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# THAILAND

## Newsletter

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## Work from Home Implementation in Thailand: Impact on Employers

Like the rest of the world, Thailand is facing growing traffic congestion in its largest cities. Alongside it are energy shortages due to the increasing consumption of fuel, which has caused the government to import gasoline from other countries. Additionally, gas prices worldwide have been rising and fluctuating. These are just some of the reasons behind the proposal of a draft amendment to the Labour Protection Act. This draft bill allows an employee to work from home, or anywhere out of office, with the intent to reduce fuel consumption and help resolve traffic congestion. The draft bill was proposed to the President of the National Assembly on 12 September 2019. Little did we know that it would soon be very applicable to another crisis.

In 2020-2021, COVID-19 created significant impact on people's way of life and business practices around the world. Thailand is a country where COVID-19 hit severely, causing the deaths of its citizens and serious business interruption. COVID-19 preventive measures were adopted to prevent people from COVID-19 infection, such as social distancing. A work-from-home scheme and flexible hours concept have been introduced to several businesses to protect the health of their employees and minimize their risks from COVID-19 infection. Some studies (Bloom et al. (2015)<sup>1</sup> and Choudhury et al. (2021)<sup>2</sup>) indicate that working from home increases the efficiency of work produced by employees.

To date, the draft bill has completely been commented on by the Senator, and the draft bill with the Senators' comments was reverted to the House of Representatives for consideration on November 2<sup>nd</sup>, 2022. As the draft bill should be enacted soon, all employers need to be aware of how to implement the work-from-home scheme in their businesses.

### The Work-from-Home / Anywhere out of Office Concept

The draft bill stipulates the concept of work-from-home/anywhere out of office that an employer and an employee may agree to bring work, which by its nature can be done out of the workplace, to do at home or anywhere by using Information Technology (IT). Those who work from home, or from anywhere, using IT will have the same rights as other employees who work at the workplace. Such an agreement

<sup>1</sup>[https://www.nber.org/system/files/working\\_papers/w18871/w18871.pdf](https://www.nber.org/system/files/working_papers/w18871/w18871.pdf)

<sup>2</sup>[https://dash.harvard.edu/bitstream/handle/1/37371302/choudhury,foroughi,larson\\_work-from-anywhere.pdf](https://dash.harvard.edu/bitstream/handle/1/37371302/choudhury,foroughi,larson_work-from-anywhere.pdf)

must be made in writing or electronic form prescribing the following information:

- 1) agreed period for work out of the workplace;
- 2) normal working days and hours, rest period, and overtime;
- 3) overtime work and work on holiday and leave;
- 4) scope of work of employees and employer's control of work performed; and
- 5) duty to provide work facilitation and necessary costs resulting from work.

Moreover, an employee is entitled to decline communication with an employer, superior, supervisor, or inspector after working hours, unless an employee gives written consent in advance on a limited basis.

## How Does the Law Impact Employers?

The intent of the draft is not to mandate the employers to implement a work-from-home scheme, but will allow the employers to implement a work-from-home scheme under the protection of labour law.

If the work-from-home scheme is implemented, it is the duty of the employer to document the terms and conditions of the work-from-home scheme as required by law. In addition, we foresee that there will be several issues for employers to consider as follows:

### **(1) Costs & Expenses**

There is a possibility that costs and expenses incurred from work from home will be borne by employers, because the employee may request reimbursement of expenses incurred, for example, expenses for internet, printing, mobile, and electricity, etc. The employer may negotiate with the employee to bear these as their own costs, as this draft does not constitute a mandatory scheme to be implemented, because the employees may have more time to work at home, and can reduce fuel and commuting costs.

### **(2) Work From Home Duration**

The next question raised is how long the period of work from home should last. The rationale is that in some businesses, relationships amongst employees are vital, such as human resources officers or administrative officers, who have to contact employees to perform their work. Work from home may interrupt interaction amongst employees even in the same working team. Longer periods of work-from-home schemes would potentially affect the operations of business. Employers must consider this important issue.

### **(3) How to Monitor Employees**

Naturally, there must be a system in place for employers to monitor employee working hours and to ensure that employees perform their duties in accordance with business requirements. For example, the employees must present themselves at the time as agreed with the employers and make themselves available for assignments. Failure to comply with such requirements may lead to disciplinary action.

### **(4) Ability to Manage Workload**

There could also be issues for employees who have little work discipline. Flexible working from anywhere could cause underestimation of the assignment, and it is

more difficult for a supervisor to follow up and monitor the employees' work remotely. As an example, an employee can wait until the last day to work to meet a deadline, even if the employee could have started working before the deadline. This could significantly affect work which needs collaboration between colleagues, and eventually could affect the employer's bottom line.

The aforementioned issues are only a few of the issues that employers must monitor to ensure that work-from-home schemes will not affect the efficiency of employees. Thankfully, there should be sufficient time for employers to prepare for the enactment, as this amendment would potentially be applicable early next year.

To discuss the legal topics included in this briefing in further detail, please contact the authors listed in the left-hand column.



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