

Home Workers Protection Act, B.E.2553 (2010)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 11th Day of November B.E. 2553;

Being the 65th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient that there be enacted a law governing the protection of home workers.

This act contains certain provisions relating to the restriction of the rights and freedom of people which Section 29 in conjunction with Section 33, Section 41 and Section 43 of the Constitution of the Kingdom of Thailand provide that this can be done by virtue of the provisions of the law.

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1

This Act shall be called the "Home Workers Protection Act, B.E. 2553 (2010)"

Section 2

This Act shall come into force after the expiration of one hundred and eighty days of the date of its publication in the Government Gazette.

Section 3

In this Act:

"Home Work" means work assigned by a hirer in an industrial enterprise to a home worker to be produced or assembled outside of the work place of the hirer or other works specified by the ministerial regulations.

"Home Worker" means a person or group of persons who agree with a hirer to accept work which is to be carried out at home.

"Hirer" means an entrepreneur who, either directly or through an agent or acting as a sub-contractor, agrees to employ a home worker to carry out home work

"Committee" means the committee on the protection of home workers.

"Labor Inspection Officer" means a person from the central, provincial or local administration appointed by the minister to take action in accordance with this Act.

"Director-General" means the director-general of the Department of Labor Protection and Welfare.

"Minister" means the Minister to take charge of the execution of this Act.

Section 4

The Minister of Labor shall take charge of the execution of this Act and shall have the power to appoint a Labor Inspection Officer, to issue ministerial regulations and notifications for the execution of this Act.

In the appointment of the Labor Inspection Officer, the scope of its power, duty and conditions governing the performance of its duties may also be specified.

Ministerial regulations and notifications shall be enforceable upon their publication in the Government Gazette.

Chapter 1

General Provisions

Section 5

The demand for or acquisition of rights and benefits under this Act shall not bar the rights and benefits home workers are entitled to under other laws.

Section 6

Where the Director-General finds it appropriate to render assistance in conducting legal actions on behalf of home workers or when requested by home workers or their heirs which in the Director-General's opinion would be for the common benefits, the Director-General may ask the Attorney-General to appoint a public prosecutor to take charge of the conduct of the case against the hirer in the Labor Court or may appoint a competent official of the Department of Labor Protection and Welfare who possesses a minimum qualification of not lower than a bachelor degree in jurisprudence in order to conduct cases on behalf of home workers or their heirs and once the Director-General has informed the Labor Department of the appointment such person shall have the authority to act until the case has become final.

In the conduct of the case in the Labor Court, the person referred to in the first paragraph shall also have the power to sue for property or damages on behalf of home workers or their heirs.

Section 7

Cases arising from disputes between hirers and home workers or their heirs or which relate to the rights and duty under this Act shall come under the jurisdiction of the Labor Court to try and adjudicate.

Section 8

Where the employment contract or terms in documents relating to the acceptance of work to be carried at home between an hirer and home worker give the hirer undue advantage over the home worker, the Labor Court shall have the power to order that the employment contract or terms in documents relating to the acceptance of work to be carried out at home are to be enforced only in so far as they are fair and reasonable.

Chapter 2

Rights and Duty of Hirers and Home Workers

Section 9

The hirer shall prepare documents in Thai relating to the acceptance of home works, one copy of which is to be given to the home worker and one to be kept in the place of work or office of the hirer at the time of assigning the work and which is to be readily produced for the inspection of the Labor Inspector during working hours.

Documents relating to the acceptance of home works shall at least contain the following details.

- (1) name, address, sex and age of home worker and in case of working in group, the name, address, sex and age of every person in the group of home workers
- (2) name and address of the hirer and where employment is made through an agent or sub-contractor, the name of the agent or sub-contractor shall also be recorded immediately above it

- (3) the rate and amount of remuneration a home worker will receive, the method of calculation and deduction of the remuneration and the amount of security received from the home worker
- (4) type, quantity and value of home work
- (5) scheduled commencement and completion date of each installment of work
- (6) scheduled delivery date of work carried out for the hirer and payment of remuneration to the home worker
- (7) signature of the hirer and of the home worker

The hirer shall maintain documents relating to the acceptance of work to be carried out at home for not less than two years of the date of payment of remuneration.

Section 10

In case where the home work has not been completed and negotiation is still pending the hirer shall not terminate the employment except when it is terminated due to the fault of the home worker or when due to necessary circumstance which is unavoidable leading to such termination by the hirer with the hirer paying remuneration to the home worker.

Section 11

In case where it is reasonably expected that the home work would not be completed within schedule, the home worker shall inform the hirer forthwith in order to agree on the extension of time for delivery of work to the hirer.

In case where the hirer does not agree to extend the time for delivery of work and where the hirer would suffer damage from the late delivery of work without the fault of the hirer, the hirer has the right to terminate the employment and assign someone else to carry out the work instead.

Section 12

The termination of employment under Section 10 and Section 11 will not bar the right of any of the parties to claim damages from the party that is liable for the cause of such termination.

Section 13

In case where the essence of the employment lies in the knowledge and ability of the home worker and such home worker has died or is unable to carry on with the work without his/her fault, the employment shall terminate. However, if the part of work which has been carried out is of benefit to the hirer, the hirer must accept it and pay remuneration in proportion of the work that has been carried out.

Section 14

An hirer is forbidden to demand or receive performance bond or collateral damage relating to work performance from a home worker except where the type, quantity or value of work being performed may cause damage to the hirer. The type, quantity or value of work for which security is allowed to be demanded or received from a home worker shall be in accordance with the rule, procedure and condition specified by the Director-General with the assent of the committee.

The hirer shall return the performance bond or collateral damage relating to work performance to the home worker within a period not later than seven days of receipt by the hirer of the work performed.

Section 15

In case where raw materials, equipment or other inputs to be used for the performance of work are supplied by the hirer, the home worker shall use the raw materials, equipment and other inputs with care and sparingly and if not otherwise agreed upon, upon

completing the work shall return what remain of the raw materials, equipment and other inputs to the hirer.

Chapter 3

Remuneration

Section 16

In the determination of remuneration for the home work, if the home work is of the same nature and quality and equal quantity the remuneration for the home worker to be determined by the hirer shall not be less than that stipulated by the Labor protection law specified by the Committee with no discrimination in this regard.

The hirer shall pay remuneration in Thai currency unless the home worker agrees to be paid in bills or in foreign currencies.

Section 17

The hirer shall pay remuneration to the home worker at the time of delivery of the work performed or as specified in the agreement but shall not be over seven days of the date of delivery by the home worker of the home work performed.

Section 18

The hirer shall pay remuneration to the home worker at the home worker's work place. However, if payment is to be made at any other place or in any other mode, the consent of the home worker shall have to be obtained.

Section 19

In no case shall the hirer deduct the remuneration unless it is deducted for the following.

- (1) payment of tax in the amount to be paid by the home worker
- (2) other payments as specified by law
- (3) compensation for loss to the hirer due to the home worker's willful act or gross negligent, with consent to be obtained from the home worker
- (4) payment of damages or penalties in case the home worker delivers the home work later than delivery schedule, with consent to be obtained from the home worker

The deduction of remuneration in the cases referred to under (3) or (4) shall not be made more than ten per cent of the remuneration the home worker is entitled to receive for each installment of remuneration. Deduction for income tax in the case referred to under (1) above shall be made in accordance with the Revenue Code.

Chapter 4

Safety in the Performance of Work

Section 20

It is forbidden for anyone to assign pregnant women or children under 15 years of age to carry out works which by their nature may be hazardous to the health and safety of pregnant women or children less than 15 years of age.

Works which by their nature may be hazardous to the health and safety of pregnant women or children less than 15 years of age shall be those prescribed in the ministerial regulations.

Section 21

It is forbidden for anyone to engage home workers to carry out the following works.

- (1) works involving hazardous materials pursuant to the law governing hazardous materials
- (2) works that are to be carried out with the use of tools or machines vibration of which may be hazardous to the persons performing the works
- (3) works involving extreme heat or coldness which may be hazardous
- (4) other works which may affect health, safety or quality of the environment

The nature or type of works referred to under (2), (3) or (4) shall be those prescribed in the ministerial regulations.

Section 22

It is forbidden for an hirer to procure or deliver raw materials, equipment or other inputs used for the performance of work that are hazardous to home workers, residents of the house, business visitors including neighboring communities and environment.

Section 23

The hirer shall give warning notice informing home workers of the danger which may have arisen from the use of raw materials, equipment or other inputs used for the performance of work as well as protective and remedial measures against such danger and provide home workers with sufficient equipment suitable to the nature of works for the protection and safety of work performance.

Home workers shall use the protective and safety equipment for the performance of works provided by the hirer and shall, upon completion of the assign work, return what remain of the protective and safety equipment to the hirer.

Section 24

The hirer shall be responsible for medical expenses, rehabilitation expenses and funeral expenses in case where the home worker met with danger, was ill, disabled or met with death due to the use of raw materials, equipment or other inputs used for the performance of work procured or delivered by the hirer or the failure of the hirer to provide protective and safety equipment for the performance of works or, in case of accident, at the place of work. The medical expenses, rehabilitation expenses and funeral expenses shall however be in accordance with the rule, procedure and rates prescribed in the ministerial regulations.

The provision prescribed under the first paragraph shall not apply to the danger, illness, and disability arising from the willful act or gross negligence of the home worker itself.

Chapter 5

Home Work Protection Committee

Section 25

There shall be a committee to be called the "Home Work Protection Committee" to be composed of

- (1) The Under-secretary of State for Labor, as chairman of the committee

- (2) 5 ex-officio members of the committee, namely, the Director-General of the Department of Employment, representative of the Ministry of Public Health, representative of the Ministry of Industry, representative of the Department of Provincial Administration and representative of the Department of Local Administration
- (3) not more than three qualified committee members appointed by the minister from among persons who are experts on home works of which number at least one shall be the representative of a juristic person Non-Government Organization
- (4) three committee members who are representatives of hirers elected from among themselves
- (5) three committee members who are representatives of home workers elected from among themselves

The Director-General of the Department of Labor Protection and Welfare shall be a committee member and secretary and he shall appoint not more than two officials of the Department of Labor Protection and Welfare as assistant secretary.

The appointment or selection of committee members referred to under (4), (5) and (6) shall be made from among both men and women in accordance with the rule and procedure prescribed by the minister.

Section 26

Committee members referred to under (4), (5) and (6) shall hold office for a term of two years and may be re-appointed or re-elected but shall not hold office for more than two consecutive terms.

Upon the expiration of the term of office referred to in the first paragraph, if no appointment or election of committee members referred to under (4), (5) and (6) of Section 25 has been made as substitute, the committee members who retired from office at the end of the term shall remain in office to continue with the performance of their duty until the time the appointed or elected substitute committee members assume their duty.

When the original committee members are going to vacate office at the end of their term, the same type of committee members shall be appointed or elected as substitutes not less than ninety days prior to the expiration date of the term.

In case where a committee member vacates office prior to the end of his term, a committee member of the same type shall be appointed or elected within ninety days from the date the office is left vacant. The person thus appointed or elected as substitute shall hold office for the remaining term of the committee member he replaced.

In case where the remaining term of the committee member who has vacated office is less than ninety days, appointment or election of a committee member may or may not be made to fill the vacancy. In such case, the committee shall be composed of the remaining committee members.

Section 27

Apart from vacating office upon the expiry of the term, committee members referred to under (4), (5) and (6) of Section 25 shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being removed by the minister for being absence from three consecutive meetings without appropriate reason or for misconduct, malfeasance in office;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent person;

- (6) being sentenced to imprisonment by a final judgment except for an offence committed through negligence or for a petty offence.

Section 28. The committee shall have the following power and duty:

- (1) to offer recommendations and opinions to the minister in matters relating to the policy on the protection, promotion and development of home workers, measures for the development of skilled Labor, measures for the protection against hazard, illness or death arising from work performance and protection of the rights and benefits of home workers;
- (2) to offer recommendations to the minister relating to the issuing of ministerial regulations, notifications for the implementation of this Act;
- (3) to determine the rates of remuneration for home works;
- (4) to encourage hirers and home workers in setting up guidelines for good work performance practice as well as the promotion of cooperation and coordination between government agencies, private organizations and other organizations in matters relating to home works;
- (5) to monitor the operations relating to home works of every party involved and present reports on the results of such operations to the cabinet of ministers at least once a year and disseminate them to the general public;
- (6) other actions prescribed by law to be the power and duty of the committee

In the determination of the rates of remuneration under (3), the committee shall determine rates of remuneration that are not lower than those for employees under Labor protection laws.

In the performance of their duty under (1), (2), (4) and (5) the committee shall consider making available to home workers promotion, development and support from the government in respect of information about source of works, obtainment of works from government agencies, provision of academic services, development of skills in the performance of work and development of home workers network as well as provision of credit or working capital to home workers.

Section 29

At a meeting of the committee, not fewer than half the number of committee member shall be present to form a quorum.

At a meeting of the committee, if the committee chairperson is absent or is unable to perform his duty, the committee members present at the meeting shall select one of the committee members' chairperson of the meeting.

Decisions at a meeting shall be carried by majority vote. One committee member shall be entitled to one vote. In voting, if the votes are tied, the chairperson of the meeting shall have a casting vote.

Section 30

The committee shall have the power to appoint a sub-committee to consider or carry out any one operation assigned by the committee.

In holding a meeting of the sub-committee, the provision of Section 29 shall apply mutatis mutandis.

Section 31

In the discharge of duty prescribed under this Act, the committee members or sub-committee delegated by the committee shall have the following power.

- (1) to enter the place of business operation or office of the hirer or place of work of home workers during working hours to inspect or make inquiry about facts in order to obtain information for use in their deliberation and each time the

committee or sub-committee members shall report the result of their performance to the committee;

- (2) to issue a letter of summons calling upon a person to appear to give statements or to send documents or materials as deemed necessary for use in their deliberation.

In this respect, the hirers, home workers, persons concerned shall provide them with convenience, send or produce documents or facts to them and not obstruct the said persons in the performance of their duty.

Section 32

In the discharge of duty under Section 31, committee or sub-committee members shall produce identity card to persons concerned.

The identity card of committee or sub-committee members shall be in the format specified by the minister in the notification.

Chapter 6

Filing and Deliberation of Petitions

Section 33

In case where a hirer fails to pay a home worker by violating or not complying with this Act, the home worker may file a petition to the Labor Inspector of the locality where the home worker has his place of work or the hirer has his domicile in the format specified by the Director-General in his notification. If the home worker dies before the petition is filed or while the petition is pending deliberation, his heir shall have the right to file the petition to the Labor Inspector or proceed further pursuant to this chapter.

Section 34

Upon a petition is being filed pursuant to Section 33, the Labor Inspector shall make an investigation into facts and issue an order within thirty days of the date of receipt of the petition.

When out of necessity an order could not be issued within the time prescribed in the first paragraph, the Labor Inspector shall apply to the Director-General or the person assigned by the Director-General for an extension of the time giving simultaneously the reason for the extension and the Director-General or the person assigned by the Director-General may consider permitting the extension as he deems appropriate but it shall be for a period not exceeding thirty days from the expiry date prescribed in the first paragraph.

After having investigated the petition under Section 33 by the Labor Inspector it appears that the home worker or his heir is entitled to receive any kind of money the hirer is obliged to pay pursuant to this Act, the Labor Inspector shall order the hirer to make such payment in the format specified by the Director-General in the notification within thirty days of the date of knowing it or of being considered to have known the order while simultaneously inform the person entitled to receive the money of the matter.

The hirer shall pay the person entitled to the payment under the third paragraph at the place of work of the home worker. If the person so entitled requests that payment be made at the office of the Labor Inspector or at another place agreed upon, the Labor Inspector shall have the power to order that payment be made at the place requested.

In case where the Labor Inspector is of the opinion that the petitioner has no right to receive money from the hirer, the Labor Inspector shall issue an order to that effect and inform the petitioner and the hirer thereof in writing.

Section 35

After the Labor Inspector has issued the order referred to under Section 34, if the petitioner or the hirer does not agree with the order, the case shall be referred to the Labor Court within thirty days of the date the order is known or considered to have been known.

In case where the petitioner or the hirer fails to refer the case to the Labor Court within the specified time, the order shall become final.

In case the hirer is the party that refers the case to the Labor Court, the hirer shall have to deposit with the Labor Court a sum of money in the amount equal to that due to be paid under the order in order to enter the case in the court.

When the case has become final and the hirer has the duty to pay any sum of money to the petitioner, the Labor Court shall have the right to pay the petitioner out of the sum of money deposited with the Labor Court.

Section 36

In case where the hirer has complied with the order of the Labor Inspector under Section 34 within the specified period or with the judgment or order of the Labor Court, the criminal case against the hirer shall become extinct.

Chapter 7 **Labor Inspector**

Section 37

In the discharge of duty prescribed under this Act, the Labor Inspector shall have the following power.

- (1) to enter the establishment or office of hirers or place of work of home workers during working hours to inspect the working conditions of home workers and make inquiry about facts, to take photographs, to make copies of documents relating to home works or to pay remuneration;
- (2) to collect samples of raw materials or products for the analysis of safety in the performance of work and to carry out other actions to obtain facts in connection with the compliance with this Act and to do that the Labor Inspector must obtain the consent of the hirer or home worker or approval of the Director-General or of the person assigned by the Director-General;
- (3) to send letter of summons to any person requiring the person to appear and give statements or to send documents or materials for use in its deliberation as deemed necessary;
- (4) to issue written orders requiring an hirer or home worker to comply properly with this Act;

In carrying out inspection of the establishment or office of the hirer or place of work of the home worker, the Director-General or the person assigned by the Director-General may arrange for a doctor, social worker or expert appointed by the minister to enter the said place in order to express an opinion or render assistance to the Labor Inspector in its execution of this Act.

Section 38

Appeal against the order of the Labor Inspector under Section 37 (4) shall be filed with the Labor Court within the period specified in the order, but shall not be over thirty days of the date when the order is known.

The appeal under the first paragraph shall not be a suspension of the execution of the order of the Labor Inspection except where otherwise specified by the Labor Court or where a security to be determined by the Labor Court is deposited.

In case where the hirer or home worker fails to refer the case to the Labor Court within the specified time, the order shall become final. In case where the hirer is the party that refers the case to the Labor Court, the Labor Court shall have the power to require that a security in the sum to be determined by the Labor Court in order to enter the case with the Court, except where otherwise specified by the Labor Court.

In case where the hirer or home worker has complied with the order of the Labor Inspector under Section 37 (4) or with the judgment or order of the Labor Court, the criminal case against the hirer or home worker shall become extinct.

Section 39

Persons concerned shall give due convenience to the Labor Inspector, doctor, social worker or expert under Section 37 in the discharge of their duty.

Section 40

In the discharge of duty under Section 37, the Labor Inspector, doctor, social worker or expert under Section 37 shall produce identity card or letter of assignment as the case may be to persons concerned.

The identity card of the Labor Inspector shall be in the format specified by the minister in the notification.

Chapter 8

Penalty Provisions

Section 41

An hirer who fails to comply with Section 9 shall be liable to a fine not exceeding ten thousand Baht.

Section 42

An hirer who violates or fails to comply with Section 14, Section 16, Section 17, Section 18, Section 19 or Section 23 first paragraph shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding fifty thousand Baht or to both.

Section 43

Whoever violates Section 20 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand Baht or to both.

In case where the violation under the first paragraph has caused physical or mental hazard to a pregnant woman or a child under fifteen years of age or has caused his/her death, the violator shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand Baht or to both.

Section 44

An hirer who violates Section 21 or Section 22 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand Baht or to both.

Section 45

Whoever fails to give convenience, to give statements, to send documents or other objects required by the summons letter of the committee or sub-committee members under Section 31 or of the Labor Inspector under Section 37 or fails to give convenience to the

Labor Inspector, doctor, social worker or expert under Section 39 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding twenty thousand Baht or to both.

Section 46

Whoever obstructs the execution of duty of the committee or sub-committee members under Section 31 or of the Labor Inspector, doctor, social worker or expert under Section 37 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand Baht or to both.

Whoever fails to comply with the order of the Labor Inspector issued under Section 34 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand Baht.

Section 47

Whoever fails to comply with the order of the Labor Inspector issued under Section 37 (4) shall be liable to a fine not exceeding twenty thousand Baht.

Section 48

In case where the violator to be penalized under this Act is a juristic person, the managing director, manager or any person responsible for the running of that juristic person shall also be liable to the penalty prescribed by law for such offence unless it can be proved that he/she did not have any part in the commission of the offence.

Section 49

In the case of offences specified in this Act, if the following official is of the opinion that the offender should not be punished with imprisonment or charged in court, he shall have the power to settle the case as follows.

- (1) the director-general or the person assigned by the director-general, for offences committed in the metropolitan city of Bangkok;
- (2) the provincial governor or the person assigned by the provincial governor, for offences committed in another province;

In case an inquiry was made into the offence and the inquiry official found out the person who committed the offence under this Act and the person agreed to have the case settled, the inquiry official shall refer the case to the director-general or the provincial governor as the case may be within seven days of the date of expressing the agreement by the person to have the case settled.

Upon payment by the offender of the money in the sum required for the settlement of the case within thirty days, the case shall be deemed settled pursuant to the Criminal Procedure Code.

If the offender does not agree to the settlement or after having agreed thereto fails to pay the fine within the time specified in the third paragraph, the case shall proceed further.

Transitory Provision

Section 50

Appointment or selection of committee members shall proceed in accordance with Section 25 (4), (5) and (6) in order to form the committee on the protection of home works pursuant to this Act within one hundred and twenty days of the date this Act has come into force.

While pending the formation of the committee pursuant to this Act, a committee shall be formed which is composed of the Under-Secretary of State for Labor as chairman, the Director-General of the Department of Employment, representative of the Ministry of Public Health, representative of the Ministry of Industry, representative of the Department of Provincial Administration, representative of the Department of Local Administration and the Director-General of the Department of Labor Protection and Welfare as committee member and secretary, to take charge of the execution of this Act for the time being.

Countersigned by
Mr. Abhisit Vejjajiva
Prime Minister

Note: This Act was announced because there was change in employment condition which once the hirer employs the worker to work in its work place, to be to employs or assigns the worker to produce or assemble work outside of the hirer's work place. In which all the existing law could not protect the home-worker to be in fair condition or to meet safety standard. We should have law to protect all home-workers; hence we have to announce this Act.

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