



**Thailand: Possible Measures for Employers in
Thailand during COVID-19 Pandemic
(As of March 25, 2020)**

***This article is based on the information as of March 25, 2020.**

The novel coronavirus (COVID-19) outbreak has now affected people in more than 100 countries around the world, causing not only an international public health crisis but also major disruptions in worldwide business transaction due to collapse in the global supply chain and labor market. The pandemic has posed significant challenges to multiple companies globally, particularly in respect of the legal implications on employer and employee rights amid the COVID-19 breakout situation.

Currently, the Department of Labor Protection and Welfare (the “**DLP**”), one of the major authorities in charge of the labor matter in Thailand, has not yet issued any special regulation on specific measures to be implemented during the new coronavirus or Covid-19 outbreak. However, the employers in Thailand may adopt the following measures to deal with the current situation based on the existing laws and regulations.

1. Temporary suspension of business operation

Under Section 75 of the Labor Protection Act B.E. 2541 (1998) (as amended) (the “**LPA**”), the company, as the employer, may, at its sole discretion, temporarily suspend its business if it is necessary for the company for whatever cause other than a force majeure which (i) affects the company’s business and (ii) causes the company incapable of operating the normal course of business.

In such case, the company has to pay wages to the employee affected by the said suspension of business operation in the amount of no less than 75 per cent of wages of working days received by the employees before the suspension of business for the entire suspension period. In addition, the company shall notify such suspension to the employees and the Labor Inspector in writing at least three working days before suspending its business operation.

As of now, the DLP has not yet announced any regulation specifically for temporary suspension of the business under Section 75 of the LPA. However, the Guideline regarding the Postponement of Songkran Holidays and Temporary Closure of Certain Places attached to the Notification of the DLP re: Request for Cooperation from Business Operators to Postpone the Traditional Holidays during Songkran Festival 2020 (the “**Guideline**”) may shed some light on this issue.

According to the Guideline, in the case that the employer’s business is closed from 22 March 2020 to 12 April 2020 as a result of the Notification of Bangkok Metropolitan Administration re: Temporary Closure of Places (No. 2) dated 21 March 2020 (the “**Temporary Closure of Business**”), it may not be considered as the fault of either the employer or the employee; therefore, the employee may not be entitled to receive wages during such temporary closure of business on “no work no pay” basis. However, the employer may pay wages to relieve the employee’s hardship at the employer’s sole business decision. We understand that some employers are taking the approach under Section 75 of the LPA whereby those employers will pay wages to the employee affected by the said suspension of business operation in the amount of no less than 75 per cent of wages of working days received before the suspension of business despite the Guideline.

In light of this, it may be possible that the company as the employer may implement the measure on temporary suspension of business operation under Section 75 of the LPA during this current COVID-19

pandemic, provided that all requirements prescribed thereunder have been satisfied.

For your information, based on the Thai court precedents, the company as the employer may also temporarily suspend the business by way of rotation (i.e. to divide employees into groups and each group of employees work on different periods) whereby the temporary suspension of some part of the business under Section 75 of the LPA shall be arranged on a non-discrimination basis. That is, the selection of employees who would continue their duties and the employees whose works would be suspended may not be made based on any discrimination.

2. Work from home policy

Comparing to the measure on temporary suspension of business operation, the work from home policy has not at all been addressed by the DLP as a measure for the employer to fight against the current situation caused by the COVID-19 pandemic. Nonetheless, high-profile companies worldwide are encouraging their employees to adopt a work-from-home policy so as to tackle with the recent global health issue.

Contrary to the measure mentioned above, the work from home policy is not directly and particularly stipulated in the LPA. Therefore, it would be subject to each company's business decision to set up a protocol concerning remote working for their employees. In other words, the company would be entitled to design the work-from-home program (e.g. the type of employees to take part in the program as well as the period of the program) depending on the nature of the company's business and the work of each employee.

It is important to note that although the employee is remotely working at the employee's home, the employee would generally be entitled to receive the same amount of wages from the company as when he or she works at the company. This is because unlike the temporary suspension measure under Section 75 of the LPA, the employee, under this scenario, is still working for the company.

In sum, labor issues pertaining to COVID-19 pandemic from the Thai legal perspective are still subject to the consideration among Thai authorities. It should therefore be expected that specific regulatory approaches and guideline to this pandemic are in development and may change at any time. As a result, matters relating to employment during the COVID-19 outbreak should be closely monitored. We will keep you informed if there are any further updates.

This article is intended to provide only general, non-specific legal information and does not purport to give a legal opinion or advice on specific facts.

