

Legal Alert

The Amended Labor Protection Act will be effective on 5 May 2019

On 5 April 2019, the Government Gazette has published the Labor Protection Act (Issue 7) B.E. 2562 (“**Amended LPA**”) and it will be effective on 5 May 2019.

The main purposes of the amendment is to provide better protection for employees, to enhance the stability of employment and employees’ well-being. Once Amended LPA comes into force it will provide employees with more favorable benefits, such as increase rate of severance pay for those employed for over 20 years, entitlement to business leave and an increase in the maternity leave period. In addition, the Amended LPA will clarify some existing entitlements primarily for the benefit of application and interpretation of the LPA.

Summary of the key amendments to the Labor Protection Act

Key amendments	The Current LPA	The Amended LPA
Default Interest (Section 9)	In the case that an employer fails to make payment required to be made under the LPA, an employer will be imposed with interest at the rate of 15% per annum.	In the case that an employer fails to make payment upon termination of employment without giving advance notice, or payment upon temporary cessation of the business operations, or other payments required to be made under the LPA, an employer will be imposed with interest at the rate of 15% per annum.
Changing an employer (Section 13)	In the event of changing an employer, a business transfer or a merger that will result in an employee to be under a new employer, the new employer must assume all existing rights and duties of the previous employer in regard to the employee.	In the event of changing an employer, a business transfer or a merger that will result in an employee to be under a new employer, consent of the employee is required. The new employer must assume all existing rights and duties of the previous employer in regard to the employee.
Payment in lieu of advance notice (Section 17/1)	If an employer wishes to terminate an employment agreement immediately instead of giving an employee a notice in advance, the employer shall provide payment in lieu of advance notice to the employee.	If an employer wishes to terminate an employment agreement immediately instead of giving an advance notice to the employee, the employer shall pay wages in the amount equal to the employee’s entitlement as from the dismissal date until the effective date of such termination. The wages shall be paid on the employee date of the dismissal.

Tax & Legal Alert – April 2019

Key amendments	The Current LPA	The Amended LPA
<p>Business leave (Section 34) (Add Section 57/1)</p>	<p>Number of the business leave granted will be in accordance only with the company's work rules.</p>	<p>An employee is entitled to at least 3 days of business leave per year with pay</p>
<p>Maternity Leave (Section 41)</p>	<p>A pregnant employee is entitled to maternity leave of not more than 90 days.</p>	<p>A pregnant employee is entitled to maternity leave of not more than 98 days including leave taken for prenatal care.</p>
<p>Temporary Cessation of Business Operations (Section 75)</p>	<p>If an employer is temporarily incapable to operate a business as normal due to whatever cause other than a force majeure, the employer shall pay wages to an employee in an amount of not less than 75% of wages of the working days for the entire period that the employee cannot be working.</p>	<p>If an employer is temporarily incapable to operate a business as normal due to whatever cause other than a force majeure, the employer shall pay wages to an employee in an amount of not less than 75% of wages of the working days for the entire period that the employee cannot be working.</p> <p>The payment to the employee shall be made within a month or else with employees' consent, at the workplace or elsewhere with the employees' consent,</p>
<p>The severance pay (Section 118)</p>	<p>The maximum severance pay rate is set at 300 days of the employee's latest wage rate for an employee who has worked 10 consecutive years or more.</p>	<p>The maximum severance pay rate is set at 400 days of the employee's latest wage rate for an employee who has worked for 20 consecutive years or more.</p>
<p>Relocation of Workplace (Section 120)</p>	<p>If an employer relocates the place of business which materially affects the ordinary course of living of employees or their families, the employer shall notify the employees not less than 30 days prior to the date of relocation of the workplace.</p> <p>If any employee does not want to go to work for the employer, the employee shall have the right to terminate employment by notifying the employer not less than 30 days from the date he/ she has been notified.</p> <p>In this regard, the employee is entitled to a special severance pay</p>	<p>An employer who wishes to relocate the business premise to new workplace or an employer's other existing workplace shall inform employees in advance of the relocation by posting the announcement in a prominent place of the current workplace for a period of at least 30 consecutive days prior to the relocation date. Information in the announcement must contain which employee(s) have to relocate, and where the new workplace is located.</p> <p>If an employer does not post the notice, an employer is liable to make a special severance pay for 30 days of the latest wage rate to any employee who refuses to work at the new workplace.</p> <p>In case an employee deems that the relocation of workplace will materially affect his/her and/or family's ordinary course of living and does not want to work at the new workplace, an employee shall inform an employer in writing within 30 days from the date of the relocation announcement or on the date of relocation in case of no announcement posted by an employer. In this regard, an employment agreement will be terminated on the date of relocation and such employee</p>

Key amendments	The Current LPA	The Amended LPA
		will be entitled to a special severance pay.

Deloitte observations/comments

This amendment offers more benefits to the employees and imposes more duties to employers in many aspects, e.g. business leave with pay, additional severance pay rate, duty in case of relocation, etc. It is therefore advisable that the company’s work rules and regulations be revisited in order to ensure the employer’s duties and employees’ rights comply with the requirement of the laws.

Even though the work rules and regulations are now not required to be registered with the Labor Department, failing to comply with the labor laws due to the incorrect/incomplete work rules and regulations can be subject to penalties under the laws.

For more information and how Deloitte can help you, please contact:

Anthony Visate Loh
Business Tax & Indirect Tax,
Legal Services
Tel: +66 (0) 2034 0000 ext 40112
Email: aloh@deloitte.com

Poljun Divari
Legal Services
Tel: +66 (0) 2034 0000 ext 11231
Email: pdivari@deloitte.com

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities. DTTL (also referred to as “Deloitte Global”) and each of its member firms and their affiliated entities are legally separate and independent entities. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries and territories serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 286,000 people make an impact that matters at www.deloitte.com.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities provide services in Australia, Brunei Darussalam, Cambodia, East Timor, Federated States of Micronesia, Guam, Indonesia, Japan, Laos, Malaysia, Mongolia, Myanmar, New Zealand, Palau, Papua New Guinea, Singapore, Thailand, The Marshall Islands, The Northern Mariana Islands, The People’s Republic of China (incl. Hong Kong SAR and Macau SAR), The Philippines and Vietnam. In each of these, operations are conducted by separate and independent legal entities.

About Deloitte Thailand

In Thailand, services are provided by Deloitte Touche Tohmatsu Jaiyos Co., Ltd. and its subsidiaries and affiliates.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.