



Legal News Update

KPMG in Thailand



Issue 24 : April 2023

New Section 23/1 to encourage Work-From-Home (WFH)

The new Section 23/1 of the Labor Protection Act B.E. 2541 (1998) will come into effect on April 18, 2023, following the publication of the amendment to the Act (the Labor Protection Act B.E. 2541 (No. 8) B.E. 2566 (2023) in the Government Gazette on March 19, 2023. Section 23/1 aims to encourage working from home, or remote-working, arrangements between employers and employees with the aims of: enhancing the work-life balance of employees; and reducing traffic congestion, and energy and fuel consumption, thereby reducing strain on employers.

Key elements of working from home as provided under Section 23/1 are outlined as follows:

- For the benefit of operating the business of the employer and to encourage a healthy work-life balance for employees, or in cases of necessity, the employer and the employee may mutually agree that the employee can perform work which by its nature can be conveniently executed outside of the workplace or office, remotely at any location, including the home or residence of the employee.
- The employer must prepare a mutual arrangement or agreement for such working from home, or remote-working, in writing (either physically or by electronic means).
- The written agreement provided by the employer concerning the arrangement for working from home, or remote-working, may include details of:
 - (i) start and end dates of the arrangement or agreement;
 - (ii) normal working days and hours, rest periods and overtime work;
 - (iii) conditions of overtime work, holiday and leave;
 - (iv) the scope of work of the employee, and the control or supervision of the employer; and
 - (v) the responsibility for provision of equipment or tools for work, and necessary expenses in relation to the work.
- Section 23/1 clearly entitles an employee who works from home, or works remotely, the right to disconnect. Unless the employee gives written consent in advance, the employee has the right to refuse all communications with the employer or superior after the end of normal working hours, or upon completion of the work assigned.
- An employee who works from home, or works remotely, has the same rights as an employee who works in the workplace or office.

Key considerations

The law does not mandate that employers allow employees to work from home (or remotely); nor does it entitle an employee to work from home (or remotely) based on the employee's personal decision.

Working from home, or remote working, requires mutual agreement or arrangement between the employer and employee.

Where a working from home, or remote-working, arrangement is agreed, the law requires the employer to have the mutual arrangement or agreement set out in writing — either physically or electronically — but the law does not have the specific requirements for such written agreements/arrangements.

Even though this is first time that the “right to disconnect” is specified in law, it is not different from the current practice of what an employer should, or should not do, outside of normal working hours.

How can KPMG Law assist you?

KPMG provides legal advice and consultation on a wide range of employment-related matters, informed by our vast experience assisting clients from multiple sectors with employment law issues. For more information, please feel free to contact us.

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