

## 8 Temporary Suspension for Business

In case for an employer temporarily suspends his/her own business, in part or in whole, without a cause of uncontrollable force, the employer must inform an employee and a labour inspector in advance before the suspension of business. Also, the employer must pay money of not less than 50 per cent of the working day wages received by the employee before the suspension of business throughout the period which the employer does not ask the employee to work.



## 9 Termination of Employment; Severance Pay; Special Severance Pay

### Termination of the contract of employment

When an employment is defined a period of termination, a contract of employment must expire upon the completion of the period specified in the contract without the need to give advance notice.

When an employment is not defined a period, an employer can terminate an employment of an employee or an employee can resign a job by giving advance notice in writing to the other party before the next date of a wage payment falls due.

### Dismissal

Dismissal means

- any act that an employer refuses an employee to work and refuses to pay wages because of an expiry of employment contract or any other cause;

- when an employee does not work and receives no wages because an employer can not continue the business.

### Severance pay

Severance pay must be paid to an employee who his/her employment is terminated as follows:

- an employee who has worked for an uninterrupted period of 120 days but less than 1 year must receive payment of not less than his/her last rate of wages for 30 days, or of not less than his/her wages for the last 30 days for an employee who receives wages on a piece rate basis;

- an employee who has worked for an uninterrupted period of 1 year but less than 3 years must receive payment of not less than his/her last rate of wages for 90 days, or of not less than his/her wages for the last 90 days for an employee who receives wages on a piece rate basis;

- an employee who has worked for an uninterrupted period of 3 years but less than 6 years must receive payment of not less than his/her last rate of wages for 180 days or of not less than his/her wages for the last 180 days for an employee who receives wages on a piece rate basis;

- an employee who has worked for an uninterrupted period of 6 years but less than 10 years must receive payment of not less than his/her last rate of wages for 240 days, or of not less than his/her wages for the last 240 days for an employee who receives wages on a piece rate basis; or

- an employee who has worked for an uninterrupted period of 10 years or more must receive payment of not less than his/her last rate of wages for 300 days, or of not less than his/her wages for the last 300 days for an employee who receives wages on a piece rate basis.

### Exception to severance pay

Severance pay must not be paid when

- a contract of employment -which is specified a definite period and the employment is terminated at the end of that period- is made for employment in a specific project. Such project must not be the normal business or normal trade of the employer; and must specify a definite date to commence and end the work; or must be a casual work with a definite ending or completion; or must be a seasonal work that is made during the season. The mentioned work must be completed within 2 years.

- an employment is terminated under any of the following conditions:

- (1) performing his/her duty dishonestly or intentionally committing a criminal offence against an employer;

- (2) intentionally causing damage to an employer;

- (3) causing serious damage to an employer as a result of negligence;

- (4) violating the lawful and just work rules or regulations or orders of an employer, and after receiving written warning of an employer. In this regard, such written warning must be valid of not more than 1 year. Except in a serious case, an employer is no need to give warning.

- (5) leaving his/her duty without justifiable reason for 3 consecutive working days regardless of there is holiday in between or not; or

- (6) being imprisoned by a final judgment, except there is the penalty for offense arising out of negligence or for petty offense.

### Special severance pay

- In case for an employer relocates the place of business and it significantly affects to the normal living of an employee or his/her family, the employer must inform the employee in advance of not less than 30 days before relocation.

- In case for an employer does not inform an employee in advance or inform in advance less than 30 days, the employer must pay special severance pay instead of advance notice at a rate equal to an employee's last wage rate for 30 days or equal to the wages of the last 30 days for an employee who is paid on a piece rate basis.

When an employee wants to quit a job, he/she has the right to terminate the contract of employment with entitlement to special severance pay of not less than the rate of severance pay that he/she entitled to.

- In case for the termination of employment as a result of the reorganization 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, an employer must inform a labour inspector and the employees in advance of not less than 60 days before termination about the date of the termination, the reasons for termination and a name list of the employees contemplated to be dismissed.

In case for an employer does not inform in advance an employee contemplated to be dismissed, or informs such employee in advance less than 60 days, apart from the severance pay to be paid, an employer must also pay special severance pay in stead of advance notice equal to an employee's last rate of wages for 60 days, or equal to an employee's wages for the last 60 days to an employee who is paid on a piece rate basis.

In case for an employee who has worked for uninterrupted period of 6 years or more, an employer must pay special severance pay in addition to severance pay for each year of employment of not less than the employee's last rate of wages for 15 days or for each year of employment or of not less than an employee's wages for the last 15 days for an employee who is paid on a piece rate basis. Such special severance pay in total does not exceed the last rate of wages for 360 days, or of not excess his/her wages for the last 360 days for an employee who receives wages on a piece rate basis

In case of a period of employment is less than 1 year, a fraction of such period of more than 180 days must be counted as 1 year of employment.

## 10 Evidence of Employment

An employer who employs ten or more employees must provide the document as the followings.

- Work rules in Thai language must contain at least the details of working days; normal working time; rest periods; holidays; rules of taking holidays; rules of overtime and holiday work; the date and place of wage payment, overtime pay, holiday pay and holiday overtime pay; leave; rules of taking leave; discipline; disciplinary measures; lodging of grievances; termination of employment; severance pay; and special severance pay.

The lodgment of grievances must contain at least the particulars on scope and meaning of grievances; method and steps of dealing with grievances; investigation and consideration of grievances; procedure for settlement of grievances; and protection for the claimant and any involved persons.

- The record of employees must contain at least the particulars of name and surname; sex; nationality; date of birth or age; present address; date of commencement of employment; position or duties; rate of wages and other benefits as agreed between an employee and an employer; and date of termination of employment.

- Documents relating the payment of wages, overtime pay, holiday pay and holiday overtime pay must contain at least the particulars of working days and working time; work done by employees who receive wages on a piece rate basis; and rate and amount of wages, overtime pay, holiday pay and holiday overtime pay. The particulars in the documents may be contained in one volume or several volumes. The evidence of such payment by direct transfer to a commercial bank account or other financial institutions are deemed as the evidence.



## 11 Penalties

Any employer who violates or fails to comply with the Labour Protection Act B.E. 2541 must be punished according to the level of his/her offence from a fine of not exceed 5,000 baht to a fine of not exceed 200,000 baht or a imprisonment of not more than 1 year, or both.

For more information, please contact

Department of Labour Protection and Welfare

Tel. 0 2245 4310-4 ext. 2202-2209

0 2245 6696 , 0 2246 3192

0 2246 8994 , 0 2246 3096

Hotline 1546

website [www.labour.go.th](http://www.labour.go.th)

or directly contact

DLPW's Metropolitan Area Offices

or

Provincial Offices ;

# Rights and Duties of Employer and Employee

In accordance with the Labour Protection Act B.E. 2541



Labour Protection Bureau

Department of Labour Protection and Welfare

Ministry of Labour

<http://www.labour.go.th>

**HOTLINE 1546**

## 1 Normal Working Time

Normal work must not exceed 8 hours a day or as agreed by an employer and an employee but not exceeding 48 hours a week.

Not exceeding 7 hours a day and not exceeding 42 hours a week are permitted for work which may be harmful to safety and health of an employee i.e. underground work, underwater work, work in a cave or a tunnel, work in a confined place, work involving with radioactivity, metal welding work, hazardous substance transport work, hazardous chemical production work, work with an instrument or machine which may harm a worker by its vibration, and work involving extreme heat or cold which may be harmful. In any case of work with its nature or environment is highly hazardous more than the prescribed safety standards and it is not possible to improve or rectify the hazard at its source, the personal protection must be provided.

## 2 Rest Period

### Rest period during normal work

An employee is entitled to a rest of not less than 1 hour a day after work for 5 consecutive hours.

An employee may take the rests periodically of less than 1 hour but the total rest period per day must not be less than 1 hour.

In case of a beverage shop or a food shop where dose not open or provide service continuously on each day, an employee may take to a rest of 2 hours a day.

An employer who obtains an employee's prior consent may not arrange a rest period for the employee in case of emergency work, or character or nature of work needs it to be performed continuously.

### Rest period before overtime work

An employer must arrange a rest period of not less than 20 minutes for an employee who is required to perform overtime work of not less than 2 hours after normal work.

## 3 Holiday

### Weekly holiday

A weekly holiday must not be less than 1 day per week. The days between each weekly holiday must not more than 6 days. In case of a hotel business, a transport work, a work in a forest, a work in a location lacking basic facilities, or any other work as prescribed in the Ministerial Regulations, an employer and an employee may agree to accumulate and postpone weekly holidays to be taken at any time within a period of 4 consecutive weeks.

### Traditional holiday

The traditional holidays, including National Labour Day, must not be less than 13 days per year according to the annual official holidays, religious holidays or local traditional holidays.

If a traditional holiday falls on a weekly holiday, an employee is entitled to a day off substitute for the traditional holiday on the following working day.

**In case of a hotel business, an entertainment establishment, a beverage shop, a food shop etc., an employer and an employee may agree to take other days off to substitute for the traditional holidays or the holiday wages must be paid to the employee.**

### Annual holidays

- An employee who has worked for an uninterrupted period of 1 year can take the annual holidays of not less than 6 working days in 1 year.

- An employer and an employee may agree in advance to accumulate and postpone any annual holiday in a year to be included in the following years.

## 4 Overtime Work, Work on a Holiday

● An employer who obtains an employee's prior consent may ask an employee to work overtime or to work on a holiday.

● In case of the character or nature of work must be performed continuously and the stoppage may cause damage to the work, or it is emergency work, an employer may ask an employee to work overtime or to work on a holiday as necessary.

● An employer may ask an employee to work on a holiday in a hotel business, an entertainment establishment, a transport work, a food shop, a beverage shop, a club, an association or a medical establishment without the employee's prior consent.

● The hours of overtime work, work on holiday and overtime work on holiday must not exceed 36 hours in total per week.

## 5 Leave

### Sick leave

An employee is entitled to a sick leave as long as he/she is actually sick.

For sick leave of 3 days or more, an employer may ask an employee to present a certificate from a first class physician or an official medical establishment. If the employee can not present such certificate, he/she must give an explanation to the employer.

A day which an employee cannot work because of injury or illness arising out of working or maternity leave must not be regarded as sick leave.

### Leave for necessary business

An employee is entitled to a leave for necessary business in accordance with the work rules of his/her workplace.

### Leave for sterilization

An employee is entitled to a leave for sterilization and a leave as a result of sterilization for a period determined and a certificate issued by a first class physician.

### Leave for military service

An employee can take a leave for military service for inspection, military drilling or readiness testing under the law concerning military service.

### Maternity leave

A pregnant employee is entitled to a maternity leave of not more than 90 days for each pregnancy.

### Leave for training

An employee is entitled to a leave for training or development of his/her knowledge and skills for the benefit of the labour and social welfare, or the increase of skills and expertise in order to increase the working efficiency; and for educational examinations organized or allowed to be organized by the Government. Such training and development must have a program or course with a definite and clear duration.

An employee must inform an employer clearly in advance about the reasons for leave and present relevant evidence, if any, of not less than 7 days before taking leave.

An employer may not allow an employee to take leave in cases of such employee has already taken leave for 30 days or more or on three occasions or more; or the employer can present that such leave may cause damage to or affect an employer's business operation.

## 6 Remuneration

### Wages

Wages must be paid only in money.

Wages must be paid of not less than the minimum wage rate.

In case for the normal working time is defined of exceed 8 hours a day, the remuneration of such exceeded hours must be paid at a rate of not less than 1.5 times of the hourly wage rate or the piece rate of wages in a working day and at a rate of not less than 3 times of the hourly wage rate or the piece rate of wages in a working day.

### Holiday pay

An employer must pay wages to an employee for a weekly holiday, a traditional holiday and an annual holiday. Exceptionally, an employee who receives wages calculated on a daily, hourly or piece rate basis is not entitled to weekly holiday pay.

### Leave pay

● Wages must be paid for sick leave that not exceeding 30 working days per year.

● Wages must be paid for leave for sterilization.

● Wages must be paid for military service leave that not exceeding 60 days per year.

● Wages must be paid for maternity leave that not exceeding 45 days per year.

### Overtime pay

Overtime wages must be paid to an employee who is entitled to wages on a piece rate basis at a rate of not less than 1.5 times of the hourly wage rate or the piece rate of wages.

### Holiday pay

Holiday wages must be paid additionally to an employee who is not entitled to wages on holidays at a rate of not less than onetime of the hourly wage rate or the piece rate of wages.

Holiday wages must be paid additionally to an employee who is not entitled to wages on holidays at a rate of not less than 2 times of the hourly wage rate or the piece rate of wages.

### Holiday overtime pay

Holiday overtime wages must be paid additionally at a rate of not less than 3 times of the hourly wage rate or the piece rate of wages.

When an employer does not provide a holiday for an employee or provides less than that prescribed by law, holiday wages or holiday overtime wages must be paid to an employee as if he/she is assigned to work on holiday.

**An employer who is not entitled to overtime wages and holiday overtime wages:**

● An employee who is authorized to act on behalf of an employer in the employment, granting of gratuities, wage reduction, or termination of employment;

● An employee who works as an itinerant vendor or solicits for the purchase of goods in return of a commission;

● An employee who works in railway service operation and railway transport facilitation; opening or closing of watergates or spillways; recording of water levels and measuring quantities of water; fire fighting or public disaster prevention; activity where the definite working time can not be fixed; or guarding or care taking of premises or property which is not a regular duty of employee. **An employee who performs land transport work is entitled to remuneration in money equal to the hourly wage rate according to the number of hours of work done.**

The employer may agree to pay overtime wages or/and holiday overtime wages to the employee.

### Rules of remuneration payment

● Remuneration must be paid equally to male employee and female employee who work in the same nature, same quality and equal quantity.

● Remuneration must be paid in Thai currency at the workplace of an employee.

● Remuneration may be paid by bill or in a foreign currency or at other place with the prior consent in writing of an employee.

● Remuneration must be paid at least once a month.

● Remuneration must be paid within 3 days from the date of termination of employment.

### Deductions from remuneration

Deductions from wages, overtime wages, holiday wages and holiday overtime wages must not be made, except the deductions for payment:

(1) of income tax in an amount must be paid by an employee or other payments prescribed by law;

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

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

(4) as a deposit or as compensation to an employer for damage caused by the employee either willfully or with negligence with his/her prior consent in writing; or

(5) as contributions under an agreement relating to a provident fund in amount of not exceed 10 per cent, and in aggregate of not exceed one in fifths of the money that an employee is entitled to, at the time of payment except when the employee gives the prior consent in writing of.



## 7 Suspension from Work

An employer can order an employee to suspension from work in order to investigate the employee's offence when the employer is empowered by the work rules or an agreement on conditions of employment to make such order.

Such order must be issued in writing stating the offence committed and the period of suspension of not exceed 7 days and must be informed in advance.

Money must be paid in the rate of not less than 50 per cent of the working day wages of the employee before his/her suspension.

If it appears that the employee is not guilty, the employee must be paid equal to the working day wages from the date of suspension plus interest at a rate of 50 per cent per annum.