

LABOUR PROTECTION ACT (NO. 3) B.E. 2551 (2008)

BHUMIBOL ADULYADEJ REX.

Given on the 15th Day of February B.E. 2551

Being the 63rd Year of the Present Reign

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

Whereas it is expedient to amend the law governing labour protection.

This Act contains certain provisions relating to the restrictions on the rights and liberties of an individual which Section 29 together with Section 43 of the Constitution of the Kingdom of Thailand prescribe to be permissible by virtue of law.

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

Section 1 This Act shall be cited as “The Labour Protection Act (No.3) B.E. 2551”.

Section 2 This Act shall come into force a day after the date of its publication in the Government Gazette.

Section 3 The definition of “Basic Minimum Wage Rate” in Section 5 of the Labour Protection Act B.E. 2541 shall be repealed.

Section 4 The definition of “Wage Rates by Skill Standards” shall be inserted between the definitions of “Minimum Wage Rate” and “Overtime Work” in Section 5 of the Labour Protection Act B.E. 2541.

“Wage Rates by Skill Standards” means wage rates fixed by the Wage Committee for each branch of occupations in accordance with skill standards.”

Section 5 The provision of Section 79 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following:

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

- (1) to propose opinions and to give advices on policy and development regarding wages and incomes to the Cabinet;
- (2) to set guidance for Employers in determining the wage adjustment in accordance with the social and economic conditions;
- (3) to fix the Basic Minimum Wage Rate;

(4) to fix the Wage Rates by Skill Standards;
 (5) to give technical advice and guidance on the harmonisation of interests among Government agencies, private sectors and general members of the public;
 (6) to perform other task as prescribed by law or as assigned by the Cabinet or the Minister.

In proposing the opinions to the Cabinet, the Wage Committee may make an observation on the development of national income system.”

Section 6 The provision of Section 82 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following:

“Section 82 A meeting of the Wage Committee attended by members of not less than a half of the total members, of whom at least one member from each of an Employer party and an Employee party shall constitute a quorum.

In a meeting to determine the Minimum Wage Rate or the Wage Rates by Skill Standards under Section 79, the attendance of not less than two-thirds of the total members, of whom at least two members from each of the Employer party and the Employee party shall constitute a quorum. The resolution of the meeting shall be adopted by at least two-thirds of the members who attend the meeting.

In any meeting to determine the Minimum Wage Rate or the Wage Rates by Skill Standards where the quorum has not been constituted as prescribed in paragraph two, a meeting shall be held again within fifteen days from the date of the appointment for the previous meeting. In the subsequent meeting, even without the attendance of member from the Employer party or the Employee party, a quorum shall be constituted if members of not less than two-thirds of the total members of the Committee are attending. The resolution of the meeting shall be adopted by at least two-thirds of the members who attend the meeting.”

Section 7 The provision of Section 84 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following:

“Section 84 The Wage Committee shall have power to appoint sub-committees to consider or perform any duty as assigned by the Wage Committee.

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

Section 8 The following provision shall be added as Section 84/1 of the Labour Protection Act B.E. 2541:

“Section 84/1 The Wage Committee shall have power to appoint proficient person of not more than 5 persons as advisor to the Wage Committee, of whom must be the qualified person at least in a field of labour, salary and wage management, economy, industry or law.

Section 80 and Section 81 shall apply mutatis mutandis to a term of office and vacation of office of the advisor appointed by the Wage Committee under paragraph one.”

Section 9 The provisions of Section 87, Section 88, Section 89, Section 90 and Section 91 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the followings:

“Section 87 In determining the Minimum Wage Rate, the Wage Committee shall study and consider the facts regarding prevailing wage rates having been received by Employees together with other relevant facts by taking cost of living index, inflation rate, standard of living, cost of production, prices of goods and services, capabilities of business, labour productivity, gross domestic product, and social and economic conditions into account.

The Minimum Wage Rate as prescribed may apply to some certain types of business, work or branch of occupation in any extension or any locality.

In determining the Wage Rates by Skill Standards which shall not be less than the Minimum Wage Rate fixed by the Wage Committee, the Wage Committee shall study and consider the facts regarding prevailing wage rates having been received by Employees in each career in according to skill standards by evaluating skill, knowledge and capability.

Section 88 After having studied and considered the facts as prescribed under Section 87, the Wage Committee shall prescribe the Minimum Wage Rate or the Wage Rate by Skill Standard and propose it to the Cabinet for publishing in the Government Gazette.

Section 89 The Notifications prescribing the Minimum Wage Rate or the Wage Rates by Skill Standards under Section 88 shall apply to all Employers and Employees without discrimination.

Section 90 Once the Notification prescribing the Minimum Wage Rate or the Wage Rates by Skill Standards has come into force, an Employer is prohibited to pay Wages to an Employee less than the Minimum Wage Rate or the Wage Rates by Skill Standards as prescribed.

Labour Inspector shall send the Notification prescribing the Minimum Wage Rate or the Wage Rates by Skill Standards to Employers who are under the scope of enforcement. The Employers shall post the Notification in a prominent position in a workplace of Employees in order to be acknowledged by the Employees throughout the period of enforcement of the Notification.

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

(1) to prepare the national wage and income system development plans for proposing to the Wage Committee;

(2) to prepare project plans for proposing to the Wage Committee and the sub-committees;

(3) to coordinate plans and operation of the Wage Committee and the sub-committees;

(4) to compile, study, research, analyse and assess situations on economy, labour, living conditions, expansion of the labour market, labour productivity, investment, migration, and related information for preparing the national wage and income system development plans and in supporting the consideration of the Wage Committee and the sub-committees;

(5) to recommend the results of study, selected technical information and other supplementary measures to the Ministry of Labour and concerned agencies for the benefit in developing wage and income systems;

(6) to follow up and to assess the national wage and income system development plans and the performance in accordance with decision of the Wage Committee; and

(7) to perform any other tasks as assigned by the Wage Committee or the sub-committees.”

Section 10 Any Rule, Notification or Order issued under Section 79, Section 84 and Section 88 of the Labour Protection Act B.E. 2541 enforcing prior the date of enforcement of this Act shall remain in force as long as they are not contrary to or against this Act, until there is Rule, Notification or Order issued under Section 79, Section 84 and Section 88 of the Labour Protection Act B.E. 2541 as amended by this Act.

Section 11 The Minister for Labour shall have charge and control of the execution of this Act.

Counter signed by
General Surayuth Chulanon
Prime Minister

Remarks: The reason for promulgation of this Act is that Chapter 6 of the Labour Protection Act B.E. 2541 has not been in compliance with the current situation. It is expedient that the provisions regarding duties and powers of the Wage Committee should be amended to empower the Wage Committee in determining the Wage Rates by Skill Standards and in appointing advisor(s) to the Wage Committee; to stipulate the Wage Committee for proposing the wage rates as determined to the Cabinet for publishing in the Government Gazette; as well as, to authorize the Wage Committee Office in setting the national wage and income system development plans for proposing to the Wage Committee, and in following up the said development plans so as to get the wage rates determined by the Wage Committee that are effective and fair for Employees. It is, therefore, essential to enact this Act.