



Labour Protection Act B.E. 2541 (1998)

DLPW. No. 44/2547

**Legal Affairs Division
Department of Labour
Protection and Welfare**

PREFACE

Affirming the intention to jointly promote sound labour policies and practices and Decent Work as defined by the International Labour Organization (ILO), Thailand have desired to reinforce their growing economic and social relationship would be reflected in the international plan. The labour is one among various issues needed to achieve the favorable labour conditions for sustainable development in the high standards.

This Labour Protection Act B.E. 2541 (1998) where the fundamental rights at work of labour are provided is kindly trusted to be a supportive document inwhich the better understanding in our labour legal system will be found therefore.



(Surin Chiravisit)

Department of Labour Protection and Welfare
Ministry of Labour

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LABOUR PROTECTION ACT B.E. 2541

BHUMIBOL ADULYADEJ REX.

Given on this 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 labour protection;

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

Section 1. This Act shall be cited as the "Labour Protection Act B.E. 2541".

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

Section 3. The following shall be repealed:

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

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

Any other laws, rules and regulations in so far as they are prescribed in this Act, or are contrary to or inconsistent with any provisions of this Act, shall be replaced by this Act.

Section 4. This Act shall not apply to:

(1) central administration provincial administration, and local administration; and

(2) state enterprises under the law governing state enterprise labour relations.

Other than the cases as prescribed in paragraph one, Ministerial Regulations may be issued to exempt the application of this Act in part or in whole to any category of Employer.

Section 5. In this Act:

"Employer" means a person who agrees to accept an Employee for work by paying him or her Wages and includes:

(1) a person entrusted by the Employer to act on his or her behalf;

(2) where an Employer is a juristic person, a person authorised to act on behalf of the juristic person and a person entrusted by the authorised person to act on its behalf shall be included; or

(3) whereas an entrepreneur makes an arrangement, via a lump sum method of wage payment, with a person entrusted to supervise the performance of work and to be responsible for the payment of Wages to an Employee, or with a person, who is not in the employment service business, to procure Employees on behalf of the entrepreneur, and such work is a part of or the whole of production process or business

under the responsibility of the entrepreneur, then the entrepreneur shall also be deemed to be an Employer of the Employee;

“Employee” means a person who agrees to work for an Employer in return for Wages regardless of the name used;

“Hirer” means a person who agrees to hire a person to carry out any work, in whole or in part, for his or her own interest and to pay remuneration in return for the result of the work;

“First Contractor” means a person who agrees to carry out any work, in whole or in part, to fulfil the interests of the Hirer;

“Sub-contractor” means a person who enters into a contract with the First Contractor to carry out any work, in whole or in part, under the responsibility of the First Contractor for the interest of the Hirer, and includes a person who enters into a contract with the Sub-contractor to undertake sub-contracted work under the responsibility of the Sub-contractor, irrespective of the number of the sub-contracting;

“Contract of Employment” means a contract, whether written or oral, expressed or implied, whereby a person called an Employee agrees to work for a person called an Employer, and the Employer agrees to pay Wages for the duration of the work;

“Working Day” means a day scheduled for an Employee to work regularly.

“Holiday” means a day scheduled for an Employee to take a weekly holiday, traditional holiday or annual holiday;

“Leave” means a day on which an Employee takes sick leave, leave for sterilisation, leave for necessary business, leave for military

service, leave for training or knowledge and skill development or maternity leave;

“Wages” means money agreed between an Employer and an Employee to be paid in return for work done under a Contract of Employment for regular working periods on an hourly, daily, weekly, monthly, or other period of time basis, or on the basis of piecework done during the normal working time of a Working Day and includes money to be paid by an Employer to an Employee on Holiday and on Leave during which the Employee does not work but is entitled to the money under this Act;

“Wages of a Working Day” means Wages paid for working fully during normal working time;

“Minimum Wage Rate” means the minimum rate of Wages determined by the Wages Committee under this Act;

“Basic Minimum Wage Rate” means the rate of Wages determined by the Wages Committee to be the basis for determining the Minimum Wage Rate;

“Overtime Work” means working beyond or in excess of the normal working time or exceeding the daily working hours agreed by an Employer and an Employee under Section 23, on a Working Day or Holiday, as the case may be;

“Overtime Pay” means money paid to an Employee by an Employer in return for working overtime on a Working Day;

“Holiday Pay” means money paid to an Employee by an Employer in return for working on a Holiday;

“Holiday Overtime Pay” means money paid to an Employee by an Employer in return for working overtime on a Holiday;

“Severance Pay” means money paid to an Employee by an Employer upon termination of employment, in addition to any other kind of money agreed by the Employer to pay to the Employee;

“Special Severance Pay” means money paid to an Employee by an Employer upon the expiry of the Contract of Employment due to a special event as prescribed under this Act;

“Contributions” means money paid by an Employee to the Employee Welfare Fund;

“Supplementary Contributions” means money paid by an Employer as a supplement to the Employee Welfare Fund in favour of an Employee;

“Labour Inspector” means a person appointed by the Minister for the execution of this Act;

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

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

Section 6. The Minister of Labour and Social Welfare shall have charge and control of this Act and have the power to appoint Labour Inspectors and to issue the Ministerial Regulations and Notifications for the execution of this Act.

In appointing the Labour Inspector, the scope of powers and duties and conditions on the performance of the Labour Inspector may also be prescribed.

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

Chapter 1

General Provisions

Section 7. A claim for or the acquisition of a right or benefit under this Act shall not deprive an Employee of a right or benefit to which he or she is otherwise entitled under other laws.

Section 8. The Minister shall have the power to appoint a competent official whose qualification is not lower than a Bachelor's degree in law to have the power to institute a prosecution or defend a labour suit for an Employee or a statutory heir of a deceased Employee, and, upon notification to the court by the Minister of Labour and Social Welfare, to have the power to continue any proceedings to their completion.

Section 9. Whereas an Employer fails to pay back a deposit under Section 10 paragraph two, or fails to pay Wages, Overtime Pay, Holiday Pay or Holiday Overtime Pay within the period prescribed under Section 70, Severance Pay under Section 118, or Special Severance Pay under Section 120, Section 121 and Section 122, the Employer shall pay interest to the Employee at a rate of fifteen percent per annum during the default period.

Whereas an Employer intentionally fails to pay back or make a payment under paragraph one without reasonable cause, after the lapse of seven days from the due date of restitution or payment, the Employer shall pay to the Employee additional fifteen per cent of the amount due every for even days that the amount remains outstanding.

Whereas an Employer is ready to return or to pay the money under paragraph one and paragraph two and remits the money to the Director-General or to a person entrusted by the Director-General in order to pay to the Employee, the Employer shall not pay any interest or additional money as from the date of remission of such money.

Section 10. Under Section 51 paragraph two, an Employer shall not demand or accept a deposit for employment or damage of work from an Employee, except for work where the Employee is required to be responsible for money or property of the Employer, which may cause damage to the Employer. The description or nature of work of which an Employer is allowed to demand or accept a deposit from an Employee, as well as the amount of money and the means of keeping, shall be in accordance with the rules and procedures prescribed by the Minister.

Whereas an Employer demands or accepts a deposit or makes a guaranteed contract with an Employee to compensate for damage done by the Employee, upon the termination of employment by the Employer or the resignation by the Employee or the expiry of the guaranteed contract, the Employer shall pay back the deposit thereof plus interest, if any, to the Employee within seven days from the date of the termination of employment by the Employer or the resignation by the Employee or the expiry of the guaranteed contract, as the case may be.

Section 11. The occurrence of debt as a result of a failure of an Employer to pay Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay, Severance Pay, Special Severance Pay, Contributions, Supplementary Contributions or additional money to an Employee or to the Department of Labour Protection and Welfare, as the case may be, shall have a preferential right on all property of the indebted Employer at the same rank as the preferential right in taxes and duties under the Civil and Commercial Code.

Section 12. Whereas an Employer is a Sub-contractor, all the Sub-contractors before him, if any, including the First Contractor, shall be jointly liable with the Sub-contractor who is the Employer for payment of Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay, Severance Pay, Special Severance Pay, Contributions, Supplementary Contributions or additional money.

The First Contractor or Sub-contractors 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. Whereas there is a change of Employer in any a business due to a transfer, inheritance, or in any other cases, or whereas an Employer is a juristic person and a change, transfer or merger with another juristic person is registered, all rights due to an Employee from the previous Employer shall continue to be due to the Employee, and the new Employer shall assume all rights and duties relating to such Employee.

Section 14. An Employer shall treat an Employee properly in accordance with the rights and duties prescribed under the Civil and Commercial Code unless otherwise prescribed in this Act.

Section 15. An Employer shall treat male and female Employees equally in employment unless the description or nature of work prevents such treatment.

Section 16. An Employer or a person who is a chief, supervisor, or inspector shall be prohibited from performing an act of sexual harassment against an Employee who is a woman or a child.

Section 17. A Contract of Employment shall expire upon the completion of the period specified in the Contract of Employment without the need to give advance notice.

Whereas no definite period is specified in the Contract of Employment, an Employer or an Employee may terminate the contract by giving advance notice in writing to the other party before or at the date a wage payment falls due in order to take effect on the following date a wage payment falls due, but advance notice of more than three months is not required.

Whereas an Employer terminates a Contract of Employment, if the Employer fails to state any reasons for termination in the notice of termination of the Contract of Employment, the Employer shall not subsequently cite a cause under Section 119.

Upon termination of the Contract of Employment under paragraph two, the Employer may pay Wages, at the amount to be paid, up to the due time of termination specified in the notice and dismiss the

Employee immediately. The payment of Wages under this paragraph shall be deemed as remuneration paid to the Employee under Section 582 of the Civil and Commercial Code.

Advance notice 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. Where this Act prescribes that an Employer is required to notify any act to a Labour Inspector, the Employer shall notify the Labour Inspector in person, by mail or by facsimile, as the case may be, at the place specified by the Director-General.

Section 19. For the purpose of calculating the period of employment of an Employee under this Act, Holidays, Leave, days off permitted by the Employer for the benefit of the Employee, and days off ordered by the Employer for the benefit of the Employer shall also be counted in the period of employment of the Employee.

Section 20. Whereas an Employee has not worked continuously on account of an intention of the Employer to deprive such Employee of any right under this Act, irrespective of which duty assigned by the Employer to the Employee and of how lengthy a lapse between each period of employment is, each period of employment shall be counted together for the purpose of the acquisition of any right by such Employee.

Section 21. Whereas this Act requires that an Employer is required to carry out any act for which expenses are incurred, the Employer shall bear all expenses for such act.

Section 22. Agriculture, sea fishing, loading or unloading of marine cargoes, home work, transport work and other work as provided in the Royal Decree may be prescribed in the Ministerial Regulations for the protection of labour differently from the protection under this Act.

Chapter 2

Employment of Labour in General

Section 23. An Employer shall notify Employees of the normal working time whereby the commencing and ending time of work for an Employee in each day and does not exceed the working time for each type of work as prescribed in the Ministerial Regulations the working time shall not exceed eight hours per day and the total working time per week shall not exceed forty-eight hours. Where the work may be hazardous to the health and safety of the Employee as prescribed in the Ministerial Regulations, the normal working time shall not exceed seven hours per day and the total working time per week shall not exceed forty-two hours.

Whereas an Employer is unable to specify the commencing and ending time of work in each day due to the description or nature of the work, the Employer and Employees shall agree to specify the working hours not exceeding eight hours per day in each day and the total working time per week shall not exceed forty-eight hours.

Section 24. An Employer shall not require an Employee to work overtime on a Working Day unless the Employee's prior consent is obtained on each occasion.

Whereas the description or nature of work requires it to be performed continuously and stoppage may cause damage to the work, or it is emergency work, or other work as prescribed in the Ministerial Regulations, an Employer may require an Employee to work overtime as necessary.

Section 25. An Employer shall not require an Employee to work on a Holiday unless the description or nature of work requires it to be performed continuously and stoppage may cause damage to the work, or it is emergency work. In that case, an Employer may require an Employee to work on a Holiday as necessary.

An Employer may require an Employee to work on a Holiday in a hotel business, an entertainment establishment, transport work, a food shop, a beverage shop, a club, an association, a medical establishment or any other businesses as prescribed in the Ministerial Regulations.

For the purposes of production, sale and service, an Employer may require an Employee to work on a Holiday as necessary, other than as prescribed under paragraph one and paragraph two, provided that the Employee's prior consent is obtained on each occasion.

Section 26. The hours of Overtime Work under Section 24 paragraph one and the hours of Holiday work under Section 25 paragraph two and paragraph three in total shall not together exceed the numbers of hours prescribed in the Ministerial Regulations.

Sections 27. On a Working Day, an Employer shall arrange a rest period during work for an Employee of not less than one hour per day after the Employee has been working for not more than five consecutive hours. An Employer and Employee may agree in advance that each rest period may be less than one hour but the total rest period per day shall not be less than one hour.

Whereas an Employer and Employee agree to specify rest periods during work other than paragraph one, the agreement shall be applicable only if it is more favourable to the Employee.

A rest period during work shall not be counted as working time except where the total rest period is more than two hours per day, where the amount of time exceeding two hours shall be counted as normal working time.

Whereas any Overtime Work after normal working time is more than two hours, the Employer shall arrange for the Employee to take a rest period of not less than twenty minutes before the Employee commences the Overtime Work.

The provisions in paragraph one and paragraph four shall not apply where an Employee is required to do work of a continuous nature or character with the consent of the Employee, or in case of the emergency work.

Section 28. An Employer shall provide a weekly holiday of not less than one day per week for an Employee, and the interval between weekly holidays shall be not more than six days the Employer and the Employee may agree in advance to fix any day as a weekly holiday.

Whereas an Employee performs work in a hotel business, transport work, work in a forest, work in a location lacking basic facilities, or any other work as prescribed in the Ministerial Regulations, the Employer and the Employee may agree in advance to accumulate and postpone weekly holidays to be taken at any time, but they must be taken within a period of four consecutive weeks.

Section 29. An Employer shall announce not less than thirteen traditional holidays per year in advance for Employees, including National Labour Day as specified by the Minister.

The Employer shall fix the traditional holidays according to the annual official holidays, religious or local traditional holidays.

If a traditional holiday falls on a weekly holiday of an Employee, the Employee shall take a day off to substitute for the traditional holiday on the following Working Day.

Whereas an Employer does not provide a traditional holiday to an Employee because the Employee performs work of such description or nature as prescribed in the Ministerial Regulations, the Employer shall make an agreement with the Employee to take another day off to substitute for the traditional holidays or the Employer shall pay Holidays Pay to the Employee.

Section 30. An Employee who has worked for an uninterrupted period of one year, is entitled to annual Holidays of not less than six Working Days in one year, and the Employer is obliged to fix the Holiday in advance for the Employee or as agreed by the Employer and Employee.

In the following year, the Employer may fix annual Holidays for the Employee of more than six Working Days.

The Employer and the Employee may agree in advance to accumulate and postpone any annual Holiday that has not yet been taken in a year to be included in the following years.

For the Employee who has not completed one year of service, the Employer may set annual Holidays for the Employee on a pro rata basis.

Section 31. An Employer shall not require an Employee to perform work overtime or on which may be hazardous to the health and safety of the Employee under Section 23 paragraph one on overtime or a holiday.

Section 32. An Employee is entitled to sick leave as long as he or she is actually sick. For sick leave of three days or more, the Employer may require the Employee to produce a certificate from a first class physician or an official medical establishment. If the Employee is unable to produce a certificate from a first class physician or an official medical establishment, the Employee shall give an explanation to the Employer.

If a physician is provided by the Employer, this physician shall issue the certificate except where the Employee is unable to be examined by the physician.

A day on which an Employee is unable to work on account of injury or illness arising out of employment or on maternity leave under Section 41 shall not be regarded as sick leave under this Section.

Section 33. An Employee shall be entitled to leave for sterilisation and leave as a result of sterilisation for a period determined, and with a certificate issued by a first class physician.

Section 34. An Employee shall be entitled to leave for necessary business in accordance with the work rule of his or her workplace.

Section 35. An Employee shall be entitled to leave for military service for inspection, military drilling or for readiness testing under the law concerning military service.

Section 36. An Employee shall be entitled to take leave for training or the development of his or her knowledge and skills in accordance with the rules and procedures prescribed in the Ministerial Regulations.

Section 37. An Employer shall not require an Employee to lift, carry on his or her shoulders, carry on his or her head, pull or push loads in excess of the weights prescribed in the Ministerial Regulations.

Chapter 3

Employment of Women

Section 38. An Employer shall not require a female Employee to do any of the following work:

(1) mining or construction work to be performed underground, underwater, in a cave, or in a tunnel or mountain shaft, except where the nature of the work is not hazardous to the health and safety of

the Employee;

(2) work which must be done on scaffolding ten metres or more above the ground;

(3) producing or transporting explosive or inflammable material;

or

(4) other work as prescribed in the Ministerial Regulations.

Section 39. An Employer shall not require a female Employee who is pregnant to work between 22.00 hours and 6.00 hours, to work overtime, to work on a Holiday, or to perform any of the following work:

(1) work involving vibrating machinery or engines;

(2) driving or going on vehicle;

(3) lifting, carrying on her shoulders, carrying on her head, pulling or pushing loads in excess of fifteen kilograms;

(4) working in a boat; or

(5) other work as prescribed in the Ministerial Regulations.

Section 40. Whereas an Employer requires a female Employee to work between 24.00 hours and 6.00 hours and the Labour Inspector is of the opinion that the work may be hazardous to her health and safety, the Labour Inspector shall report it to the Director-General or a person entrusted by the Director-General for consideration, and shall order the Employer to change or reduce the female Employee's working hours, as inspector deems appropriate, and the Employer shall comply with such order.

Section 41. A female Employee who is pregnant shall be entitled to maternity leave of not more than ninety days for each pregnancy.

Any Leave taken under paragraph one shall include Holidays during the period of Leave.

Section 42. Whereas a female Employee who is pregnant presents a certificate from a first class physician certifying that she is unable to continue in her previous duties, the Employee shall be entitled to request the Employer to temporarily change her duties before or after delivery, and the Employer shall consider changing her duties to suitable work for such an Employee.

Section 43. An Employer shall not terminate the employment of a female Employee on the grounds of her pregnancy.

Chapter 4

Employment of Young Workers

Section 44. An Employer shall not employ a child under fifteen years of age as an Employee.

Section 45. In the case of employment of a young worker under eighteen years of age, the Employer shall comply with the following:

(1) notify a Labour Inspector regarding the employment of a young worker within fifteen days of the young worker commencing work;

(2) prepare a record of employment conditions in case of a change, taken place to be kept at the place of business or at the office of

the Employer available for inspection by a Labour Inspector during working hours; and

(3) notify the Labour Inspector regarding the termination of employment of a young worker within seven days from the date of young worker being dismissed.

The notification or the record under paragraph one shall be in accordance with the forms prescribed by the Director-General.

Section 46. An Employer shall provide a rest period for a young worker of not less than one consecutive hour after the Employee has worked for not more than four hours; and during the period of such four hours, the young worker shall have rest periods as fixed by the Employer.

Section 47. An Employer shall not require a young worker under eighteen years of age to work between 22.00 hours and 6.00 hours unless written permission is granted by the Director-General or a person entrusted by the Director-General.

The Employer may require a young worker under eighteen years of age who is a performer in film, theatre or other similar acts to work during such hours; provided that the Employer shall provide the young worker with proper rest periods.

Section 48. An Employer shall not require a young worker under eighteen years of age to work overtime or to work on a Holiday.

Section 49. An Employer shall not require a young worker under eighteen years of age to perform any of the following work:

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

(2) metal pressing;

(3) work involving heat, cold, vibration, noise and light of an abnormal level which may be hazardous as prescribed in the Ministerial Regulations;

(4) work involving hazardous chemical substances as prescribed in the Ministerial Regulations;

(5) work involving poisonous microorganisms which may be a virus, bacterium, fungus, or any other germs as prescribed in the Ministerial Regulations;

(6) work involving poisonous substances, explosive or inflammable material, other than work in a fuel service station as prescribed in the Ministerial Regulations;

(7) driving or controlling a forklift or a crane as prescribed in the Ministerial Regulations;

(8) work using an electric or motor saw;

(9) work that must be done underground, underwater, in a cave, tunnel or mountain shaft;

(10) work involving radioactivity as prescribed in the Ministerial Regulations;

(11) cleaning of machinery or engines while in operation;

(12) work which must be done on scaffolding ten metres or more above the ground; or

(13) other work as prescribed in the Ministerial Regulations.

Section 50. An Employer shall not require a young worker under eighteen years of age to work in the following places:

(1) a slaughterhouse;

- (2) a gambling place;
- (3) a place of dancing, Ramwong or Rong Ngeng;
- (4) a place of selling and serving food, liquor, tea or other beverage with a pleasing person to treat customers, or with a place for relaxing, or a massage service for customers; or
- (5) other places as prescribed in the Ministerial Regulations.

Section 51. An Employer shall not pay the Wages of a young worker to any other.

An Employer shall not demand or accept a deposit for any purposes from a young worker .

Whereas an Employer, a young worker , or the parent or guardian of a young worker has paid or received money or any other benefit in advance of employment, at the time of employment or before each period of payment to the young worker , that payment shall not be deemed to be the payment or receipt of Wages for the young worker and the Employer shall not deduct such money or benefits against Wages which are payable to the young worker at the specified time.

Section 52. For the purpose of the development and promotion of the quality of life and employment of young people, a young worker under eighteen years of age shall be entitled to take Leave for attending meetings or seminars, obtaining education or training; or Leave for another matter, which is arranged by an academic institute, or a government or private agency approved by the Director-General; provided that the young worker shall notify the Employer in advance stating clearly the reason for the Leave and presenting relevant evidence,

if any; and the Employer shall pay Wages to the young worker equivalent to the Wages of a Working Day throughout the period of Leave, but not exceeding thirty days per year.

Chapter 5

Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay

Section 53. Whereas the work is of the same nature and quality and equal quantity, an Employer shall fix equal Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay to be paid to an Employee, notwithstanding that the Employee is male or female.

Section 54. An Employer shall pay Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay and other pecuniary benefits related to employment in Thai currency unless the consent of the Employee is obtained to be paid by bill or in a foreign currency.

Section 55. An Employer shall pay Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay and other pecuniary benefits related to employment to an Employee at the place of work of the Employee. If the payment is to be made elsewhere or by other means, the consent of the Employee must be obtained.

Section 56. An Employer shall pay Wages to an Employee equivalent to Wages of a Working Day for the following Holidays:

- (1) a weekly holiday, except for an Employee who receives Wages calculated on a daily, hourly or piece rate basis;
- (2) a traditional holiday; and
- (3) annual Holidays.

Section 57. An Employer shall pay Wages to an Employee for sick leave under Section 32 equivalent to Wages of a Working Day throughout the Leave period, but not exceeding thirty Working Days per year.

Whereas an Employee takes Leave for sterilisation under Section 33, the Employer shall pay Wages to the Employee for such Leave.

Section 58. An Employer shall pay Wages to an Employee for military service leave under Section 35 equivalent to Wages of a Working Day throughout the Leave period, but not exceeding sixty days per year.

Section 59. An Employer shall pay Wages to a female Employee for maternity leave equivalent to Wages of a Working Day throughout the Leave period, but not exceeding forty five days per year.

Section 60. For the purposes of wage payment under Section 56, Section 57, Section 58, Section 59, Section 71 and Section 72, whereas an Employee receives Wages calculated on a piece rate basis, the Employer shall pay Wages for Holiday or Leave equivalent to the average Wages of Working Day received by the Employee during the period of payment before such Holiday or Leave.

Section 61. Whereas an Employer requires an Employee to work overtime on a Working Day, the Employer shall pay Overtime Pay to the Employee at a rate of not less than one and a half times of the hourly wage rate of a Working Day for the number of hours of work done, or, where an Employee receives Wages on a piece rate basis, not less than

one and a half times of the piece rate of Wages of a Working Day for work done.

Section 62. Whereas an Employer requires an Employee to work on a Holiday under Section 28, Section 29 or Section 30, the Employer shall pay Holiday Pay to the Employee at the following rates:

(1) for an Employee who is entitled to Wages on Holidays, the payment shall be made in addition to Wages at a rate at least equal to the hourly wage rate of a Working Day for the number of hours of work done, or, where an Employee receives Wages on a piece rate basis, of not less than onetime of the piece rate of Wages of a Working Day for work done; or

(2) for an Employee who is not entitled to Wages on Holidays, the payment shall be made at not less than two times of the hourly wage rate of a Working Day for the number of hours of work done, or, where an Employee receives Wages on a piece rate basis, at not less than two times of the piece rate of Wages of a Working Day for work done.

Section 63. Whereas an Employer requires an Employee to work overtime on a Holiday, the Employer shall pay Holiday Overtime Pay to the Employee at the rate of not less than three times of the hourly wage rate of a Working Day for the number of hours of work done, or, where an Employee receives Wages on a piece rate basis, at not less than three times of the piece rate of Wages of a Working Day for work done.

Section 64. Whereas an Employer fails to provide a Holiday for an Employee or provides less than that prescribed under Section 28, Section 29 and Section 30, the Employer shall pay Holiday Pay to the

Employee and Holiday Overtime Pay according to the rates prescribed under Section 62 and Section 63 as if the employer is assigned to work on the Holiday.

Section 65. An Employee who is authorised or assigned by an Employer to perform any of the following work shall not be entitled to Overtime Pay under Section 61 and Holiday Overtime Pay under Section 63, but an Employee required by the Employer to perform work according to (2), (3), (4), (5), (6), (7), or (8) below shall be entitled to receive remuneration in money equivalent to the hourly wage rate of a Working Day for the number of hours of work done:

(1) an Employee who is authorised to act on behalf of the Employer in regard to the employment, granting of gratuities, reduction of Wages, or termination of employment;

(2) railway service operation, ie. work done on a railway carriage and work facilitated for railway transportation;

(3) opening or closing of watergates or spillways;

(4) recording of water levels and measuring quantities of water;

(5) fire fighting or public disaster prevention;

(6) work which by its nature or conditions has to be done outside of premises and where the definite working time may not be fixed;

(7) guarding or caretaking of premises or property which is not a regular duty of an Employee; or

(8) other work as prescribed in the Ministerial Regulations, unless the Employer agrees to pay Overtime Pay or Holiday Overtime Pay to the Employee.

Section 66. An Employee under Section 65(1) shall not be entitled to Holiday Pay under Section 62, unless the Employer agrees to pay Holiday Pay to the Employee.

Section 67. Whereas an Employer terminates the employment of an Employee who does not under Section 119, the Employer shall pay Wages to the Employee for annual Holidays in the year of termination equal to the proportion of annual Holidays to which the Employee is entitled, including annual Holidays accumulated under Section 30.

Section 68. For the purpose of calculating Overtime Pay, Holiday Pay and Holiday Overtime Pay for an Employee who receives Wages on a monthly basis, an hourly wage rate on Working Day means the monthly Wages divided by the product of thirty and the average number of working hours on a working day.

Section 69. For the purpose of calculating the number of hours of Overtime Work, whereas an Employer fixes normal working time on a weekly basis, traditional Holidays, annual Holidays, and Leave shall be counted as Working Days.

Section 70. An Employer shall pay Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay correctly and in accordance with the following time:

(1) whereas Wages are calculated on a monthly, daily or hourly basis, on the basis of another period of not more than one month, or on a piece rate basis or payment shall be made not less than once a month, unless otherwise agreed upon in favour of the Employee;

(2) whereas Wages are calculated other than prescribed in (1), payment shall be made at a time agreed between the Employer and the Employee; and

(3) Overtime Pay, Holiday Pay and Holiday Overtime Pay shall be paid not less than once a month.

Whereas an Employer terminates the employment of an Employee, the Employer shall pay the Employee all Wages, Overtime Pay, Holiday Pay, and Holiday Overtime Pay to which the Employee is entitled within three days from the date of the Employee's termination.

Section 71. Whereas an Employer requires an Employee to travel to work on a Holiday in a locality other than the locality of the Employee's regular work, the Employer shall pay Wages equivalent to Wages on a Working Day to the Employee who is not otherwise entitled to Wages on Holiday under Section 56(1) for such travel.

Section 72. Whereas an Employer requires an Employee to travel to work in a locality other than the locality of the Employee's regular work, the Employee shall not be entitled to Overtime Pay under Section 61 and Holiday Overtime Pay under Section 63 during the travel But, where the travel is on a Holiday, the Employer shall pay Wages equivalent to Wages of a Working Day to the Employee who is not entitled to Wages on Holiday under Section 56(1), unless the Employer agrees to pay Overtime Pay or Holiday Overtime Pay to the Employee.

Section 73. The Employer shall bear all expenses for travel under Section 71 and Section 72.

Section 74. Whereas an Employer agree to pay Overtime Pay, Holiday Pay, and Holiday Overtime Pay at rates higher than those prescribed under Section 61, Section 62, and Section 63, the payment shall be paid according to such agreement.

Section 75. Whereas it is necessary for an Employer to temporarily suspend business, in part or in whole, for whatever cause other than a force majeure, the Employer shall pay to an Employee not less than fifty per cent of the Wages of a Working Day received by the Employee before the suspension of business throughout the period which the Employer does not require the Employee to work.

The Employer shall inform the Employee and a Labour Inspector in advance before the commencement of the suspension of business under paragraph one.

Section 76. An Employer shall not make any deductions from Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay except the deductions made for:

(1) payment of income tax in an amount shall be paid by an Employee or other payments provided by law;

(2) payment of labour union dues according to the regulations of a labour union;

(3) payment of debts owed to the saving cooperatives or other cooperatives of the same description, or of debts relating to beneficial to of the Employee solely, with the prior consent of the Employee;

(4) payment as a deposit under Section 10, or as compensation to the Employer for damage caused by the Employee either

willfully or with gross negligence, with the prior consent of the Employee;
or

(5) payment as Contributions under an agreement relating to a provident fund.

The deductions under (2), (3), (4), and (5) in each case shall not be made in excess of ten per cent, and in aggregate shall not exceed one in fifths of the money to which the Employee is entitled at the time of payment under Section 70, except with the prior consent of the Employee.

Section 77. Whereas an Employer is required to obtain the consent of an Employee or makes an agreement with an Employee concerning payments under Section 54, Section 55, or deductions under Section 76, the Employer shall arrange for a written consent to be signed by the Employee or an agreement to be expressly made in particular.

Chapter 6

Wage Committee

Section 78. There shall be a Wages Committee consisting of the Permanent Secretary of the Ministry of Labour and Social Welfare as chairperson, four government representatives, five representatives each from both Employers and Employees appointed by the Cabinet as members, and an official of the Ministry of Labour and Social Welfare appointed by the Minister as the secretary.

Rules and procedures for obtaining the list of the representatives of Employers and Employees under paragraph one shall be in accordance with the rules prescribed by the Minister.

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

(1) to make recommendations concerning wage policy to the Cabinet;

(2) to make recommendations to the Cabinet in order to give suggestions to the private sector on Wage determination and annual Wage adjustment.

(3) to determine the Basic Minimum Wage Rate;

(4) to determine the Minimum Wage Rate which Employees should receive suitably to the economic and social situations;

(5) to make recommendations to the Cabinet to develop the Wage system;

(6) to give technical advice and guidance on the harmonisation of interests among various organisations in the private sector;

(7) to report to the Minister, at least once a year, concerning Wage conditions and trends of Wages, including appropriate measures to be taken; and

(8) to perform other work as prescribed under this Act or any other laws to be part of the powers and duties of the Wages Committee or as assigned by the Cabinet or the Minister.

In making recommendations to the Cabinet, the Wages Committee may comment on the development of the national income system.

Section 80. A member of the Wage Committee appointed by the Cabinet shall hold office for a term of two years. A member who has vacated office may be re-appointed.

Whereas a member of the Wage Committee appointed by the Cabinet vacates office prior to the expiration of his or her term of office, the Cabinet shall appoint a member of the same party to fill the vacancy, and the appointed member shall hold office for the remaining period of the replaced member. Except when the remaining period of the term is less than one hundred and eighty days, the appointment may not be required.

Whereas a member of the Wage Committee appointed by the Cabinet retires at the expiration of his or her term of office and a new member has not been appointed, such member shall continue in office until the new member has been appointed to assume office. The appointment be completed within ninety days from the date of the former member vacating office.

Section 81. In addition to the vacation of office upon the expiration of a term under section 80, a member of the Wages Committee appointed by the Cabinet shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) dismissal by the Cabinet on account of absence from meetings on three consecutive occasions without reasonable cause;
- (4) being a declared bankrupt;
- (5) being an incompetent or quasi-incompetent person; or

(6) being imprisoned by a final judgment, except for offenses arising out of negligent acts or for petty offenses.

Section 82. At a meeting of the Wages Committee, the presence of not less than one-half of the total number of members, of whom at least one member from each of the Employer and Employee parties, shall constitute a quorum.

In a meeting to determine the Basic Minimum Wage Rate or the Minimum Wage Rate under Section 79, the presence of not less than two-thirds of the total number of members, of whom at least two members from each of the Employer and Employee parties shall constitute a quorum. The resolution of the meeting shall be by at least two-thirds majority of the members present.

In any meeting to determine the Minimum Wage Rate where the quorum has not been obtained according to paragraph two, another meeting shall be held within fifteen days from the date of the appointment for the first meeting. In the subsequent meeting, even without the presence of an Employers' or Employees' member, a quorum shall be constituted if not less than two-thirds of the total members of the Wage Committee are present. The resolution of the meeting shall be by at least two-thirds majority of the members present.

Section 83. In a meeting where the Chairperson of the Committee is not present or unable to perform his or her duty, the members present shall elect one among themselves to be the Chairperson of the meeting.

A decision of the meeting shall be by majority vote. Each member shall have one vote. In the case of a tie, the Chairperson of the meeting shall have an additional vote as a casting vote.

Section 84. The Wage Committee shall have power to appoint the following sub-committees to consider or perform a duty on behalf of the Committee:

- (1) a Minimum Wage Sub-committee;
- (2) provincial Minimum Wage Sub-committees; and
- (3) other sub-committees as deemed appropriate by the Committee.

The Wage Committee shall determine the quorum requirements and work procedures of each sub-committee as appropriate.

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

- (1) to summon in writing any person to give statements or submit documents or any objects for consideration as necessary;
- (2) to require any agencies or persons to cooperate in conducting surveys of any undertaking which may affect the economy; and
- (3) to enter a place of business or an office of an Employer during working hours for the purposes of study, survey, research, examination or inquiry of facts in order to obtain information to be used in any consideration under Section 79 For this purpose, the Employer or

concerned persons shall render facilities, submit or present documents, or provide facts and refrain from obstructing the performance of duty by such persons.

Section 86. In the performance of their duties under Section 85, the Wage Committee, sub-committees, or a person assigned by the Wage Committee or sub-committee shall produce their assigned identity card or letter of authorisation, as the case may be, to any concerned persons.

The credentials of the Wage Committee or sub-committees under paragraph one shall be in accordance with the forms prescribed by the Minister.

Section 87. To determine the Minimum Wage Rate and Basic Minimum Wage Rate, the Wages Committee shall study and consider the prevailing rate of Wages received by Employees, together with other relevant factors, particularly the cost of living index, the inflation rate, standards of living, production costs, prices of goods, capabilities of business, labour productivity, gross national product, and the economic and social situation.

The Minimum Wage Rate as prescribed may be applied to any certain types or all types of undertaking in any locality.

The Minimum Wage Rate shall not be less than the Basic Minimum Wage Rate prescribed by the Wage Committee.

Where the Minimum Wage Rate in a locality is not determined, the Basic Minimum Wage Rate shall be deemed to be the Minimum Wage Rate in such locality.

Section 88. After having studied relevant information and facts as prescribed under Section 87, the Wage Committee shall prescribe the Minimum Wage Rate and other details as deemed appropriate, to be proposed to the Minister for publishing in the Government Gazette.

Section 89. The Notification prescribing the Minimum Wage Rate under section 88 shall apply to both Employers and Employees, irrespective of nationality, religion or sex.

Section 90. Once the Notification prescribing the Minimum Wage Rate has come into force, the Employer is not allowed to pay Wages to an Employee at a rate less than the Minimum Wage Rate.

An Employer under the enforcement of the Notification prescribing the Minimum Wage Rate shall post the Notification conspicuously at the work place of Employees, throughout the period of enforcement of such Notification.

Section 91. There shall be a Wage Committee Office in the Ministry of Labour and Social Welfare and it shall have duties and powers as follows:

(1) to prepare plans and projects to be proposed to the Wage Committee and sub-committees;

(2) to coordinate plans and the performance of the Wage Committee and sub-committees, including concerned agencies;

(3) to compile, study, research, analyse and evaluate economic situations, labour living conditions, expansion of the labour market, labour productivity, investment, migration, and related information

for the purpose of consideration by the Wage Committee and sub-committees;

(4) to propose the results of study and technical information, and other supplementary measures to the Ministry of Labour and Social Welfare and concerned agencies for the development of Wages and incomes systems;

(5) to follow up and assess the implementation of resolutions of the Wages Committee; and

(6) to perform any other work as assigned by the Wages Committee or sub-committees.

Chapter 7

Welfare

Section 92. There shall be a Labour Welfare Committee consisting of the Permanent Secretary of the Ministry of Labour and Social Welfare as chairperson; four representatives from government, five representatives each from both Employers and Employees appointed by the Minister as members and an official of the Department of Labour Protection and Welfare appointed by the Minister as the secretary.

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

(1) to make recommendations to the Minister concerning policies, guidelines and measures on labour welfare;

(2) to make recommendations to the Minister on the issue of Ministerial Regulations, Notifications or Rules concerning the provision of welfare in a place of business;

(3) to give advice on the provision of labour welfare for different types of business;

(4) to monitor, and report the results of performance to the Minister; and

(5) perform any other work as prescribed under this Act or any other laws to be the powers and duties of the Labour Welfare Committee or as assigned 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 Labour Welfare Committee.

Section 95. The Minister shall have the power to issue the Ministerial Regulations requiring an Employer to provide welfare of any kind or requiring any welfare to be provided the certain kinds of in accordance with ministerial standards.

Section 96. In a place of business with fifty Employees or more, an Employer shall arrange for the establishment of a welfare committee at the place of business, comprising of at least five Employee representatives.

Members of the welfare committee at a place of business shall be elected according to the rules and procedures prescribed by the Director-General.

Whereas a place of business of an Employer has an employee committee under the law on labour relations, the employee committee shall act as the welfare committee at the place of business as prescribed under this Act.

Section 97. The welfare committee at a place of business shall have powers and duties as follows:

(1) to jointly consult with the Employer for the purpose of providing welfare to Employees;

(2) to give advice and make recommendations to the Employer regarding the provision of welfare for Employees;

(3) to inspect, control and supervise the welfare arrangements provided for Employees; and

(4) to make comments and propose guidelines on the welfare arrangements for the benefit of Employees to the Labour Welfare Committee.

Section 98. An Employer shall hold a meeting with the welfare committee at a place of business at least once every three months; or upon request with appropriate reason by more than one-half of the total number of the committee members or the labour union.

Section 99. The Employer shall conspicuously post an announcement at the work place of Employees regarding the provision of welfare in accordance with the Ministerial Regulations issued under Section 95 or in accordance with an agreement with the Employees.

Chapter 8

Occupational Safety, Health and Environment

Section 100. There shall be an Occupational Safety, Health and Environment Committee consisting the Permanent-Secretary of the Ministry of Labour and Social Welfare as chairperson, the Director-General of the Department of Labour 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, and a representative of the Pollution Control Department as members seven representatives each from Employers and Employees, appointed by the Minister as members; and an official of the Department of Labour Protection and Welfare appointed by the Minister as a member and secretary.

Section 101. The Occupational Safety, Health and Environment Committee shall have powers and duties as follows:

(1) to make recommendations to the Minister concerning policies, plans or measures on occupational safety and health and the development of working environments for Employees;

(2) to make recommendations to the Minister on the issue of Ministerial Regulations, Notifications or procedures for the execution of this Act;

(3) to make recommendations to government agencies concerning the promotion of occupational safety, health and environments for Employees; and

(4) to perform other work as prescribed under this Act or in any other laws to be the powers and duties of the Occupational Safety, Health and Environment Committee, or as assigned 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 Occupational Safety, Health and Environment Committee.

Section 103. The Minister shall have the power to issue Ministerial Regulations prescribing standards for Employers to administer and manage in the field of occupational safety, health and environments.

Whereas the Ministerial Regulations under paragraph one require the preparation of documents or reports to be certified or examined by any person in accordance with the rules and procedures, such Ministerial Regulations may prescribe rules and procedures for the registration and revocation thereof, rate of registration fees to be paid of not exceed the rate annexed hereto and as the maximum rate of service fees to be charged by such persons.

Section 104. Whereas a Labour Inspector has found that an Employer has violated or failed to comply with a Ministerial Regulation issued under Section 103, the Labour Inspector shall have the power to issue a written order to the Employer to improve the working environment, buildings or premises, or provide or fix the machinery or equipment that the Employees use in the performance of their duties or related to the performance of their duties within a specified period of time.

Section 105. Whereas a Labour Inspector has found that the working environment, buildings, premises, machinery or equipment used by Employees may be dangerous to Employees; or the Employer has failed to comply with an order of the Labour Inspector under Section 104, upon the approval of the Director-General or a person entrusted by the Director-General, the Labour Inspector shall have the power to order the Employer to temporarily stop using such machinery or equipment, in whole or in part.

If an Employer is ordered by a Labour Inspector to stop using machinery or equipment under paragraph one, the Employer shall pay money to his or her Employees, at a rate equal to the Wages of a Working Day for the period of work stoppage until the Employer takes action in compliance with the order of the Labour Inspector.

Section 106. An appeal against an order of a Labour Inspector under Section 104 or Section 105 shall be submitted to the Occupational Safety, Health and Working Environment Committee within thirty days from the date of acknowledgment of the order. The decision of the Committee shall be final.

Any appeal under paragraph one shall not relieve an Employer's obligation to take any action in compliance with an order of the Labour Inspector, except where the Occupational Safety, Health and Environment Committee orders otherwise.

Section 107. An Employer shall provide a medical examination for Employees, and submit the results thereof to a Labour Inspector in

accordance with the rules and procedures prescribed in the Ministerial Regulations.

Chapter 9

Supervision

Section 108. An Employer who employs ten or more persons shall provide the work rule in Thai and the rules shall contain at least the following details:

- (1) Working Days, normal working time and rest periods;
- (2) Holidays and rules of taking Holidays;
- (3) rules governing Overtime and Holiday Work;
- (4) the date and place of payment of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay
- (5) Leave and rules of the taking Leave;
- (6) discipline and disciplinary measures;
- (7) lodging of grievances; and
- (8) termination of employment, Severance Pay and Special Severance Pay.

The Employer shall announce the work rule within fifteen days of the date that the Employer employs ten or more persons; and the Employer shall always keep a copy of such rule at the place of business or at the Employer's office and deliver a copy of the rules to the Director-General or a person entrusted by the Director-General within seven days from the date of their announcement of application.

The Director-General or a person entrusted by the Director-General shall have the power to order an Employer to amend any work rules that are inconsistent with the law within a specified period of time.

An Employer shall distribute and affix the work rules in a prominent position in the workplace available Employees to know and read.

Section 109. The lodgment of grievances under Section 108(7) shall contain at least the following particulars:

- (1) scope and meaning of grievances;
- (2) method and steps of dealing with grievances;
- (3) investigation and consideration of grievances;
- (4) procedure for settlement of grievances; and
- (5) protection for the claimant and any involved persons.

Section 110. Whereas there is an amendment to the work rules, the Employer shall announce such amended work rules within seven days from the date of the application of the amended work rules, and Section 108 paragraph two, paragraph three and paragraph four shall apply mutatis mutandis.

Section 111. Whereas the Employer has announced the application of the work rule under Section 108, even if subsequently the number of Employees becomes less than ten persons, the Employer shall continue to comply with Section 108 and Section 110.

Section 112. An Employer who employs ten or more persons shall provide the record of Employees in Thai and shall keep such record

at the place of business or the Employer's office available for inspection by a Labour Inspector during working time.

The record of Employees under paragraph one shall be done by Employer within fifteen days from the date of employment of an Employee.

Section 113. The record of Employees shall contain at least the following particulars:

- (1) name and surname;
- (2) sex;
- (3) nationality;
- (4) date of birth or age;
- (5) present address;
- (6) date of commencement of employment;
- (7) position or duties;
- (8) rate of Wages and other benefits agreed to be given to the Employee by the Employer; and
- (9) date of termination of employment.

When a change in any item contained in the record of Employees is required, the Employer shall amend completely the record of Employees within fifteen days from the date of changing, or within fifteen days from the date that the Employee notified the Employer of the change.

Section 114. An Employer who employs ten or more persons shall provide documents relating to the payment of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay, which shall contain at least

the following particulars:

- (1) Working Days and working time;
- (2) work done by Employees who receive Wages on a piece rate basis; and
- (3) rate and amount of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay received by each Employee.

Upon the payment of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay to Employees, the Employer shall arrange for the Employees to sign the documents under paragraph one as evidence of payment.

The particulars in the documents under paragraph one may be contained in one volume or several volumes.

Whereas the Employer pays Wages, Overtime Pay, Holiday Pay or Holiday Overtime Pay to Employees by direct transfer to deposit accounts with commercial banks or other financial institutions, the document of the Employee's deposit account transferring shall be deemed to be the evidence of payment.

Section 115. An Employer shall keep the record of Employees for not less than two years from the date of termination of employment of each Employee; and the Employer shall keep the documents relating to the payment of Wages, Overtime Pay, Holiday Pay or Holiday Overtime Pay of not less than two years from the date of such payment.

Whereas there is a complaint made under Chapter 12 of this Act, or there is a labour dispute under the law on labour relations, or a lawsuit is commenced, the Employer shall retain the record of Employees and documents relating to the payment of Wages, Overtime

Pay, Holiday Pay and Holiday Overtime Pay until the order or judgement in respect of such matter has been final.

Chapter 10

Suspension from Work

Section 116. Whereas an Employee alleged to have committed an offence is under investigation by an Employer, the Employer is not allowed to order the suspension from work of the Employee during such investigation, unless the Employer is empowered by the work rules or an agreement on conditions of employment to order such. The Employer shall issue a written order of the suspension stating the offence committed and the period of suspension of not exceed seven days, and notify the Employee prior to the suspension.

During the suspension under paragraph one, the Employer shall make payments to the Employee according to the rate specified in the work rules or the agreement on conditions of employment agreed between the Employer and Employee. Such rate shall not be less than fifty per cent of the Wages of a Working Day received by the Employee prior to his or her suspension.

Section 117. Upon the completion of investigation, if it appears that the Employee is not guilty, the Employer shall pay Wages to the Employee equivalent to the Wages of a Working Day from the date of suspension. The payment made by the Employer under Section 116 shall be included as part of the Employee's Wages under this Section, plus interest at a rate of fifteen per cent per annum.

Chapter 11
Severance Pay

Section 118. An Employer shall pay Severance Pay to an Employee who is terminated as follows:

(1) if the Employee has worked for an uninterrupted period of one hundred and twenty days but less than one year, he or she shall be entitled to receive payment of not less than his or her last rate of Wages for thirty days, or of not less than his or her Wages for the last thirty days for an Employee who receives Wages on a piece rate basis;

(2) if the Employee has worked for an uninterrupted period of one year but less than three years, he or she shall be entitled to receive payment of not less than his or her last rate of Wages for ninety days, or of not less than his or her Wages for the last ninety days for an Employee who receives Wages on a piece rate basis;

(3) if the Employee has worked for an uninterrupted period of three years but less than six years, he or she shall be entitled to receive payment of not less than his or her last rate of Wages for one hundred and eighty days, or of not less than his or her Wages for the last one hundred and eighty days for an Employee who receives Wages on a piece rate basis;

(4) if the Employee has worked for an uninterrupted period of six years but less than ten years, he or she shall be entitled to receive payment of not less than his or her last rate of Wages for two hundred and forty days, or of not less than his or her Wages for the last two hundred

and forty days for an Employee who receives Wages on a piece rate basis; or

(5) if the Employee has worked for an uninterrupted period of ten years or more, he or she shall be entitled to receive payment of not less than his or her last rate of Wages for three hundred days, or of not less than his or her Wages for the last three hundred days for an Employee who receives Wages on a piece rate basis.

Termination of employment under this Section means any act where the Employer refuses to allow an Employee to work without paying Wages on expiry of Contract of Employment or any other cause, and includes where the Employee does not work and receives no Wages on the grounds that the Employer is unable to continue the undertaking.

The provisions of paragraph one of this Section shall not apply to an Employee whose employment is for a definite period and the employment is terminated at the end of that period.

Employment for a definite period under paragraph three is allowed for employment in a specific project which is not the normal business or trade of the Employer and requires a definite date to commence and end the work, or for work which is occasional with a definite ending or completion, or for work which is seasonal and the employment is made during the season. Such work shall be completed within a period not exceeding two years and the Employer shall make a written contract with the Employee at the beginning of the employment.

Section 119. The employer is not required to pay severance pay to an employee whose employment has been terminated under any of the following conditions:

(1) performing his or her duty dishonestly or intentionally committing a criminal offence against the Employer;

(2) intentionally causing damage to the Employer;

(3) causing serious damage to the Employer as a result of negligence;

(4) violating work rules or regulations or orders of the Employer which are lawful and just, and after written warning has been given by the Employer, except in a serious case where the Employer is not required to give warning.

Such written warning shall be valid for not more than one year from the date of commission of the offence by the Employee;

(5) neglecting his or her duty without justifiable reason for three consecutive Working Days regardless of whether there is Holiday in between or not; or

(6) being imprisoned by a final judgement of imprisonment with the except for offenses arising out of negligence or for petty offenses.

Section 120. Whereas an Employer relocates the place of business to another place and it significantly affects to the normal living of an Employee or his or her family, the Employer shall notify the Employee of not less than thirty days prior to the date of relocation. For this purpose, if the Employee refuses to go to work in the new location, the Employee is entitled to terminate the Contract of Employment and receive Special Severance Pay of not less than fifty per cent of the rate of Severance Pay he or she entitled to under Section 118.

Whereas the Employer fails to notify the Employee in advance regarding the relocation of the place of business under paragraph one,

the Employer shall pay Special Severance Pay in lieu of advance notice at a rate equivalent to the Employee's last rate of Wages for thirty days, or equivalent to the Wages of the last thirty days for an Employee who is paid on a piece rate basis.

The Employee has the right to submit an application to the Labour Welfare Committee within thirty days from the date of the relocation for consideration that the case is whether the Employer shall be required to notify in advance or the Employee has the right to terminate the Contract of Employment with an entitlement to Special Severance Pay under paragraph one.

The decision of the Labour Welfare Committee shall be final, unless the Employer or the Employee appeals against the decision to the court within thirty days from the date of receipt of the decision. Where the Employer brings the case to court, the Employer is required to deposit money with the court in equal to the amount to be paid to the Employee who submits the application under paragraph three prior to file the case.

To terminate the Contract of Employment under this Section, the Employee shall exercise his or her right within thirty days from the date of relocation, or from the date of the decision of the Labour Welfare Committee or the judgment of court becoming final.

Section 121. Whereas an Employer contemplates termination of employment as a result of the reorganisation of an undertaking, production line, sale or service due to the adoption of machinery or the change of machinery or technology which causes a reduction of the number of Employees, Section 17 paragraph two shall not be applied, and the Employer shall notify the Labour Inspector and the Employees in

advance of not less than sixty days before the date of contemplated termination, giving the date of the contemplated termination, the reasons for termination and a name list of the Employees.

Whereas the Employer fails to notify in advance an Employee contemplated to be terminated, or has notified an Employee of less than the period prescribed under paragraph one, apart from the Severance Pay to be paid under Section 118, the Employer shall also pay Special Severance Pay in lieu of advance notice equivalent to the Employee's last rate of Wages for sixty days, or an amount equivalent to the Employee's Wages for the last sixty days to an Employee who is paid on a piece rate basis.

Whereas Special Severance Pay in lieu of advance notice under paragraph two has been paid, it shall be deemed that the Employer has paid the remuneration in lieu of advance notice under the Civil and Commercial Code.

Section 122. Whereas the Employer terminates the employment of an Employee under Section 121 and such Employee has worked for uninterrupted period of more than six years, the Employer shall pay Special Severance Pay in addition to Severance Pay under Section 118 of not less than the Employee's last rate of Wages for fifteen days for each year of employment or of not less than the Employee's Wages for the last fifteen days for each year of employment for an Employee who is paid on a piece rate basis. The total Severance Pay under this Section shall not exceed the Employee's last rate of Wages for three hundred and sixty days, or the Employee's Wages for the last three hundred and sixty days for an Employee who is paid on a piece rate basis.

For the purposes of calculation of Special Severance Pay, where a period of employment is less than one year, a fraction of the period of employment of more than one hundred and eighty days shall be counted as one year of employment.

Chapter 12

Lodgment and Consideration of Complaints

Section 123. Whereas an Employer violates or fails to comply with an Employee's entitlement to receive any payments prescribed under this Act, and the Employee wishes the Labour Inspector to enforce the entitlement under this Act, the Employee is entitled to lodge a complaint, in a form prescribed by the Director-General, to the Labour Inspector of the locality where the Employee works or where the Employer's domicile is located.

With regards to any entitlement to receive any payments prescribed under this Act, if an Employee is dead, his or her statutory heir is entitled to lodge the complaint to the Labour Inspector.

Section 124. If a complaint has been lodged under Section 123, a Labour Inspector shall investigate the facts and make an order within sixty days from the date of receipt of the complaint.

If, as the result of a valid reason, the Labour Inspector is unable to make an order within the period prescribed under paragraph one, the Labour Inspector shall apply with reasons to the Director-General or a person entrusted by the Director-General for an extension of the period of time, and the Director-General or person so entrusted may grant

permission as deemed appropriate, but the extension of time shall not exceed thirty days from the expiry date prescribed under paragraph one.

Upon investigation, if the Labour Inspector finds that the Employee is entitled to any money to be paid by the Employer as prescribed under this Act, the Labour Inspector shall order the Employer to pay such money to the Employee or to the statutory heir of the deceased Employee in the form prescribed by the Director-General within fifteen days from the date of having been notified or having been deemed to acknowledge the order.

The Employer shall pay the money prescribed under paragraph three to the Employee or to the statutory heir of the deceased Employee at the work place of the Employee. Upon request by the Employee or the statutory heir of the deceased Employee, the Labour Inspector shall order the Employer to pay such money at the office of the Labour Inspector or at another place as agreed by the Employer and the Employee or the statutory heir of the deceased Employee.

Whereas the Employee or statutory heir of the deceased Employee fails to receive such money within fifteen days from the date of the Labour Inspector issuing the order, the Labour Inspector shall remit such money to the Employee Welfare Fund by depositing it into the bank. The interest or fruit producing from such deposit shall belong to the Employee or the statutory heir of the deceased Employee who is entitled to receive such money.

Whereas the Labour Inspector deems that the Employee or the statutory heir of the deceased Employee is not entitled to the money under Section 123, the Labour Inspector shall make such an order and notify the

Employer and Employee or the statutory heir of the deceased Employee in writing.

Section 125. Where the Labour Inspector has made an order under Section 124, if the Employer, Employee or statutory heir of the deceased Employee is not satisfied with such order, he or she shall bring the case to the Court within thirty days from the date of receipt of the order.

Whereas the Employer, Employee or statutory heir of the deceased Employee fails to bring the case to the Court within the specified period of time, such order shall be as final.

Whereas the Employer brings the case to the Court, he or she must deposit money with the Court equal to the outstanding amount that the Employer is required to pay to the Employee, prior to file the case.

Whereas the case is final and the Employer is liable to pay money of any amount to the Employee or to the statutory heir of the deceased Employee, the Court shall have the power to pay the money deposited with the Court by the Employer to the Employee or to the statutory heir of the deceased Employee.

Chapter 13

Employee Welfare Fund

Section 126. There shall be an Employee Welfare Fund in the Department of Labour Protection and Welfare which aims to be a supporting fund for Employees in case of termination of employment or

death, or in any other case as prescribed by the Employee Welfare Fund Committee.

Section 127. The Employee Welfare Fund shall consist of:

- (1) Contributions and Supplementary Contributions;
- (2) money belonging to the Employee Welfare Fund under Section 133 and Section 136;
- (3) additional money under Section 131;
- (4) fines received from the punishment of offenders under this Act;
- (5) donated money or properties;
- (6) subsidies paid by the Government;
- (7) other income; and
- (8) interest or fruit of the Employee Welfare Fund.

The Employee Welfare Fund shall arrange the following accounts:

- (1) an account of each member stating Contributions, Supplementary Contributions and fruit produced by such money; and
- (2) a central account stating particulars of other money besides that in (1).

Section 128. A fine which is remitted under Section 127(4) into the Employee Welfare Fund and the due of remittance of such money shall be made under the rules prescribed by the Employee Welfare Fund Committee which are published in the Government Gazette.

Section 129. For the benefit of the execution of this Act, the money and properties of the Employee Welfare Fund under Section 127

shall belong to the Department of Labour Protection and Welfare without having to be remitted to the Ministry of Finance as state revenue.

There shall be an Employee Welfare Fund Committee consisting of the Permanent Secretary of the Ministry of Labour and Social Welfare as chairman, a representative of the Ministry of Finance, a representative of the Board of National Economic and Social Development, a representative of Bank of Thailand, five representative of Employers and five representative of Employees appointed by the Minister as members, and the Director-General of the Department of Labour Protection and Welfare as a member and secretary.

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

(1) to prescribe policy concerning the administration and payment of the Employee Welfare Fund with the consent of the Minister;

(2) to consider and comment to the Minister on the issue of Royal Decrees, Ministerial Regulations, Notifications, or Rules for execution under this Act;

(3) to make the rules of the receipt, payment, and safe-keeping of money belonging to the Employee Welfare Fund with the consent of the Minister;

(4) to make the rules of the provision of benefits to the Employee Welfare Fund with the consent of the Minister;

(5) to allocate money belonging to the Employee Welfare Fund not exceeding ten per cent of the fruit per annum as an administration expense of the Employee Welfare Fund; and

(6) to perform other matters as prescribed to be powers and duties of the Employee Welfare Fund Committee under this Act or any other laws or as assigned 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. All Employees of businesses with more than ten Employees shall be members of the Employee Welfare Fund.

The provision in the first paragraph shall not apply to businesses in which the Employer provides a provident fund under the law on provident funds or provides assistance to Employees in case of termination of employment or death according to the rules and procedures prescribed in the Ministerial Regulations.

The provision in the first paragraph shall apply to Employees of a business with less than ten Employees, only if the application is enacted as a Royal Decree.

The Committee of the Employee Welfare Fund may issue rules prescribing that Employees of an undertaking which is not under the enforcement of this Act are able to apply to be a member of the Employee Welfare Fund if they wish, with the consent of the Employer; and the Employer shall have duties as prescribed by this Act as if an undertaking under the enforcement of this Act.

An Employer whose Employees are members of the Employee Welfare Fund under paragraph one shall submit the form listing the Employees' name and any other particulars. After the Employer has

submitted such form, the Department of Labour Protection and Welfare shall issue a certificate of registration to the Employer.

Whereas any particulars submitted in the form listing of Employees' name have been changed, the Employer shall notify the Department of Labour Protection and Welfare in writing in order to revise or amend such list.

A request for the revision or amendment of the form listing of Employees' name and the certification or registration issued to the Employer shall be in accordance with the form, rules and procedures prescribed by the Employee Welfare Fund Committee.

The persons who submit the forms, or request for the revision or amendment of particulars under the law on social security shall be deemed as being in compliance with the provisions under paragraph five, paragraph six and paragraph seven of this Section.

Section 131. As from the date when the Employee applies to be a member of the Employee Welfare Fund, the Employer shall make a deduction from the Employee's Wage on every payment to pay for Contributions; and the Employer shall pay Supplementary Contributions to the Employee Welfare Fund; provided that it shall be in accordance with the rate prescribed by the Ministerial Regulations but not exceeding five per cent of the Wages.

If the Employer fails to pay Wages at the time of payment, the Employer shall remit the Contributions and Supplementary Contributions as if the Wage has been paid.

Whereas the Employer fails to pay the Contributions or Supplementary Contributions or fails to pay in full amount within the period

prescribed in paragraph four, the Employer shall pay additional money to the Employee Welfare Fund at the rate of five per cent per month based on the Contributions or Supplementary Contributions which have not been paid or which have failed to be paid in full amount from the date that such money becomes outstanding. For fractions of a month of fifteen days or more shall be counted as one month, and of less than 15 days shall be disregarded. The Employer shall not cite the failure of wage deduction or the failure of wage deduction in full amount as reason for free from liability for the remission of such money.

Remission of Contributions, Supplementary Contributions and additional money to the Employee Welfare Fund shall be in compliance with the rules and procedures prescribed by the Employee Welfare Fund Committee.

Section 132. Whereas the Employer fails to remit Contributions or Supplementary Contributions or fails to pay in full amount by the due date, a Labour Inspector shall give a written notice to the Employer to pay the due money within a period of not less than thirty days of the receipt of such notice.

Where a notice has been issued under paragraph one, if the exact amount of the Wage is not known, the Labour Inspector shall have power to evaluate the Contributions and Supplementary Contributions to be remitted by the Employer according to the rules and procedures prescribed by the Employee Welfare Fund Committee.

Section 133. In case of the termination of employee the Department of Labour Protection and Welfare shall pay his or her

Contributions, Supplementary Contributions and the fruit of such money allocated from the Employee Welfare Fund.

In case of the death of the Employee, if he or she has not named in writing in the form prescribed by the Director-General who should receive the money paid by the Employee Welfare Fund, or has stated whom, but such person is also dead, the money of the Employee Welfare Fund under paragraph one shall be paid to the children, spouse, and parents of the Employee who are alive in equal fragment.

If there is no person entitled to the money allocated to a dead Employee from the Employee Welfare Fund under paragraph two, such money shall belong to the Employee Welfare Fund.

Section 134. For the payment of money allocated from the Employee Welfare Fund in cases other than that prescribed under Section 133, the Employee Welfare Fund Committee shall prescribe the rules of payment of the supporting money, the rate and the period of payment by considering the amount of the Employee Welfare Fund which is not in the part to be paid under Section 133.

Section 135. Whereas the Department of Labour Protection and Welfare has paid money allocated from the Employee Welfare Fund, in whole or in part, to an Employee under Section 134, the Employee Welfare Fund has the right to summon a person eligible to pay such money to the Employee to compensate the Employee Welfare Fund for the paid money, including interest at a rate of fifteen per cent per annum.

The duration of a right to claim the Employee Welfare Fund shall be ten years from the date that the Employee Welfare Fund pays the money prescribed under paragraph one.

Section 136. A Labour Inspector shall have the power to issue a written order to seize, attach and sell by auction the property of an eligible person who fails to remit Contributions, Supplementary Contributions or additional money, or fails to pay in full amount or fails to pay money under Section 135.

The order of seizure or attachment of the properties under paragraph one shall be issued only after a written notice has been sent to the person liable to remit the due Contributions, Supplementary Contributions or additional money, or money to be paid under Section 135, to pay the money within a specified period of not less than thirty days from the date of the receipt of such warning, and the person has failed to pay the money within the specified period.

Rules and procedures of seizure, attachment and sale by auction of properties under paragraph one shall be in compliance with the regulations prescribed by the Minister, provided that the rules and procedures of the Civil Procedure Code shall be applied *mutatis mutandis*.

The money received from the sale by auction of properties shall be deducted to be expenses incurred in the seizure, attachment and sale by auction of those properties; to be the payment for any Contributions, Supplementary Contributions or due additional money; or to pay for the eligible person has to pay under Section 135; and to be returned to such person expeditiously where the money remained. The

Labour Inspector shall issue a written notice relating the receipt of the remaining money via registered mail. If no one claims the money within five years, such money shall then belong to the Employee Welfare Fund.

Section 137. The right to claim for money from the Employee Welfare Fund is neither transferable nor liable for execution.

Section 138. Within one hundred and twenty days of the end of the calendar year, the Employee Welfare Fund Committee shall submit a balance sheet and report on receipts and payments of the Employee Welfare Fund for the last year to the State Audit Office to approve before submitting to the Minister.

The Minister shall submit the above-mentioned balance sheet and reports of receipts and payments to the Cabinet for their information and to be published in the Government Gazette.

Chapter 14

Labour Inspectors

Section 139. In performing his or her duties, a Labour Inspector shall have powers as follows:

(1) to enter the place of business or the office of an Employer and the workplace of Employees, during any hours of work, in order to examine the working conditions of the Employees and employment conditions; to inquire of any facts; to take photographs; to copy documents concerning employment, payment of Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay, and the Employee records; to sample material or products for analysis regarding safety at work; and to perform

any other tasks in order to acquire facts for the execution of his or her powers under this Act;

(2) to issue an inquiry notice or summon an Employer, Employee, or other relevant persons to give factual statements or submit objects or relevant documents for a consideration; and

(3) to issue a written order to an Employer or Employee to comply with this Act.

Section 140. In performing his or her duties under Section 139 (1), a Labour Inspector shall produce his or her assigned identity card to the Employer or concerned persons, and the Employer or concerned persons shall render all conveniences and not obstruct the performance of duty by the Labour Inspector.

The assigned identity card of the Labour Inspectors shall be in the form prescribed by the Minister.

Section 141. Whereas an Employer or Employee has complied with an order issued by a Labour Inspector under Section 139(3) within the specified period, criminal proceedings against the Employer or Employee shall be extinguished.

Section 142. During an inspection of the place of business or office of an Employer or the working place of an Employee, the Director-General or a person entrusted by the Director-General may arrange physicians, social welfare workers or experts appointed by the Minister to enter such places in order to give advice or to help the Labour Inspector in execution of this Act.

The Employer or any concerned persons shall render all conveniences and not obstruct the performance of duty of the physicians, social welfare workers, or experts described under paragraph one.

Chapter 15

Delivery of Notices

Section 143. An order or a notice of the Director-General or a Labour Inspector issued under this Act shall be delivered by registered mail, or delivered by the Labour Inspector herself or himself, or by an official to the domicile or residence or office of the Employer during any hours of work of the Employer. If the Employer is not found at domicile or residence or office of the Employer, or if the Employer is there but refuses to receive such order, it shall be given to any sui juris person who stays or works in the house or office belonging to such Employer. After such delivery the order or notice issued by the Director-General or Labour Inspector shall be deemed to have received by the Employer.

If the order or notice is unable to be delivered as prescribed under paragraph one, the order or notice issued by the Director-General or the Labour Inspector shall be affixed in an explicit area in the office of the Employer or the working place of the Employee, or domicile or residence of the Employer. Receipt by the Employer of the order or notice issued by the Director-General or Labour Inspector shall be deemed to have occurred after fifteen days from such affixation.

Chapter 16
Penalty Provisions

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 does not pay Special Severance Pay under Section 120 paragraph one or paragraph two, Section 121 paragraph two or Section 122, shall be penalised with imprisonment of not more than six months, or a fine not exceeding one hundred thousand baht, or both.

Whereas an Employer violates or fails to comply with Section 37, Section 38, Section 39, Section 42, Section 47, Section 48, Section 49 or Section 50 thereby causing physically or mentally to an Employee, or leading to the death of an Employee, he or she shall be penalised with imprisonment of not more than one year or a fine not exceeding two hundred thousand baht, or both.

Section 145. An Employer who fails to comply with Section 23 shall be penalised with a fine not exceeding five thousand baht.

Section 146. An 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 an advance notice under Section 120, Section 121 paragraph one, or Section 139 (2) or (3), shall be penalised with a fine not exceeding twenty thousand baht.

Section 147. Any person who violates Section 16 shall be penalised with a fine not exceeding twenty thousand baht.

Section 148. An Employer who violates Section 31 or Section 44 or fails to comply with Ministerial Regulations issued under Section 103 paragraph one, shall be penalised with imprisonment of not more than one year or a fine not exceeding two hundred thousand baht, or both.

Section 149. An 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 penalised with a fine not exceeding ten thousand baht.

Section 150. Any person who fails to render all conveniences, give a statement, submit documents or objects as required by a notice issued by the Wages Committee or Sub-committee or a person assigned by the Wages Committee or Sub-committee, or fails to render convenience to a Labour Inspector, physicians, social welfare workers or experts, shall be penalised with imprisonment of not more than one month, or a fine not exceeding two thousand baht, or both.

Section 151. Any person who obstructs the performance of any duties of the Wage Committee or sub-committees or a person assigned by the Wage Committee or sub-committees, Labour Inspectors,

physicians, social welfare workers or experts, shall be penalised with imprisonment of not more than one year, or a fine not exceeding twenty thousand baht, or both.

Any person who fails to comply with an order of a Labour Inspector issued under Section 124 shall be penalised with imprisonment of not more than one year, or a fine not exceeding twenty thousand baht, or both.

Section 152. Any Employer who fails to comply with Section 96 shall be penalised with a fine not exceeding fifty thousand baht.

Section 153. Any Employer who fails to comply with Section 98 shall be penalised with imprisonment of not more than one month, or a fine not exceeding two thousand baht, or both.

Section 154. Any Employer who fails to arrange documentary evidence or reports required by the Ministerial Regulations under Section 103 or arranges the documents or reports by filing a false statement, shall be penalised with imprisonment of not more than six months or a fine not exceeding one hundred thousand baht, or both.

Section 155. Any person responsible for the certification or examination of documentary evidence or reports under the Ministerial Regulations issued under Section 103 who fills a false statement on the certification or examination of the documents or reports, shall be penalised with imprisonment of not more than one year or a fine not exceeding two hundred thousand baht, or both.

Section 156. Any Employer who fails to submit descriptions or fails to notify any amendments or revisions to the particulars in writing

within a specified period under Section 130, or submits the descriptions or notifies any revisions or amendments under Section 130 by making a false statement, shall be penalised with imprisonment of not more than six months or a fine not exceeding ten thousand baht, or both.

Section 157. Any government official who discloses any fact in relation to the business of an Employer which he or she obtains or ascertains as a result of performance under this Act, which is a fact kept confidential by the Employer normally, shall be penalised with imprisonment of not more than one month or a fine not exceeding two thousand baht, or both; unless it is disclosed for the official performance of this Act, or for the benefits of labour protection, labour relations, or the inquisition or consideration of cases.

Section 158. Whereas the offender is a juristic person, if a violation by such juristic person is due to an order or performance of any person, or a neglects order or, a neglect of a duty as required as a Managing Director or of any person who is responsible for carrying out the business of such a juristic person, the such person shall be penalised according to the provisions prescribed for such violations.

Section 159. For all violations under this Act, except for a violation under Section 157, if the following officials deem that the offender should not be penalised with imprisonment or sued in Court, he or she shall have power to settle the matters as follows:

(1) the Director-General or person entrusted by the Director-General: for a violation occurring in the Bangkok Metropolitan area; or

(2) the Governor or a person entrusted by the Governor: for a violation occurring in other provinces.

Where there is an investigation, if the inquiry officer finds that any person has committed an offence under this Act, and such person consents for settlement, the inquiry officer shall propose the case to the Director-General or the Governor, as the case may be, within seven days of the date that such person consents to settlement.

Where an offender pays the fine according to a settled amount within thirty days, the case shall be deemed extinguished under the Criminal Procedure Code.

Where an offender refuses settlement, or consents but fails to pay the fine within the period specified in paragraph three, the case shall be further proceeded.

Transitory Provisions

Section 160. Section 44 shall not apply to an Employee who is a child between thirteen years of age and under fifteen years of age employed to work under the Announcement of the National Executive Council No. 103 dated 16th March B.E. 2515, before the date of enforcement of this Act.

Section 161. Within fifteen days from the date of enforcement of this Act, an Employer shall notify the employment of Employee who is a young worker under eighteen years of age employed to work under the

Notification of the National Executive Council No. 103 dated 16th March B.E. 2515 before the date this Act comes into force.

Section 162. The Wage Committee, Sub-committees, and working groups who hold office on the date of this Act comes into force shall remain holding that office until the end of their term.

Section 163. Collection of Contributions and Supplementary Contributions for the Employee Welfare Fund under the provisions on the Employee Welfare Fund in Chapter 13 shall commence after the enactment of a Royal Decree.

Section 164. Any petition which is not final or is under the consideration of Court, before the date this Act comes into force, shall be governed by the Notification of the Ministry of Interior or the Notification of the Ministry of Labour and Social Welfare issued under the National Executive Council No. 103 dated 16th March B.E. 2515 until the complaint or case is final.

Section 165. Any person who is entitled to wages or other money paid by an Employer under the Notification of the National Executive 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 the Announcements or Orders issued under the National Executive Council No. 103 dated 16th March B.E. 2515 shall remain in force as long as they are not contrary to or against this Act, until

Ministerial Regulations, Rules and Notifications issued under this Act
come into force.

Counter signed by

CHUAN LEEKPAI

Prime Minister

MINISTERIAL REGULATION

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of paragraph two of Section 4 and Section 6 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

The exclusion of application in whole or in part of the Labour Protection Act B.E. 2541 (1998) to any type of employers should be based on the following rules:

(1) The Labour Protection Act B.E. 2541 (1998) shall not apply to employers carrying on the business of a private school under the law governing private schools, but only in respect of headmasters and teachers.

(2) The following provisions shall not apply to employers who employ employees to do housework which is not part of a business operation: Sections 12, 18, 21 and 22 of Chapter 1 - General Provisions, Sections 23 to 37 except Section 30 of Chapter 2 - Employment of Labour in General, Sections 38 to 43 of Chapter 3 - Employment of Women, Sections 44 to 52 of Chapter 4 - Employment of Young Workers, Sections 53 to 77 except payment of wages under Sections 53, 54, 55 and 70 of Chapter 5 - Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay, Sections 78 to 91 of Chapter 6 – the Wage Committee, Sections 92 to 99 of Chapter 7 - Welfare, Sections 100 to 107 of Chapter 8 - Occupational Safety, Health and Environments, Sections 108 to 115 of Chapter 9 -

Supervision, Sections 116 and 117 of Chapter 10 - Suspension from Work, Sections 118 to 122 of Chapter 11 - Severance Pay, and Sections 126 to 138 of Chapter 13 – the Employee Welfare Fund.

(3) The following provisions shall not apply to employers who employ employees to do work that is not intended to seek economic profit: Sections 12, 16, 18 and 22 of Chapter 1 - General Provisions, Sections 23 to 37 of Chapter 2 - Employment of Labour in General, Sections 38 to 43 of Chapter 3 - Employment of Women, Sections 44 to 52 of Chapter 4 - Employment of Young Workers, Sections 53 to 77 except payment of wages under Sections 53, 54, 55 and 70 of Chapter 5 - Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay, Sections 78 to 91 of Chapter 6 – the Wage Committee, Sections 92 to 99 of Chapter 7 - Welfare, Sections 108 to 115 of Chapter 9 - Supervision, Sections 116 and 117 of Chapter 10 - Suspension from Work, Sections 118 to 122 of Chapter 11 - Severance Pay, and Sections 126 to 138 of Chapter 13 – the Employee Welfare Fund.

Given on this 19th day of August B.E. 2541 (1998)

Trairong Suwannakhiri
Minister of Labour and Social Welfare

MINISTERIAL REGULATION NO.2

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and paragraph one of Section 23 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

Clause 1. All types of work shall have normal working hours of not more than 8 hours a day.

Clause 2. The types of work that may be harmful to the health and safety of Employees are as follows:

- (1) work that must be performed underground, underwater, in a cave, in a tunnel or in an confined place;
- (2) work involving radioactivity;
- (3) metal welding work;
- (4) hazardous substance transportation work;
- (5) hazardous chemical production work;
- (6) work that must be done with an instrument or machine whereby the worker is exposed to vibration that may be harmful; and
- (7) work involving extreme heat or cold that may be harmful, provided that the nature of the work is such that the Employee is highly exposed to danger or that the levels of exposure in the working environment exceed the safety standards prescribed in Ministerial Regulations issued under Section 103, and it is not possible to improve or rectify the dangers at their source and thus prevention for the individual

The Employer shall retain the record of Employees of not less than 2 years from the termination date of each Employee.

When there is a change in any item contained in the record of Employees , the Employer shall amend completely the record of Employees within 60 days from the date of changing and notify the change to the Director-General, or a person entrusted by the Director-General, every time there is a change.

Clause 6. An Employer shall provide a document regarding payment of Wages and Holiday Pay in Thai and keep such document at the Employer's place of business available for inspection by a Labour Inspector. The document shall contain at least the following particulars:

- (1) name and surname of each Employee;
- (2) position and duties in the Sea Fishery Work; and
- (3) rate and amount of Wages, Holiday Pay and other benefits that the Employer has agreed to pay to each Employee.

Upon payment of Wages to the Employee, the Employer shall arrange for the Employee to sign the document under paragraph one as evidence.

Whereas the Employer pays Wages and Holiday Pay to the Employee transfer to deposit accounts with commercial banks or any other financial institutions, the evidence of transfer of money into the Employee's deposit account shall be deemed as the document relating to such payment.

The Employer shall retain the document under paragraph one of not less than 2 years from the date of each payment.

MINISTERIAL REGULATION NO.3

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 26 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

Overtime working hours under paragraph one of Section 24 and working hours on Holidays under paragraphs two and three of Section 25 shall, in aggregate, not exceed 36 hours per week in aggregate.

Working hours on Holidays shall include overtime working hours on holidays.

Given on this 19th day of August B.E. 2541 (1998)

Trairong Suwannakhiri

Minister of Labour and Social Welfare

MINISTERIAL REGULATION NO.4

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and paragraph four of Section 29 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

The following types of work are of such description or nature whereby an Employer may prevent Employees from taking a traditional holiday:

(1) work in a hotel, entertainment establishment, food shop, beverage shop, club, association, medical establishment or tourist service establishment; or

(2) work in forestry, work in a location lacking basic facilities, transportation work and work requires it to be performed continuously and the stoppage may cause damage to the work.

Given on this 19th day of August B.E. 2541 (1998)

Trairong Suwannakhiri

Minister of Labour and Social Welfare

Reference: Government Gazette, Volume 115, Part 49 Kor of 19 August B.E. 2541 (1998)

MINISTERIAL REGULATION No.5

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 36 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

Clause 1. Employees shall be entitled to take Leave for training or development of knowledge and skills in the following cases:

(1) for the benefit of the labour and social welfare or the increase of skills and expertise in order to increase the Employee's working efficiency; and

(2) for educational examinations organized or allowed to be organized by the Government.

The training or development of knowledge and skills under (1) above shall have a program or course with a definite and clear duration.

Clause 2. In taking Leave for training or development of knowledge and skills, an Employee shall notify the Employer in advance stating clearly the reasons for Leave and produce relevant evidence, if any, of not less than seven days before taking Leave for the training or the development of knowledge and skills.

Clause 3. An Employer may not allow an Employee to take Leave for training or development of knowledge and skills in the following cases:

(1) where, in the year in which the Leave is requested, the Employee has already been allowed to take Leave for training or development of knowledge and skills for 30 days or more or on three or more separate occasions; or

(2) where, the Employer can demonstrate that the proposed Leave by the Employee may cause damage to or affect the Employer's business operation.

Given on this 19th day of August B.E. 2541 (1998)

Trairong Suwannakhiri
Minister of Labour and Social Welfare

MINISTERIAL REGULATION NO.6
B.E. 2541 (1998)
Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 49(3), (4), (5), (6), (7) and (10) of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

The types of work which an Employer is prohibited from requiring an Employee under eighteen years of age to perform are as follows:

(1) work involving of heat, cold, vibration and noise which maybe harmful as follows:

(a) work performed in a place where the temperature in the working environment is higher than 45 degrees Celsius;

(b) work performed in cold storage in the production or preservation of food by freezing;

(c) work using a shaking drill; and

(d) work where the noise levels to which the employee is exposed continuously is in excess of 85 decibels (A) for eight working hours a day;

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

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

(b) work involving cyanide;

(c) production or transportation of flares, fireworks or other explosives; and

(d) exploration, drilling, refinery, filling or loading of fuel oil

or gas, except for work in a fuel station;

(3) work involving toxic micro-organisms which may be viruses, bacteria, fungus or other germs, as follows:

(a) work performed in a diagnostic laboratory;

(b) taking care of a patient with a contagious disease under the law governing contagious diseases;

(c) cleaning of a patient's utensils and clothing in a medical establishment; and

(d) collection, transportation, or disposal of rubbish or waste in a medical establishment;

(e) driving or control of hoists or cranes operated by an engine or electricity, regardless of the manner of driving or control; and

(f) any kind of work involving radioactivity.

Given on this 19th day of August B.E. 2541 (1998)

Trairong Suwannakhiri

Minister of Labour and Social Welfare

List attached to Ministerial Regulations No.6
B.E. 2541 (1998)
Issued under the Labour Protection Act B.E. 2541 (1998)

- (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-Naphthylamine
- (11) Nickel sulfide
- (12) Vinyl chloride
- (13) Zinc chromate

MINISTERIAL REGULATION NO.7

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 22 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

Clause 1. For work in petroleum operations under the law governing petroleum, including maintenance and service in connection with such work, only those performed in the exploration block and production area, labour protection shall be provided as follows:

(1) An Employer and Employees shall agree on the normal working hours, which shall not exceed 12 hours per day, and shall specify the commencing and ending times of work;

(2) An Employer and Employees may agree to schedule the working period in uninterrupted intervals, but each uninterrupted interval so agreed shall not exceed 28 days;

(3) An Employer shall arrange for Employees who have worked continuously for the full range of the interval agreed under paragraph (2) above to have Holidays after each interval as appropriate. If the Employer and Employees agree to schedule the normal working house in an uninterrupted interval of not less than 14 days, the Employer shall arrange for the Employees to have uninterrupted Holidays of not less than half of the number of uninterrupted days of work.

Holidays for each interval under paragraph one shall include the weekly Holidays provided by the Employer under Section 28 of the Labour Protection Act B.E. 2541 (1998)

(4) Whereas a traditional Holiday falls on Holidays under paragraph (3) above, Employees shall be entitled to a substitute Holiday for the traditional Holiday, to be taken on the following Working Day, or the Employer may pay Holiday Pay to the Employees.

(5) The Employer shall notify Employees in advance as appropriate of training concerning survival on the sea and fire-fighting, if the training is conducted on a Holiday In addition, the prior consent of the Employees shall be required for another training on Holidays. The Employer shall pay Holiday Pay for the training day and for the days on which the Employer requires Employees to make preparations before the training as well as paying any Employee's travel expenses.

Clause 2. For professional or technical work, administrative and management work, clerical work, occupations concerning trade, service occupations, work involving production or work in connection with the abovementioned types of work, an Employer and Employees may agree on any number of normal working hours per day, but the total number of working hours in a week shall not exceed 48 hours.

If an Employer and Employees agree to schedule the normal working hours under paragraph one in excess of eight hours a day, an Employee, except if he or she receives monthly wages, shall be entitled to remuneration in money for each hour worked in excess of eight hours in equal to the Wages rate per hour on a Working Day, or in equal to the piece rate of Wages of Working Day for work done by an Employee who

receives Wages calculated on a piece rate basis.

Clause 3. For work in a food shop or a beverage shop which does not open or provide service continuously on each Working Day, the Employer may provide a rest period of more than two hours a day for Employees.

Clause 4. An Employer may require a female Employee to work in professional or technical work concerning exploration, drilling, refinery and production of petroleum or petrochemical products if the nature or character of such work is not harmful to the health or body of the Employee.

Clause 5. An Employer may require a pregnant female Employee who works as an executive, or who performs technical, administrative, financial or accounting work to work overtime on a Working Day with the consent of the Employee.

Clause 6. Whereas an Employee works as an itinerant vendor or solicits for the purchase of goods, if the Employer pays a commission for the sale of goods to the Employee, the Employee shall not be entitled to Overtime Pay under Section 61 and Holiday Overtime Pay under Section 63, unless the Employer agrees to pay such Overtime Pay or Holiday Overtime Pay to the Employee.

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

Given on this 22nd day of August B.E. 2541 (1998)

Trairong Suwannakhiri
Minister of Labour and Social Welfare

MINISTERIAL REGULATION NO.8

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 65(8) of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

The work of guarding and caretaking of premises or property shall be work under Section 65(8) whereby the Employee shall not be entitled to Overtime Pay under Section 61 and Holiday Overtime Pay under Section 63, but shall be entitled to remuneration in money for each hour actually worked equal to the Employee's Wages per hour on a Working Day.

Given on this 14th day of September B.E. 2541 (1998)

Trairong Suwannakhiri

Minister of Labour and Social Welfare

MINISTERIAL REGULATION NO.9

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of paragraph two of Section 4 and Section 6 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

The Labour Protection Act B.E. 2541 (1998) shall not apply to employers who employ employees to perform the following work:

- (1) agricultural work; or
- (2) homework.

Given on this 14th day of September B.E. 2541 (1998)

Trairong Suwannakhiri

Minister of Labour and Social Welfare

MINISTERIAL REGULATION No.10

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 22 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

Clause 1. The labour protection for sea fishery work other than as prescribed in this Ministerial Regulation shall be as agreed upon by the Employer and Employees. Except the labour protection under the following provisions, the Employer and Employees shall comply with the Labour Protection Act B.E. 2541 (1998): Sections 7 to 21 of Chapter 1 – General Provisions, Sections 100 to 107 of Chapter 8 – Occupational Safety, Health and Environments, Sections 123 to 125 of Chapter 12 – Lodgment and Consideration of Complaints, Sections 134 and 135 of Chapter 13 – Employee Welfare Fund, Sections 139 to 142 of Chapter 14 – Labour Inspectors, and Section 143 of Chapter 15 – Delivery of Notices.

Clause 2. This Ministerial Regulation shall not apply to:

(1) sea fishery work with less than 20 Employees. Except the provisions regarding payment of Wages under Clause 7 and 8 shall apply to sea fishery work with one or more Employee; and

(2) fishing boats regularly operated outside the Kingdom for a continuous period of one year or more.

Clause 3. In this Ministerial Regulation:

“Sea Fishery Work” means work or any operation involving fishery in the sea using a fishing boat;

“Fishing Boat” means a boat used for Sea Fishery Work;

“Employer” includes an owner of a Fishing Boat who uses or allows another person to use such Fishing Boat to carry on sea Fishery Work for the purpose of sharing benefits, but shall not include an owner of a Fishing Boat who lets another person rent the Fishing Boat for carrying on business without his own involvement; and

“Wages” includes the share which an Employer agrees to give to an Employee according to the value of the aquatic animals being caught.

Clause 4. An Employer shall not employ a child under sixteen years of age to work in a Fishing Boat, unless the child is not under fifteen years of age and his/her father, mother or guardian also works on the same Fishing Boat, or his/her father, mother or guardian gives a consent in writing.

Clause 5. An Employer shall provide and keep the record of employees in Thai at the Employer’s place of business available for inspection by a Labour Inspector, and shall send a copy of the record of Employees to the Director-General, or a person entrusted by the Director-General, within 30 days from the commencement date of employment of the Employee.

The record of Employees under paragraph one shall be in accordance with Form KhorRor (1) attached hereto.

The Employer shall retain the record of Employees of not less than 2 years from the termination date of each Employee.

When there is a change in any item contained in the record of Employees , the Employer shall amend completely the record of Employees within 60 days from the date of changing and notify the change to the Director-General, or a person entrusted by the Director-General, every time there is a change.

Clause 6. An Employer shall provide a document regarding payment of Wages and Holiday Pay in Thai and keep such document at the Employer's place of business available for inspection by a Labour Inspector. The document shall contain at least the following particulars:

- (1) name and surname of each Employee;
- (2) position and duties in the Sea Fishery Work; and
- (3) rate and amount of Wages, Holiday Pay and other benefits that the Employer has agreed to pay to each Employee.

Upon payment of Wages to the Employee, the Employer shall arrange for the Employee to sign the document under paragraph one as evidence.

Whereas the Employer pays Wages and Holiday Pay to the Employee transfer to deposit accounts with commercial banks or any other financial institutions, the evidence of transfer of money into the Employee's deposit account shall be deemed as the document relating to such payment.

The Employer shall retain the document under paragraph one of not less than 2 years from the date of each payment.

Clause 7. Whereas a complaint is lodged that the Employer has failed to comply with this Ministerial Regulation or a labour dispute under the laws governing labour relations has occurred or a labour case has been filed, the Employer shall keep the record of Employees and the document regarding the payment of Wages and Holiday Pay until the order or judgement regarding such matter is final.

Clause 8. An Employer shall pay Wages and Holiday Overtime Pay correctly and in accordance with the following times:

(1) whereas Wages are calculated on a monthly, daily or hourly basis or on the basis of another period of not more than one month or on a piece rate basis, payment shall be made not less than once a month, unless otherwise agreed in favour of the Employee;

(2) whereas Wages are calculated other than prescribed in (1), payment shall be made at a time agreed between the Employer and Employee; and

(3) payment of Holiday Pay shall be made not less than once a month.

Clause 9. Whereas an Employer defaults in the payment of Wages and Holiday Pay, the Employer shall pay interest to the Employee during the default period at a rate of 15 percent per annum.

If the Employer intentionally defaults in the payment under paragraph one without suitable reason, at the expiry of seven days from the due date, the Employer shall pay to the Employee an additional amount of 5 percent of the overdue amount every seven days.

If the Employer is ready to pay any amounts due under paragraphs one or two, and the money has been given to the Labour

Inspector of the locality where the employment contract entered or where the Employer is domiciled in order to pay the Employee, the payment of interest or additional money shall be extinguished from the date that the Employer delivers the money to the Labour Inspector.

Clause 10. An Employer shall provide annual Holidays with pay for an Employee of not less than thirty days per year. The Employer shall specify the dates of the annual Holidays in advance.

If the Employer requires the Employee to work on annual Holiday under paragraph one, the Employer shall pay Holiday Pay to the Employee, in addition of not less than one times of the Wages calculated over the relevant period of time.

Clause 11. An Employee is entitled to sick Leave as long as he or she is actually sick. An Employer shall pay Wages to an Employee for sick Leave equivalent to Wages of Working Day throughout the Leave period, but not exceeding 30 Working Days per year.

Clause 12. Whereas an Employee is left abroad due to work, the Employer shall pay Wages to the Employee at of not less than 50 percent of the Employee's Wages calculated according to the entire period of time that an Employee is unable to work.

The provisions of paragraph one shall not apply if the Employer has notified the authority responsible in writing within sixty days from the date that the Employee is left abroad, for which the Employer has shown the intention to repatriate all of the Employees to their domicile and has paid for the travel expenses incurred for the Employees' repatriation.

Clause 13. An Employer shall provide or pay the expenses for an Employee to repatriate to his or her domiciles in the following cases:

- (1) the Fishing Boat's sinking or total unusability;
- (2) the Employee injured or ill resulting from work;
- (3) the Employer terminates the employment contract before its expiration or revises the conditions of the employment contract without the Employee's consent; or
- (4) the employment contract expires during a time when the Employee is working in a place other than the place where the employment contract was executed.

Given on this 14th day of September 1998 (B.E. 2541)

Trairong Suwannakhiri
Minister of Labour and Social Welfare

MINISTERIAL REGULATION No.11

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 22 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

Clause 1. The labour protection in the loading and unloading of goods on sea vessels other than as prescribed in this Ministerial Regulation shall be as agreed upon by the Employer and Employees. Except the labour protection under the following provisions, the Employer and Employees shall comply with the Labour Protection Act B.E. 2541 (1998): Sections 7 to 21 of Chapter 1 - General Provisions, Sections 27, 28, 29, 30, 32, 33, 34, 35, 36, and 37 of Chapter 2 - Employment of Labour in General, Sections 39 to 43 of Chapter 3 - Employment of Women, Sections 45 to 52 of Chapter 4 - Employment of Young Workers, Sections 53, 54, 55, 56, 57, 58, 59, 60, 67, 71, 76 and 77 of Chapter 5 - Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay, Sections 116 and 117 of Chapter 10 - Suspension from Work, Sections 118 to 122 of Chapter 11 - Severance Pay, Sections 123 to 125 of Chapter 12 - Lodgment and Consideration of Complaints, Sections 134 and 135 of Chapter 13 - Employee Welfare Fund, Sections 139 to 142 of Chapter 14 - Labour Inspectors, and Section 143 of Chapter 15 - Delivery of Notices.

Clause 2. In this Ministerial Regulation:

"Loading or Unloading of Goods on Sea Vessels" means:

(1) any conduct involving tying together, separating, lining up or moving goods on sea vessels, giving signals to safely remove goods to a selected place, or controlling of a crane or winch, and includes the cleaning of a hold of a sea vessel before or after loading or unloading; or

(2) any conduct which is a service supplementary to or connected with loading or unloading of goods on sea vessels or other conduct as prescribed by the Director-General.

"Employer" includes an entrepreneur of the business of Loading or Unloading Goods on Sea Vessels who agrees to recruit an Employee to work by paying him Wages.

"*Rang*" means the period of work on Working Days and Holidays as prescribed by the Director-General taking into account the agreement between the Employer and Employee according to the custom of the work of Loading or Unloading of Goods on Sea Vessels.

Clause 3. The specification of the normal working period, the commencing and ending times of work on each day shall be as prescribed by the Director-General.

Clause 4. The Employer shall not employ young worker under eighteen years of age to work in the Loading or Unloading of Goods on Sea Vessels, except for the cleaning of vessels, tying, arranging, lining up or other work as prescribed by the Director-General, whereby the Employer may employ children over sixteen years of age to work.

Clause 5. The Employer shall pay Wages to the Employee according to the length *Rang* without a consignment basis, in accordance

with the rules prescribed by the Director-General.

Clause 6. Whereas the Employer does not provide a Holiday to an Employee or provides less than those prescribed in Sections 28, 29 and 30, the Employer shall pay Wages to the Employee at the rate prescribed by the Director-General.

Clause 7. The Employer shall provide nutritious and adequate food for an Employee who is working. If the Employer does not provide food for the Employee, the employer shall pay a meal allowance to each Employee of not less than one fifth of the Wages for one *Rang* per meal.

Clause 8. Whereas the Employer brings the Employees to work outside their normal working place, the Employer shall provide transportation for the Employees to go to and return from work. If the Employer does not provide transportation, the employer shall pay the transportation fee as actually and necessarily incurred to the Employees.

Clause 9. The Employer shall provide occupational safety tool or equipment and set measures on occupational safety in accordance with the standards and rules prescribed by the Minister.

The Employees shall use the occupational safety tool or equipment and shall comply with the measures on occupational safety provided or set by the Employer under paragraph one.

Clause 10. Whereas a Labour Inspector finds that any Employer has violated or failed to comply with the standards and rules prescribed by the Minister under Clause 9, the Labour Inspector shall have the power to issue a written order requiring the Employer to improve the working environment, building or premise or provide or properly fix the machine or equipment that shall be used in the performance of work or

connected to performance of work by the Employees within a specified period of time.

Clause 11. Whereas a Labour Inspector finds that the working environment, building, premise, machine or equipment used by Employees may not be safe for Employees, or an Employer fails to comply with an order of a Labour Inspector under Clause 10, the Labour 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 in whole or in part.

The Employer shall pay money to an Employee, whose use of machine or equipment is suspended by an order of the Labour Inspector in paragraph one, at a rate equal to Wages of Working Day for the period of work stoppage, until the Employer has taken action in accordance with the order of the Labour Inspector.

Clause 12. An order of a Labour Inspector under Clauses 10 or 11 shall be appealed to the Occupational Safety, Health and Environment Committee under Section 100 within 30 days from the date of acknowledgement of the order. The Committee's decision shall be final.

The appeal under paragraph one shall not relieve the Employer's obligation to take any action in compliance with the order of the Labour Inspector except where by the Occupational Safety, Health and Working Environment Committee otherwise orders.

Clause 13. The employer shall, at his own expense, arrange for a medical check-up of the employees by a first class modern physician at least once a year.

Whereas the nature or character of work may cause any illness to the Employee or any danger to the Employee's health, the Employee shall also be specifically provided the physical examination to find out such cause of the illness or danger.

The Employer shall retain records of the examinations at the Employer's place of business of not less than two years from the termination date of employment of each Employee. Whereas there is a Lawsuit concerning any illness or danger of an Employee's health, the Employer shall retain the examination record until the order or judgment concerning has been final.

Clause 14. Whereas an Employee performs work for any entrepreneur or work in any entrepreneur's it shall be presumed that such entrepreneur or owner of the premise is the Employer of such Employee.

Clause 15. The Employer shall provide the documents concerning the payment of Wages, which shall contain at least the following particulars:

- (1) Working Days and working time;
- (2) the pieces of work done by an Employee who receives Wages on a piece rate basis; and
- (3) the rate and amount of Wages received by each Employee.

Upon payment of Wages to the Employee, the Employer shall arrange for the employee to sign the document under paragraph one as evidence of payment.

Whereas an Employer transfers money into deposit accounts at commercial banks or other financial institutions, the evidence of the transfer of money into the Employee's deposit account shall be deemed

to be a document concerning such payment, and the Employer may not arrange for the Employees to sign pursuant to paragraph two.

In the case of payment for food under Clause 7 or transportation fee under Clause 8, the Employer shall comply with the provisions of paragraph two mutatis mutandis.

Clause 16. The Employer shall retain the documents concerning payment of Wages, including for food under Clause 7, and for transportation fee under Clause 8 to Employees of not less than two years from the date of such payment.

Whereas a lodgment of complaint under Chapter 12 of the Act, a labour dispute under the law governing labour relations or a labour lawsuit, the Employer shall retain the documents concerning payment of Wages until the order or judgement regarding has been final.

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

Given on this 14th day of September B.E. 2541 (1998)

Trairong Suwannakhiri
Minister of Labour and Social Welfare

MINISTERIAL REGULATION NO.12

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 22 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour and Social Welfare hereby issues the following Ministerial Regulation:

Clause 1. In this Ministerial Regulation:

"Land Transport Work" means the carriage or move of persons, animals or things with land vehicles operated by an engine, electricity or other energy, excluding the move of ill persons or animals and transportation in fire-fighting or public relief.

Clause 2. The Employer shall specify the commencing and ending times of normal working time of Employees in land transport work so that the period of work is not more than eight hours a day.

Clause 3. The Employer shall not require Employees whose duty is to drive vehicles to work overtime, unless written consent is given by the Employee.

Whereas consent is given by the Employee under paragraph one, the Employer may require the Employee to work overtime for not more than two hours a day, unless necessary as a result of a force majeure, accident or traffic problem is occurred.

Clause 4. The Employer shall provide a rest period for the employee whose duty is to drive a vehicle of not less than one consecutive hour a day after the employee has worked for not more than

four hours.

The Employer and Employee under paragraph one may agree to specify set each rest period for less than one hour, but it shall not be less than twenty minutes each period, and the total shall not be less than one hour a day.

Clause 5. The Employer shall not require an Employee whose duty is to drive a vehicle to commence work on Working Day before the completion of ten hours after the end of work on the previous the following Working Day.

Clause 6. Whereas an Employer requires an employee in land transport work to work overtime on a Working Day or to work overtime on a Holiday, the Employer shall pay remuneration in money to the Employee equal to the hourly wage rate on a Working Day according to the number of hours of work, done unless the Employer agrees to pay Overtime Pay or Holiday Overtime Pay to the Employee.

Given on this 14th day of September B.E. 2541 (1998)

Trairong Suwannakhiri
Minister of Labour and Social Welfare

MINISTERIAL REGULATION No.13

B.E. 2541 (1998)

Issued under the Labour Protection Act B.E. 2541 (1998)

By virtue of Section 6 and Section 22 of the Labour Protection Act B.E. 2541 (1998) which has some provisions concerning the restriction of rights and liberties of people as section 29 with section 31, 35, 48, and 50 of the Constitution of the Kingdom of Thailand provided that the Minister of Labour and Social Welfare, by virtue of provisions of law, hereby issues the following Ministerial Regulation:

Clause 1. Paragraph (1) of Clause 1 of Ministerial Regulation No.7 (B.E. 2541) issued under the Labour Protection Act B.E. 2541 shall be repealed and replaced by:

"(1) An Employer and an Employee shall agree on normal working time and specify the commencing and ending of working times which shall the total of working time not exceed 12 hours per day, and shall not exceed 48 hours per week."

Clause 2. Paragraph (2) of Clause 2 of Ministerial Regulation No.7 (B.E. 2541) issued under the Labour Protection Act B.E. 2541 shall be repealed and replaced by:

" If an Employer and an Employee agree to specify fix normal working hours under paragraph one of more than eight hours per day for the Employee who does not receive monthly Wages, the Employer shall pay the Wages of a Working Day for eight working hours and shall

pay remuneration at the rate of not less than one and a half times of the hourly wages in Working Day for the work done in the excess hours, or of not less than one and a half times the of piece rate wage in Working Day for the done in the excess hours for the Employee who receives Wages as a piece rate basis. If an Employee works on a Holiday, an Employer shall pay Holiday Pay to the Employee for eight working hours and pay remuneration of not less than three times of the hourly wages in Working Day for the excess working hours, or of not less than three times of the piece rate wage in Working Day for the work done in the excess number of working hours as a piece rate basis."

Given on this 27th day of January 2000 (B.E. 2543)

Jongchai Theengtham
Deputy Minister acting for
the Minister of Labour and Social Welfare

