

## Client Alert

January 2017

### Latest Amendments to the Thai Labour Protection Act: Retirement and Submission of Work Regulations

In its first meeting of 2017, the Thai Cabinet endorsed the proposal to amend the Labour Protection Act (the "**Act**"), entitling retirees to a statutory severance pay and setting the statutory retirement age for the first time.

Until now, Thai law has been silent on the issue of retirement and it is up to the discretion of each employer to prescribe its own retirement policy, e.g. whether there will be a retirement age and, if so, what this age is and when it will take effect. For employers who have prescribed a retirement age, the Thai labour court has long accepted that retirement is regarded as a case of termination of employees due to old age. Thus, the retiree is entitled to a severance pay and other termination payments under the law similar to those entitlements granted in normal cases of termination. On the other hand, if no retirement age has been prescribed, it will mean that no retirement policy is in place and the employees will have to continue working for the employers for as long as they can. If the employees can no longer work for the employer and decide to resign on their own accords, they will not be legally entitled to any payment at all.

Therefore, the amended Act aims to fill in the above gaps by specifically stating that retirement is a case of termination entitling the retirees to a severance pay and other termination payments. By stating this, the amended Act endorses the court precedent. Interestingly, the amended Act also sets the statutory retirement age at 60 in the case that the employer has not prescribed a retirement age in their internal rules and policies. However, the amended Act has not yet prescribed when a retirement is considered to take effect, e.g. whether it be upon the employee's 60th birthday, at the end of a month in which the employee has reached age 60 or many other possibilities. It remains to be seen how the law will address this ambiguity or if it will leave this issue to each employer to decide.

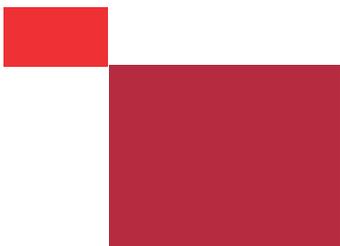
Section 144 of the Act has also been amended to include liabilities of employers who fail to pay a severance pay to retirees - a maximum of 6-month imprisonment and/or a maximum fine of Baht 100,000.

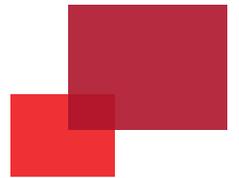
The Cabinet also approved the proposal to revoke the provision requiring employers who employ ten or more employees to submit work regulations to the Department of Labour Protection and Welfare. To lessen the administrative burden on employers, employers who have hired 10 or more employees will only be required to prepare, announce and keep at their workplaces a copy of their work regulations which can be made readily available for inspection by labour

[www.bakermckenzie.com](http://www.bakermckenzie.com)

#### Bangkok

5th Floor and 21st-25th Floors  
990 Abdulrahim Place  
Rama IV Road, Silom, Bangkok  
Bangkok 10500  
Thailand





For further information,  
please contact:

Suriyong Tungsuwan  
+66 2636 2000 ext. 4112  
suriyong.tungsuwan  
@bakermckenzie.com

Nam-Ake Lekfuangfu  
+66 2636 2000 ext. 4112  
nam-ake.lekfuangfu  
@bakermckenzie.com

Theeranit Pongpanarat  
+66 2636 2000 ext. 4112  
theeranit.pongpanarat  
@bakermckenzie.com

officials upon request. Such employers will no longer have to submit a copy to a local labour office for the government's review and approval.

The amended Act is being reviewed by the Office of the Council of State. It is anticipated that the amended Act will enter into force sometimes in mid-2017.