



GMS Flash Alert

Employment Law

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Thailand - New Labor Rules Supporting Work from Home

New Section 23/1 of Thailand's Labor Protection Act B.E. 2541 (1998) came into effect on 18 April 2023.¹ 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; reducing traffic congestion; and lowering energy and fuel consumption.

WHY THIS MATTERS

The amendments to the Labor Protection Act are a welcome response to workplace issues tied to the coronavirus and the new reality of, and dynamic changes to, the labor market thanks to the widespread use of telecommunication technologies. The amended Labor Protection Act brings clarity and more structure to the obligations between employers and employees around issues related to remote work and work from home that are of crucial importance to accommodate both employer and employee needs given the recent changes in work patterns that are anticipated to continue in future.

Key Elements of Working from Home as Provided under Section 23/1

For the benefit of employers operating a business 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:

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- (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 that work.

Section 23/1 clearly entitles an employee who works from home, or works remotely, the right to “disconnect.” For instance, the employee has the right to refuse all communications with the employer or his/her superior after the end of normal working hours, or upon completion of the work assigned, unless the employee gives written consent in advance.

An employee who works from home, or works remotely, has the same rights as an employee who works in the workplace or office.

KPMG INSIGHTS

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 do, or should not do, outside of normal working hours.

As Thailand’s amendment to the Labor Protection Act has been recently enacted to accommodate the global widespread “working from home (WFH)” trend, there may be questions about applicability of the rules under the Labor Protection Act and how to comply, and employers may need assistance with remote working/working-from-home employees. It may be prudent to consult with a qualified employment law professional, or a member of the Employment Law or Global Mobility Services team with KPMG in Thailand (see the Contacts section).

FOOTNOTE:

1 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 19 March 2023.

RELATED RESOURCE:

This article is excerpted, with permission, from “Legal News Update” ([Issue 24](#), April 2023), a publication of the KPMG International member firm in Thailand.

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