Committee or its sub-committee, labor inspector, physician, social worker or expert shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht, or to both.

Whoever fails to comply with the order of the labor inspector issued under section 124 shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Bath, or to both.

Section 152. Any employer who fails to comply with section 96 shall be liable to a fine of not exceeding fifty thousand Baht.

Section 153. Any employer who fails to comply with section 98 shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding two thousand Baht, or to both.

Section 154. Any employer who fails to make document, evidence or report issued under the Ministerial Regulations under section 103 or fills such document, evidence or report with fault statement shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding one hundred thousand Baht, or to both.

Section 155. Any person having duty in certifying or examining document, evidence or report under the Ministerial Regulations under section 103 or fills fault statement in certifying or examining such document, evidence or report shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding two hundred thousand Baht, or to both.

Section 156. Any employer who fails to submit the list or fails to have written request for amendment or revision the list within the period prescribed under section 130, or submits the list or a fills fault statement in the written request for amendment or revision the list under section 130, shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding one hundred thousand Baht, or to both.

Section 157. Any competent official who discloses any acquired or acknowledged fact related to the undertaking of the employer, which normally be classified by the employer, upon the execution of duties under this Act shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding three thousand Baht, or to both, except for the disclosure in the course of official duty for the purpose of this Act or for the purpose of labor protection, labor relations or case investigation or consideration.

Section 158. In the case where the offender is a juristic person, if the offense has been committed upon the order or any act of any person or upon an omission to make an order or refrain from acting duties which shall be done by the managing director or any person who is responsible for the execution of such juristic person, such person shall be liable to the same penalty as prescribed for such offense.

Section 159. If the following competent official is of opinion that the offender of any offense under this Act shall not be liable to imprisonment or shall not be sued, such competent official shall have power to settle them:

(1) Director-General or a person entrusted by the Director-General, for the offense committed within the Bangkok Metropolis;

(2) *Changwat* Governor or the person entrusted by *Changwat* Governor, for the offense committed within other province.

In the case where there is an investigation, if the inquiry official found that any person commits an offense under this Act and such person agrees to conclude the settlement, the inquiry official shall proceed the case to the Director-General or *Changwat* Governor, as the case may be, within seven days as from the date such person agrees to conclude the settlement.

If the offender pay the full amount of settlement fine within thirty days, such case is settled under the Criminal Procedure Code.

If the offender does not agree to conclude the settlement or fails to pay the full amount of settlement fine within the period as prescribed in paragraph three, the case shall be continued.

Transitory Provisions

Section 160. Section 44 shall not apply to the child employee between thirteen to fifteen years of age who has been employed by the employer under the Announcement of the Revolutionary Council No. 103, dated 16th March B.E. 2515 before the date this Act comes into force.

Section 161. Within fifteen days as from the date this Act comes into force, the employer shall notify the employment of the child employee less than eighteen years of age who has been employed by the employer under the Announcement of the Revolutionary Council No. 103, dated 16th March B.E. 2515 before the date this Act comes into force.

Section 162. The Wages Committee, its sub-committee and its working groups who hold office on the date this Act comes into force shall remain in office until the end of the term of office.

Section 163. The collection of the cumulative money and counterpart fund under the provisions on the Employee Welfare Fund of Chapter XIII shall be made by the Royal Decree.

Section 164. Any complaint which is not final or any case under the trial of the Court before this Act comes into force shall be governed by the Notification of the Ministry of Interior or the Notification of the Ministry of Labor and Social Welfare issued under the Announcement of the Revolutionary Council No. 103, dated 16th March B.E. 2515 until such complaint or case becomes final.

Section 165. Any person who has the right to wage or other money to be paid by the employer under the Announcement of the Revolutionary Council No. 103, dated 16th March B.E. 2515 before the date this Act comes into force shall continue receiving such money.

Section 166. All notifications or orders issued under the Announcement of the Revolutionary Council No. 103, dated 16th March B.E. 2515 shall remain in force as long as they are not contrary to, or in consistent with, this Act until the Ministerial Regulations, rules and notifications issued under this Act come into force.

Countersigned by:
Chuan Leekpai
Prime Minister

Unofficial translation

MINISTERIAL REGULATION
(B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)²

By virtue of section 4 paragraph two and section 6 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

The exemption from the application of the Labor Protection Act, B.E. 2541 to the employer of any category shall be in accordance with following rules;

(1) the Labor Protection Act, B.E. 2541 shall not apply to the employer who carries out the private school undertaking under the law on private schools, particularly to headmasters and teachers;

(2) the provisions of section 12, section 18, section 21 and section 22 of Chapter I General Provisions, section 23 to section 37, except section 30, of Chapter II General Employment, section 38 to section 43 of Chapter III Female Labor Employment, section 44 to section 52 of Chapter IV Child Labor Employment, section 53 to section 77, except the payment of wage under section 53, section 54, section 55 and section 70, of Chapter V Wage, Overtime Pay, Holiday Pay and Holiday Overtime Pay, section 78 to section 91 of Chapter VI Wages Committee, section 92 to section 99 of Chapter VII Welfare, section 100 to section 107 of Chapter VIII Work Safety, Hygiene and Environment, section 108 to section 115 of Chapter IX Control, section 116 to section 117 of Chapter X Suspension from Work, section 118 to section 122 of Chapter XI Severance Pay, and section 126 to section 138 of Chapter XIII The Employee Welfare Fund shall not apply to the employer who employs the employees to do housework which is not a part of a business undertaking;

(3) the provisions of section 12, section 16, section 18 and section 22 of Chapter I General Provisions, section 23 to section 37 of Chapter II General Employment, section 38 to section 43 of Chapter III Female Labor Employment, section 44 to section 52 of Chapter IV Child Labor Employment, section 53 to section 77, except the payment of wage under section 53, section 54, section 55 and section 70, of Chapter V Wage, Overtime Pay, Holiday Pay and Holiday Overtime Pay, section 78 to section 91 of Chapter VI Wages Committee, section 92 to section 99 of Chapter VII Welfare, section 108 to section 115 of Chapter IX Control, section 116 to section 117 of Chapter X Suspension from Work, section 118 to section 122 of Chapter XI Severance Pay, and section 126 to section 138 of Chapter XIII The Employee Welfare Fund shall not apply to the employer whose employee does uneconomically profit seeking work.

Given on the 19th Day of August B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

²Published in the Government Gazette, Vol. 115, Part 49a, page 9, dated 19th August B.E. 2541

Unofficial translation

MINISTERIAL REGULATION
No. 2 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)³

By virtue of section 6 and section 23 paragraph one of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

Clause 1. The normal working hours for all categories of works shall not more than eight hours.

Clause 2. The work which may be harmful to health and safety of the employee are, *viz.*:

(1) work to be done underground or underwater or in a cave, tunnel or foul air place;

(2) radioactivity work;

(3) metal welding;

(4) hazardous substance transportation;

(5) hazardous chemical substance production;

(6) work to be done by vibrated machine or engine which may be harmful;

(7) work related to extreme heat or cold which may be harmful;

provided that the condition of such work is highly exposed to danger or its working environment fails to meet safety standard as prescribed by the Ministerial Regulations issued under section 103 and it is unable to improve or revise such condition or working environment at its origin and individual protection is required.

Given on the 19th Day of August B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

³Published in the Government Gazette, Vol. 115, Part 49a, page 12, dated 19th August B.E. 2541

Unofficial translation

MINISTERIAL REGULATION
No. 3 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)⁴

By virtue of section 6 and section 26 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

The total working hours of the overtime work under section 24 paragraph one and the working hours on holiday under section 25 paragraph two and paragraph three shall not exceed thirty six hours a week.

The working hours on holiday shall include the working hours of the overtime work on holiday.

Given on the 19th Day of August B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

⁴Published in the Government Gazette, Vol. 115, Part 49a, page 14, dated 19th August B.E. 2541

Unofficial translation

MINISTERIAL REGULATION
No. 4 (B.E. 2541)
Issued under the Labor Protection Act B.E. 2541 (1998)⁵

By virtue of section 6 and section 29 paragraph four of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

The work having nature or conditions which the employer is unable to let the employee to stop working on the traditional holiday are, *viz.*

(1) hotel, entertainment, restaurant, beverage, club, association, infirmary and tourist service;

(2) in-forest undertaking, in-desolate place undertaking, transportation and any undertaking which its nature or condition requires uninterrupted undertaking and an interruption may cause damage to the work.

Given on the 19th Day of August B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

⁵Published in the Government Gazette, Vol. 115, Part 49a, page 14, dated 19th August B.E. 2541

Unofficial translation

MINISTERIAL REGULATION
No. 5 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)⁶

By virtue of section 6 and section 36 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

Clause 1. The employee shall have the right to leave for training or knowledge and skill development in the following cases:

- (1) for the benefit of labor and social welfare or to increase skill and experience or working efficiency of the employee;
- (2) for educational examinations organized or allowed to be organized by the official.

The training or knowledge and skill development under (1) shall be made with clear and definite programme or curriculum and period thereof.

Clause 2. In requesting permission to leave for training or knowledge and skill development, the employee shall notify clear reason for taking such leave together with related evidences, if any, to the employer for not less than seven days in advance before the commencement date of such leave.

Clause 3. The employer may not permit the employee to leave for training or knowledge and skill development in the following cases:

- (1) within the year a request to leave for training or knowledge and skill development is made, such employee has been permitted to leave for training or knowledge and skill development for not less than thirty days or three times; or
- (2) the employer shows good reason whether a leave of the employee may cause damage or adverse effect to undertaking of the employer.

Given on the 19th Day of August B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

⁶Published in the Government Gazette, Vol. 115, Part 49a, page 18, dated 19th August B.E. 2541

Unofficial translation

MINISTERIAL REGULATION
No. 6 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)⁷

By virtue of section 6 and section 49 (3) (4) (5) (6) (7) and (10) of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

The works in which the employer shall not demand the employee who is a child less than eighteen years of age to do are, *viz.*

(1) work related to heat, cold, vibration and noise which may be harmful as follows:

(a) work to be done in the place where temperature therein is higher than forty-five degrees Celsius;

(b) work to be done in the cold storage in the production or preservation of frozen foods industry;

(c) work to be done with shaking drill;

(d) work in which the employee has to hear noise over eighty-five decibels (A) consecutively for eight working hours a day.

(2) work related to hazardous chemicals, poisonous substances, explosives or inflammable materials as follows:

(a) production or transportation of any substance which may cause cancer according to the schedule hereto attached;

(b) work related to cyanide;

(c) production or transportation of sky rockets, fireworks or other explosives;

(d) exploration, drilling, refinery, filling or loading of fuel oil or gas, except for work in a fuel service station.

(3) work related to poisonous microorganisms which may be viruses, bacteria, fungus or other germs as follows:

(a) work to be done in a diagnostic laboratory;

(b) taking care of patients with communicable diseases under the law on communicable diseases;

(c) cleaning of patients' utensils and clothing in an infirmary;

(d) collection, transportation or disposal of rubbish or waste in an infirmary.

(4) driving or control of forklifts or cranes operated by an engine or electricity, without regards to the manner of driving or control thereof;

(5) any kind work related to radioactivity.

Given on the 19th Day of August B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

⁷Published in the Government Gazette, Vol. 115, Part 49a, page 18, dated 19th August B.E. 2541

Schedule Attached to the Ministerial Regulation No. 6 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541

- (1) 4-Aminodiphenyl
- (2) Arsenic
- (3) Asbestos
- (4) Benzene
- (5) Beryllium
- (6) Benzidine
- (7) bis (chloromethyl) ether
- (8) Cr VI (Chromium Cr VI compound)
- (9) Coal tar pitch volatile
- (10) B-Naphthy lamine
- (11) Nickel sulfide
- (12) Vinyl chloride
- (13) Zinc chromate

Unofficial translation

MINISTERIAL REGULATION
No. 7 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)⁸

By virtue of section 6 and section 22 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

Clause 1. As for works in petroleum undertakings under the law on petroleum, including maintenance and service related to such work, particularly to work in the exploration block and production area, labor protection shall be provided as follows:

(1) the employer and employee shall agree to set the normal working period. In this case, the commencement and the end of the working period shall be determined, but shall not exceed twelve hours a day;

(2) the employer and employee may agree to set an uninterrupted working period, but each uninterrupted working period shall not exceed twenty-eight consecutive days;

(3) the employer shall arrange the employee who has worked through the working period under (2) to have holiday as appropriate. In the case where the employer and employee agrees that each uninterrupted working period shall exceed fourteen days, the employer shall arrange the employee to have consecutive holidays for not less than one-half of an uninterrupted working period.

The holiday for each uninterrupted working period under paragraph one shall also include the weekly holidays to be provided by the employer under section 28;

(4) in the case where the traditional holiday falls on the holiday under (3), the employee shall be entitled to a substitute holiday for such traditional holiday on the following working day. In this case, the employer may pay holiday pay in lieu thereof;

(5) the employer shall notify training schedule on the survival at sea and fire fighter to be held on holiday to the employee in advance as appropriate. In the case where any other training shall be held on holiday, consent of employee shall be given. The employer shall pay holiday pay for the training date and the date the employer requires the employee to make preparation before training as well as travel expense of the employee.

Clause 2. As for professional or technical work, administration and management work, clerical work, trade-related work, service provider work, production-related work or other works related therewith, the employer and employee may agree to set the daily normal working period upon hours basis, but the total working period shall not exceed forty-eight hours a week.

If the employer and employee agree to set the daily normal working period exceeding eight hours a day, the employee other than the employee who agrees to receive wage calculated upon monthly basis shall be entitled the remuneration in

⁸Published in the Government Gazette, Vol. 115, Part 49a, page 18, dated 24th August B.E. 2541

form of money in an amount equal to the hourly wage on the working day or equal to wage to be paid per a piece of work for the employee who agree to receive wage calculated upon piece-work basis.

Clause 3. As for work in a restaurant or beverage which does not open continuously through the day, the employer may provide a rest period for the employee during work more than two hours a day.

Clause 4. The employer may recruit a female employee to work in professional or technical work related to exploration, drilling, refinery and production of petroleum or petrochemical products if the nature or conditions of such work is not harmful to health or body of such employee.

Clause 5. The employer may recruit a pregnant female employee, with her consent, to work as an executive or to do technical, administrative, financial or accounting work and to do overtime work on a working day.

Clause 6. In the case where an employee do peddle work or direct sale, if the employer has paid commission to such employee, such employee shall not be entitled to the overtime pay under section 61 and holiday overtime pay under section 63, except the employer agree to pay the overtime pay and holiday overtime pay to the employee.

Clause 7. This Ministerial Regulation shall be deemed to have come into force on 19th Day of August B.E. 2541 (1998).

Given on the 22nd Day of August B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

Unofficial translation

MINISTERIAL REGULATION
No. 8 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)⁹

By virtue of section 6 and section 65 (8) of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

The work of guarding or caretaking of any place or property shall be the work under section 65 (8) in which the employee shall not be entitled to the overtime pay under section 61 and the holiday overtime pay under section 63, but shall be entitled to the remuneration in form of money in an amount equal to the hourly wage on the working day for his or her working hours.

Given on the 14th Day of September B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

⁹Published in the Government Gazette, Vol. 115, Part 62a, page 18, dated 22nd September B.E. 2541

Unofficial translation

MINISTERIAL REGULATION
No. 9 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)¹⁰

By virtue of section 4 paragraph two and section 6 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

The Labor Protection Act, B.E. 2541 shall not apply to the employer who employs the employees to do work as follows:

- (1) agriculture;
- (2) work taken to be done at home.

Given on the 14th Day of September B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

¹⁰Published in the Government Gazette, Vol. 115, Part 62a, page 20, dated 22nd September B.E. 2541

Unofficial translation

MINISTERIAL REGULATION
No. 10 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)¹¹

By virtue of section 6 and section 22 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

Clause 1. The protection of labor in sea fishery work other than protection measures as prescribed by this Ministerial Regulation shall be in accordance with an agreement as agreed upon by the employer and employees, except the provisions of section 7 to section 21 of Chapter I General Provisions, section 100 to section 107 of Chapter VIII Work Safety, Hygiene and Environment, section 123 to section 125 of Chapter XII Submitting and Considering of Request, section 134 and section 135 of Chapter XIII The Employee Welfare Fund, section 139 to section 142 of Chapter XIV Labor Inspector, and section 143 of Chapter XV Contact which the employer and employee shall act in compliance with the Labor Protection Act, B.E. 2541.

Clause 2. This Ministerial Regulation shall not apply to:

- (1) sea fishery work with less than twenty employees, except a determination on payment of wage under clause 7 and clause 8 which shall be applied to sea fishery work with at least one employee;
- (2) fishing boat which carry out fishery outside the Kingdom for more than one year uninterruptedly.

Clause 3. In this Ministerial Regulation:

“Sea fishery work” means work or any undertaking related to fishery at sea through a fishing boat;

“Fishing boat” means a boat used for fishery at sea;

“Employer” includes an owner of a fishing boat who uses, or allows another person to use, such fishing boat to carry out sea fishery work for the purpose of sharing benefits, but not including an owner of a fishing boat who lets another person rent the fishing boat to carry out business without any other interest;

“Wage” includes a share agreed to be paid by the employer to the employees according to value of the aquatic animals being caught.

Clause 4. No employer shall accept a child less than sixteen years of age to work in a fishing boat, except such child is more than fifteen years of age and his or her father or mother or guardian works in such fishing boat or written consent has been given by his or her father or mother or guardian.

Clause 5. The employer shall make employee’s register in Thai and keep it at the work place of the employer for inspection of the labor inspector. A copy

¹¹Published in the Government Gazette, Vol. 115, Part 62a, page 22, dated 22nd September B.E. 2541

of the employee's register shall be submitted to the Director-General or a person entrusted by the Director-General within thirty days as from the date the employment of the employees.

The employee's register under paragraph one shall be in accordance with the form *Kor Ror 1* hereto attached.

The employer shall keep the employee's register for not less than two years as from the date the employment of each employee is terminated.

The employer shall, in the case where there is a change to the employee's register, amend the employees' register within sixty days as from the date of such changing and shall notify all changing to the Director-General or a person entrusted by the Director-General.

Clause 6. The employer shall prepare document related to the payment of wage and holiday pay in Thai and keep it at the work place of the employer for inspection of the labor inspector. Such document shall have, at least, the following particulars:

- (1) first name and surname;
- (2) position and duties in the sea fishery work;
- (3) rate and amount of wage, holiday pay and other benefits agreed to be paid by the employer to each employee.

The employer shall, upon payment of wage to the employee, arrange for the employee to sign in the document under paragraph one as evidence.

In the case where the employer pay wage and holiday pay to the employees by through transferring of money to their deposit accounts opened with commercial banks or other financial institutions, it shall be deemed that statement showing the transferring of such money is a document related to such money.

The employer shall maintain the document under paragraph one for not less than two years as from the date of payment.

Clause 7. In the case where there is a complaint that the employer fails to act in accordance with this Act or there is a labor dispute under the law on labor relation or there is a case in the Court, the employer shall maintain employee's register and document related to the payment of wage and holiday pay until final order or judgment on such matter has been given.

Clause 8. The employer shall pay wage and holiday pay in accordance with the following times:

- (1) in the case where wage is calculated upon monthly, daily or hourly basis or upon other period which is not exceeding one month or upon piece-work basis, wage shall be paid at least once a month, except where otherwise agreed for the benefit of the employees;
- (2) in the case where wage is calculated by another means other than (1), wage shall be paid at the time agreed upon by the employer and employee;
- (3) holiday pay shall be paid at least once a month.

Clause 9. In the case where the employer pay wage and holiday pay in default, the employer shall pay interest to the employee during such default at the rate fifteen per cent per annum.

If the payment in default of the employer under paragraph one has been made intentionally and unreasonably, the employer shall, after the expiration of

seven days as from the due date of payment, pay surcharge to the employees at the rate fifteen per cent per annum of the unpaid amount every seven days.

If the employer is ready to pay money under paragraph one and paragraph two and deposits such money to the labor inspector of the locality where the employment contract has been made or where the employer has domicile so as to be paid to the employee, the liability to pay interest or surcharge upon the unpaid amount shall cease from the date of deposit.

Clause 10. The employer shall arrange in advance the paid annual holiday for the employee at least thirty days a year.

If the employer demand the employee to do work on the paid annual holiday under paragraph one, the employer shall pay addition holiday pay at least one time to the employee for the wage calculated upon period of time basis.

Clause 11. The employee shall have the right to take sick leave as long as he or she is actually sick. The employer shall pay wage to the employee through the period of such leave, but not exceeding thirty working days.

Clause 12. In the case where the employee has been left abroad on account of work done for the employer, the employer shall pay money to the employee for not less than fifty per cent of the wage calculated upon period of time basis through the period of time which the employee is unable to work.

The provisions of paragraph one shall not apply if written notice thereon has been made by the employer to the responsible government agency within sixty days as from the date the employee has been left abroad and the employer has represented that the employer shall take the employee back to his or her domicile and shall be responsible for the return cost of the employee.

Clause 13. The employer shall manage or pay all costs incurred in sending the employee to his or her domicile in the following cases:

- (1) the boat has sunk or is completely unable to use;
- (2) the employee is in danger or has got sick on account of working;
- (3) the employer terminates the employment contract before term or changes working conditions without consent of the employee;
- (4) the employment contract comes to an end during the time the employee is working in the place other than the place where the employment contract was executed.

Given on the 14th Day of September B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

Unofficial translation

MINISTERIAL REGULATION
No. 11 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)¹²

By virtue of section 6 and section 22 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

Clause 1. The protection of labor in loading or unloading of goods on sea-going vessel other than protection measures as prescribed by this Ministerial Regulation shall be in accordance with an agreement as agreed upon by the employer and employees, except the provisions of section 7 to section 21 of Chapter I General Provisions, section 27, section 28, section 29, section 30, section 32, section 33, section 34, section 35, section 36 and section 37 of Chapter II General Employment, section 39 to section 43 of Chapter III Female Labor Employment, section 45 to section 52 of Chapter IV Child Labor Employment, section 53, section 54, section 55, section 56, section 57, section 58, section 59, section 60, section 67, section 71, section 76 and section 77 of Chapter V Wage, Overtime Pay, Holiday Pay and Holiday Overtime Pay, section 116 to section 117 of Chapter X Suspension from Work, section 118 to section 122 of Chapter XI Severance Pay, section 123 to section 125 of Chapter XII Submitting and Considering of Request, section 134 and section 135 of Chapter XIII The Employee Welfare Fund, section 139 to section 142 of Chapter XIV Labor Inspector, and section 143 of Chapter XV Contact which the employer and employee shall act in compliance with the Labor Protection Act, B.E. 2541.

Clause 2. In this Ministerial Regulation:

“Loading or unloading of goods on sea-going vessel” means;

(1) to bundle, separate, line-up or move goods on a sea-going vessel, to give signal for the safety in moving of goods to the designated destination, to control a crane or winch, including the cleaning of hold of a sea-going vessel before or after loading or unloading;

(2) to do any act which is a supplementary or relevant service to loading or unloading of goods on a sea-going vessel or other acts as notified by the Director-General;

“Employer” includes an entrepreneur of undertaking on loading or unloading of goods on sea-going vessel who agrees to accept the employee to do work in response of wage;

“Rang” means working period on the normal working day and holiday as notified by the Director-General for the work on loading or unloading of goods on a sea-going vessel with regards to an agreement between the employer and employee according to custom.

¹²Published in the Government Gazette, Vol. 115, Part 62a, page 27, dated 22nd September B.E. 2541

Clause 3. The determination of normal working period and the commencement and the end thereof on each working day shall be notified by the Director-General.

Clause 4. No employer shall accept a child less than eighteen years of age to do work on loading or unloading of goods on a sea-going vessel. The employer may accept a child over sixteen years of age to do work on cleaning a sea-going vessel, bundling, separating, lining-up or other works as notified by the Director-General.

Clause 5. The employer shall pay wage to the employee upon an amount of *rang* in accordance with the rule as notified by the Director-General. The lump sum payment is not allowed.

Clause 6. In the case where the employer fails to arrange the employee to take a leave or arranges the employee to leave less than the provisions of section 28, section 29 and section 30, the employer shall pay wage to the employee at the rate as notified by the Director-General.

Clause 7. The employer shall provide nutritious and sufficient meals to the working employee. In failing to do so, the employer shall pay money in lieu thereof at least one-fifth time of the wage to be paid per *rang* for each meal to each employee.

Clause 8. In the case where the employer takes the employee to do work outside the normal work place, the employer shall provide round trip transportation to the employee. In failing to do so, the employer shall pay actual and necessary transportation fee to the employee.

Clause 9. The employer shall provide utensils or equipments for work safety and determine work safety measures in accordance with the safety standard and rules as notified by the Minister.

The employee shall use utensils or equipments for work safety and shall act in compliance with the safety measures as provided or determined by the employer under paragraph one.

Clause 10. In the case where the labor inspector found that any employer violates, or fails to comply with the safety standard and rules as notified by the Minister under clause 9, the labor inspector shall have the power to make written order requesting the employer to improve working condition, building or place or make or revise the machine or equipment to be used by the employee in, or related to, working to meet suitable condition within the specified period.

Clause 11. In the case where the labor inspector found that working condition, building, place, machine or equipment to be used by the employee may be unsafe to the employee or the employer has failed to comply with the order of the labor inspector under clause 10, the labor inspector shall, upon approval of the Director-General or a person entrusted by the Director-General, have the power to order the employer to suspend the using of such machine or equipment, wholly or partly, temporarily.

The employer shall pay money to the employee who has to stop working upon an order of the labor inspector under paragraph one in an amount equal to wage to be

paid on the working day through the period the work has stopped until the employer acts in compliance with the order of the labor inspector.

Clause 12. The order of the labor inspector under clause 10 or clause 11 may be appealed to the Committee on Work Safety, Hygiene and Environment under section 100 within thirty days as from the date of acknowledgement of such order. The decision of the Committee shall be final.

An appeal made under paragraph one shall not suspend the execution under the order of the labor inspector, except where otherwise ordered by the Committee on Work Safety, Hygiene and Environment.

Clause 13. The employer shall, upon the employer's expenses, provide the employee a medical examination by first class physician at least once a year.

In the case where the nature or condition of work may cause any illness to the employee or may be harmful to the health of the employee, the employee shall be entitled to specific medical examination for such illness or danger.

The employer shall keep the medical examination record at his or her work place at least two years as from the date the employment of each employer is terminated. In the case where there is a lawsuit related to any illness or danger to health of the employee, the employer shall keep the medical examination record until the final order or judgment has been given.

Clause 14. In the case where the employee is working for any entrepreneur or in the work place of any entrepreneur, it shall be deemed that such entrepreneur or owner of such place is the employer of such employee.

Clause 15. The employer shall prepare the document related to wage payment with, at least, the particulars as follows:

- (1) working days and working period;
- (2) number of a piece of work done by the employee who agrees to receive wage upon piece-work basis;
- (3) rate and amount of wage received by each employee.

The employer shall, upon payment of wages, arrange the employee to sign the document under paragraph one so as to be the evidence of payment.

In the case where the employer transfer money to deposit account the employee has opened at a commercial bank or other financial institutions, the transferring evidence shall be deemed as the document related to wage payment. In this case, the employer is not required to arrange the employee to sign that document under paragraph two.

In the case where there is a payment of meals under clause 7 or transportation fee under clause 8, the employer shall act in compliance with paragraph two *mutatis mutandis*.

Clause 16. The employer shall keep the document related to wage payment, payment of meals under clause 7 and transportation fee under clause 8 for not less than two years as from the date of payment.

In the case where the request has been submitted under Chapter XII or there is a labor dispute under the law on labor relation or there is a labor case in the Court, the employer shall keep the document related to wage payment until the final order of judgment on such matter has been given.

Clause 17. The notification of the Minister under clause 9 and the notification of the Director-General under clause 2, clause 3, clause 4, clause 5 and clause 6 shall come into force from the date of its publication in the Government Gazette.

Given on the 14th Day of September B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

Unofficial translation

MINISTERIAL REGULATION
No. 12 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)¹³

By virtue of section 6 and section 22 of the Labor Protection Act, B.E. 2541, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

Clause 1. In this Ministerial Regulation:

“Land transportation work” means the carriage or move of person, animal or thing on land by vehicle operated by an engine, electricity or other energies, but not including the move of ill person or animal and transportation in fire-fighting or public disaster relief.

Clause 2. The employer shall determine the commencement and the end of the normal working period of the employee in land transportation work for not more than eight hours a day.

Clause 3. No employer shall demand the employee having duty to drive or control vehicle to do overtime work, except where consent of the employee has been given.

In the case where the consent of the employee has been given under paragraph one, the employer may demand the employee to do overtime work for not more than two hours a day, except the necessity cases due to *force majeure*, accident or traffic problem.

Clause 4. The employer shall, after the employee whose duty is to drive or control vehicle has worked for not more than four hours, provide such employee a rest period for not less than one consecutive hour a day.

The employer and employee under paragraph one may agree to set a rest period less than one hour each time, but is shall not less than twenty minutes. In this case, the total rest period shall not less than one hour a day.

Clause 5. No employer shall demand the employee whose duty is to drive or control vehicle to commence his or her work on the following working day before the completion of ten hours after the end of work on the previous working day.

¹³Published in the Government Gazette, Vol. 115, Part 62a, page 32, dated 22nd September B.E. 2541

Clause 6. In the case where the employer demand the employee in land transportation work to do overtime work on both working day and holiday, the employer shall pay remuneration to the employee equal to the hourly wage rate to be paid on the working day through the overtime period, except where the employer agrees to pay the overtime pay or holiday overtime pay to the employee.

Given on the 14th Day of September B.E. 2541

Trairong Suwannakhiri
Minister of Labor and Social Welfare

Unofficial translation

MINISTERIAL REGULATION
No. 13 (B.E. 2541)
Issued under the Labor Protection Act, B.E. 2541 (1998)¹⁴

By virtue of section 6 and section 22 of the Labor Protection Act, B.E. 2541 which contains certain provisions in relation to the restriction of right and liberty of person, in respect of which section 29 in conjunction with section 31, section 35, section 48 and section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of law, the Minister of Labor and Social Welfare hereby issues the Ministerial Regulation as follows:

Clause 1. The provisions of (1) of clause 1 of the Ministerial Regulation No. 7 (B.E. 2541) issued under the Labor Protection Act, B.E. 2541 shall be repealed and replaced by the following:

“(1) the employer and employees shall agree to set the normal working period. In this case, the commencement and the end of the working period shall be determined, but shall not exceed twelve hours a day and forty-eight hours a week;”

Clause 2. The provisions of paragraph two of clause 2 of the Ministerial Regulation No. 7 (B.E. 2541) issued under the Labor Protection Act, B.E. 2541 shall be repealed and replaced by the following:

“If the employer and employee agree to set the normal working period exceeding eight hours a day, the employer shall pay wage to the employee who is not agree to receive wage calculated upon monthly basis for eight working hours and shall pay remuneration at the rate of not less than one and a half time of hourly wage rate through the overtime hours or not less than one and a half time of the piece-work wage rate to be paid on working day according to the total pieces of work done through the overtime hours for the employee who agrees to receive wage calculated upon piece-work basis. In the case of working on holiday, the employer shall pay holiday pay to the employee for eight working hours and shall pay remuneration of not less than three times of hourly wage rate through the overtime hours or not less than three times of the piece-work wage rate to be paid on the working day according to the total piece of work done through the overtime hours.”

Given on the 27th Day of January B.E. 2541

Jongchai Thiengtham
 Deputy Minister Acting for
 Minister of Labor and Social Welfare

¹⁴Published in the Government Gazette, Vol. 117, Part 7a, page 4, dated 7th February B.E. 2541