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THAILAND

Newsletter

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Gig Economy Workers Unite: Thailand's Draft Independent Workers Protection Act

In Thailand, the Labor Protection Act is the main regulation that prescribes minimum standards, duties, and rights in relation to employment for employers and employees. However, due to a recent shift in the lifestyle of the younger generations and their economic participation trends, Thailand has seen an increasing number of workers leave their full-time positions and instead provide their services to one or concurrently a few of the newly established platform-based companies in transportation and logistics, food and package delivery, and cleaning industries. The Labor Protection Act, however, is unable to properly provide protection for these independent workers. As there has been an intention to guarantee fundamental rights to these independent workers for work safety and social security, the draft Independent Workers Protection Act (the "**Draft Act**") was proposed. The Draft Act will also benefit traditionally independent operators such as self-employed farmers, traders, and craftsmen.

Key Points in the Draft Act

The Draft Act aims to provide protection to independent workers. Some key points are as follows:

Relevant Definitions

The definition of "Independent Worker" under the Draft Act covers both "Self-Employed Persons" and "Quasi Self-Employed Persons". Self-Employed Persons includes traditionally independent operators and service providers, while Quasi Self-Employed Persons includes those providing services to companies on an intermittent or self-chosen basis, such as food delivery riders and freelance cleaners.

Independent Workers and Formation of Cohorts:

Five or more Independent Workers can bind together and form an Independent Worker Group. Once registered with the authority, an Independent Worker Group is entitled to provide comments to an Independent Worker Organization (explained below) to further propose ideas and plans to relevant government committees to impact policies and directions. Furthermore, it can act as a representative to negotiate and reach agreements with hirers.

Fifteen or more Independent Worker Groups can further bind together and form a larger Independent Worker Organization. Similar to an Independent Worker Group, once registered with the authority, an Independent Worker Organization can act as a representative to negotiate with a hirer and can also sue and reach settlement with a hirer on behalf of its members.

Quasi Self-Employed Person and Work Contract:

The Draft Act mandates a checklist of provisions and characteristics that an agreement between a hirer and a Quasi Self-Employed Person must contain. The agreement must be in Thai and contain a clear commencement date, work objectives, duties of the hirer and the Quasi Self-Employed Person, dispute resolution, etc. A hirer must submit such agreement with the relevant authority as evidence for inspection.

The Draft Act also touches on other theories, including those on gender pay equality, timely payment of remuneration, limitation on pay reduction, work termination, and work safety.

All disputes arising between a hirer and a Quasi Self-Employed Person or his/her heir(s), or between them and governmental officials or authorities, which concern rights and duties under the agreement or employment relationship under the Draft Act, are under the jurisdiction of the Labor Court.

Contribution Fund:

The Draft Act also establishes a Contribution Fund whose aim is to fund expenses relating to promotion, development, and protection of Independent Workers. Quasi Self-Employed Persons and their hirers must pay contributions on an annual basis. The rate has yet to be specified.

Conclusion

The Draft Act is still in an early stage and subject to further consideration and amendment. If passed for promulgation as-is, the Draft Act will affect current practices in the labor market in Thailand, especially for many platform-based or gig-economy companies, as more rights and benefits will be legally recognized and mandated in favor of the workers, and more channels of communication and contact will be established between companies and workers. It must be specifically noted that the possibility of lawsuits by the workers is substantially greater if they belong to an Independent Worker Organization, as more resources can be pooled among the members. Therefore, companies in the relevant sectors or with relevant participation characteristics should continue to monitor the progress of the law and discuss internally to prepare for these impending changes and a proper compliance strategy. CMHM will continue to closely follow these developments and will issue updates as necessary.

If you have any questions in relation to the issues raised, please contact the authors in the left-hand column.

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