

Severance Hits New High in Thailand

May 2019

On 5 April 2019, the Labor Protection Act (No.7) B.E. 2562 (the “**LPA No. 7**”) was published in the Government Gazette. LPA No. 7 introduces severance pay equivalent to 400 days of an employee's latest wage, a new highest rate. The new law will come into effect on 5 May 2019 (30 days from publication in the Government Gazette) amending Labor Protection Act B.E. 2541 (“**LPA**”)

LPA No. 7 was promulgated, it is believed, to elevate employee protections and retirement benefits.

Under the new law, an employee who has continuously worked for at least 10 years (but less than 20 years) will be entitled to receive severance equivalent to 300 days their latest wage. An employee who has continuously worked for at least 20 years will be entitled to receive severance equivalent to 400 days of their latest wage.

Hence, where an employer terminates an employment contract and the terminated employee has continuously worked for up to 20 years for the entity, the employee will be entitled to higher amounts of severance, compared to entitlements under LPA.

The new rates also apply to retirement upon the age agreed between employer and employee or at 60 years of age provided the employee requests retirement. Retirement, by virtue of Section 118/1 of the LPA, qualifies as a termination of employment.

Severance pay rates and the corresponding lengths of employment under LPA No.7 and LPA are compared below:

Length of Employment : Severance Pay Rate	
LPA No. 7	LPA
120 days but < 1 year: 30 days	120 days but < 1 year: 30 days
1 year but < 3 years: 90 days	1 year but < 3 years: 90 days
3 years but < 6 years: 180 days	3 years but < 6 years: 180 days
6 years but < 10 years: 240 days	6 years but < 10 years: 240 days
10 years but < 20 years: 300	10 years or longer: 300 days
20 years or longer: 400 days	Not available

The new maximum severance rates may significantly affect a company's profits and losses, and dividend payments during the fiscal year and in the future, in addition to the legal implications.

Employer companies must reserve severance expected to be paid to their employees as post-employment benefits pursuant to Thai Accounting Standard No. 19 (revised 2017) (“**TAS No. 19**”). Under TAS No. 19, employer companies are required to implement, and disclose, the reserve for post-employment benefits in their financial statements. Such reserve for post-employment benefits will be recognized as an expense from an accounting perspective

Higher severance thresholds under PLA No. 7 will create increased expenses in the employer companies' financial statements. At this point, employer companies' net profits and dividend payments, particularly during the fiscal year in which LPA No. 7 is enforced, may be affected.

Author's Note:



Employers who violate LPA No. 7 will be subject to criminal penalties.

Further, LPA No. 7 is a law related to public order. Any employment contract provision or employer's work rule contrary to the new law will be null and void.

We recommend that companies review their employment contracts and work rules to ensure compliance with the LPA as amended by LPA No. 7.

LPA No. 7 may also affect accounting equilibrium. We recommend that employer companies review applicable accounting standards, i.e. Thai Financial Reporting Standards (TFRS) or SMEs & Non-Publicly Accountable Entities (NPAEs) and consult with their auditors to mitigate the new law's impact on profit and dividend payments from recognition of higher reserves for post-employment benefits as an expense in the financial statements.

For more information, please contact us at admin@drkilaw.com or your contact person at DRKI.

**By Monchai Vachirayonstien, Partner, and Phawit Kaewpom, Attorney-at-Law, Dherakupt International Law Office Ltd.*
