

Occupational Safety, Health and Environment Act, B.E. 2554 (2011)

Translation

BHUMIBOL ADULYADE J REX;

Given on the 12th Day of January B.E. 2554

Being the 66th Year of the Present Reign

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

Whereas it is expedient to have a law on occupational safety, health and environment;

This Act contains certain provisions in relation to the restrictions on rights and liberties of the individual which are allowed under Section 29 together with Section 33, Section 41 and Section 43 of the Constitution of the Kingdom of Thailand.

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

Section 1

This Act shall be cited as the "Occupational Safety, Health and Environment Act, B.E. 2554 (2011)".

Section 2

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

Section 3

This Act shall not apply to:

- (1) Central administration, provincial administration and local administration;
- (2) Other enterprises in whole or in part as prescribed in the Ministerial Regulation.

The central administration, regional provincial administration, local government administration and other enterprises prescribed in the Ministerial Regulation under paragraph one shall provide standards for administration and management on occupational safety, health and environment on its own working unit of not lower than the standards on occupational safety, health and environment under this Act.

Section 4

In this Act:

"Occupational safety, health and environment" means actions or working conditions which are safe from any cause resulting in danger to life, physique, mentality or health arising out of or related to working.

"Employer" means an Employer under the labor protection law and also entrepreneur who allows any person to work for or to provide benefit for/or in an establishment, whether the working or providing some benefit or a part of production process or business under responsibility of the entrepreneur.

"Employee" means an Employee under the labor protection law and also a person who is allowed to work or to provide benefit for or in an establishment of an Employer, regardless of the name used.

"Executive" means an Employee from the managerial level or higher in the working unit.

"Supervisor" means an Employee who performs duties in controlling, supervising, commanding or ordering other Employees to work in according to the function of the working unit.

"Safety Officer" means an Employee appointed by an Employer to perform duties on occupational safety, health and environment under this Act.

"Establishment" means each working unit of an Employer where there is an Employee working therein.

"Committee" means the Occupational Safety, Health and Environment Committee.

"Fund" means the Occupational Safety, Health and Environment Fund.

"Safety Inspector" means a person appointed by the Minister for the execution of this Act.

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

"Minister" means the Minister who takes charge of the execution of this Act.

Section 5

The Minister of Labor shall take charge of the execution of this Act and shall have the power to appoint the Safety Inspector, and to issue ministerial regulation, notification and rule for the execution of this Act including to issue ministerial regulation prescribing the fees not exceeding the rate annexed hereto and the exemption of the fees.

In appointing the Safety Inspector, the qualifications, scope of powers and duties, and conditions on performance of duties may also be prescribed.

Ministerial regulation, notification and rule shall come into force upon their publication in the Government Gazette.

Chapter 1 General Provisions

Section 6

An Employer is obligated to provide and keep an Establishment and an Employee in safe and hygienic working conditions and environment including to support and promote an operation of the Employee preventing the Employee from any harm on life, physique, mentality and health.

The Employee is obligated to cooperate with the Employer in operating and promoting of occupational safety, health and environment in order to ensure safety to the Employee and the Establishment.

Section 7

Whereas an Employer is required by the Act to carry out any action which an expense is incurred, the Employer shall bear the expense for such act.

Chapter 2 Administration, Management and Operation on Occupational Safety, Health and Environment

Section 8

An Employer is required to administer, manage, and operate the occupational safety, health and environment in conformity with the standards prescribed in the Ministerial Regulation.

In setting the standards under paragraph one, the Employer shall provide document or report examined or certified by person or juristic person as prescribed in the Ministerial Regulation.

An Employee is obligated to comply with criteria on occupational safety, health and environment in according to the standards prescribed in paragraph one.

Section 9

Any person, who intends to render services on measurement, examination, test, certification, risk assessment including arrangement of training or provision of consultancy advice to promote occupational safety, health and environment according to the standards prescribed in the Ministerial Regulation issued under Section 8, shall register with the Occupational Safety and Health Bureau, Department of Labor Protection and Welfare.

Qualifications of the person applying for registration, registering, issuance of a substitute of license, revocation of the register, prescription of service fee and method on rendering services under paragraph one shall be in conformity with criteria, methods and terms as prescribed in the Ministerial Regulation.

Section 10

Whereas the Occupational Safety and Health Bureau, Department of Labor Protection and Welfare refuses to register or revokes the register under Section 9, a person applying for registration or a person whose the register has been revoked shall be entitled to appeal against such order in writing to the Director-General within thirty days from the date of acknowledgment of such refusal of registration or revocation of the register.

The decision of the Director-General shall be final.

Section 11

A juristic person, who intends to render service on measurement, examination, test, certification, risk assessment including arrangement of training or provision of consultancy advice to promote occupational safety, health and environment according to the standards prescribed in the Ministerial Regulation issued under Section 8, shall be given a license from the Director-General.

Qualifications of the person applying for permission, application for the permission, the permission, application for a license renewal, issuance of a substitute of license, suspension and revocation of license, prescription of service fees and methods on rendering of services under paragraph one shall be in conformity with criteria, methods and terms as prescribed in the Ministerial Regulation.

Section 12

Whereas the Director-General refuses to issue a license, to renew a license, to issue a substitute of license, or suspends a license or revokes a license issued to the juristic person under Section 11, such juristic person shall be entitled to appeal in writing to the Committee within thirty days from the date receiving a letter of the Director-General informing on the refusal to issue a license, the refusal to renew a license or the revocation of license.

The decision of the Committee shall be final.

Section 13

An Employer shall provide the Safety Officer, personnel, working unit, or group of persons to operate the safety in establishment according to criteria, methods and terms as prescribed in the Ministerial Regulation.

The Safety Officer and personnel under paragraph one shall register with the Department of Labor Protection and Welfare.

The provisions of Section 9 paragraph two and Section 10 shall apply to the registration of the Safety Officer *mutatis mutandis*.

Section 14

Whereas an Employer assigns an Employee to work in a working condition or environment that may be harmful to life, physique, mentality and health of such Employee, the

Employer shall inform the Employee of danger which may arise out of work, and shall distribute the work manual to every Employee before commencing work, changing work or changing workplace.

Section 15

Whereas an Employer receives a warning, an order or a decision of the Director-General, an order of the Safety Inspector or a decision of the Committee on compliance with this Act, the Employer shall inform or post such warning, order or decision in the conspicuous location at an establishment for the period of not less than fifteen days from the date of so receiving.

Section 16

An Employer shall provide an occupational safety, health and environment training to be attended by an Executive, a Supervisor and an Employee in order to safely administer, manage and operate the occupational safety, health and environment.

Whereas the Employer employs an Employee to work, changes work, changes workplace or changes machinery or equipment that may be harmful to life, physique, mentality and health of the Employee, the Employer shall provide training for every Employee before commencing work.

The training under paragraph one and paragraph two shall be in conformity with criteria, methods or terms as stipulated by the Director-General.

Section 17

An Employer shall post warning symbol and occupational safety, health and environment sign including the statement on rights and duties of the Employer and an Employee as stipulated by the Director-General in the conspicuous location at an establishment.

Section 18

Whereas there are establishments engaged at any premise, every Employer of the establishment at such premise shall collaborate in carrying out the operations on occupational safety, health and environment in conformity with this Act.

An Employee who works in the establishment under paragraph one including an Employee who works in other workplaces which do not belong to the Employer shall also comply with criteria on occupational safety, health and environment applied to such establishment.

Section 19

Whereas an Employer rents a building, premise, tool, machinery, equipment or any others to be used in an establishment, the Employer shall have powers to carry out an operation on occupational safety, health and environment involving with the rent building, premise, tool, machinery, equipment or any others according to standards as prescribed in the Ministerial Regulation issued under Section 8.

The operation under paragraph one shall not have the right of an owner or a letter of the building, premise, tool, machinery, equipment or rental articles in order to claim for any damages or compensation and to terminate a rental contract.

Section 20

An Executive or a Supervisor is obligated to support and coordinate with an Employer and other personnel in carrying out the operations in conformity with Section 8, Section 16, Section 18 and Section 22.

Section 21

An Employee is obligated to maintain the working environment according to the standards as prescribed in the Ministerial Regulation issued under Section 8 in order to create safety of life, physique, mentality and health, with regard to working condition and the Employees' responsible areas.

Whereas the Employee is aware of a defect or damage and unable to rectify by himself/herself, the Employee shall inform a Safety Officer, a Supervisor or an Executive and then the Safety Officer, the Supervisor or the Executive shall notify an Employer in writing without delay.

Whereas the Supervisor is aware of a defect or damage which may be harmful to life, physique, mentality and health of the Employee, the Supervisor shall take action to prevent such harm within the scope of his/her responsibility or the scope as assigned immediately after being aware. In case the action cannot be taken, the Supervisor shall inform the Executive or the Employer to address the issues without delay.

Section 22

An Employer shall provide and control an Employee to wear standard personal protective equipment as stipulated by the Director-General.

The Employee is obligated to wear the personal protective equipment and to maintain the equipment under paragraph one, in good condition as working condition and nature throughout the working period.

Whereas the Employee does not wear such equipment, the Employer shall order the Employee to cease working until the Employee wears such equipment.

Section 23

The main contractor and the sub-contractor who are under the labor protection law are obligated to carry out an operation on occupational safety, health and environment in the same as an Employer does.

Whereas an Employer, who is the sub-contractor, has the next sub-contractor, all the next sub-contractors and the main contractor whose Employees work in the same establishment are obligated to collaborate in keeping a workplace in safe working condition and hygienic working environment in order to provide safety every Employee.

Chapter 3

Occupational Safety, Health and Environment Committee

Section 24

There shall be a committee cited as the "Occupational Safety, Health and Environmental Committee" consisting of the Permanent Secretary of the Ministry of Labor as chairperson, the Director-General of Pollution Control Department, the Director-General of the Department of Disease Control, the Director-General of the Department of Skill Development, the Director-General of the Department of Public Works and Town and Country Planning, the Director-General of the Department of Industrial Works, the Director-General of the Department of Local Administration and the Director-General of the Department of Labor Protection and Welfare as members including eight representatives each of employer party and employee party and five professionals appointed as members by the Minister.

An official of the Department of Labor Protection and Welfare shall be appointed as a secretary by the Minister.

Acquisition and vacation of office of the representatives of the employer party and the employee party under paragraph one shall be in conformity with criteria, methods and terms stipulated by the Minister, by taking both male and female participation into consideration.

A professional shall have knowledge, skills, accomplishments or experiences in the field of occupational safety, health and environment, by taking both male and female participation into consideration.

Section 25

The Committee shall have powers and duties as follows:

- (1) To submit recommendations to the Minister concerning policies, work plans or measures on occupational safety, health and environment;
- (2) To submit recommendations to the Minister on the issuance of Ministerial Regulations, notifications and rules for the execution of this Act;
- (3) To provide comment for the government agencies concerning the promotion of occupational safety, health and environment;
- (4) To decide the appeal under Section 12, Section 33 paragraph three and Section 40 paragraph two.
- (5) To perform any other acts as prescribed by this Act or other laws to be the powers and duties of the Committee or as assigned by the Minister.

Section 26

The Committee member who is qualified person shall hold office for a term of two years.

A Committee member who has vacated office may be reappointed.

Whereas the Committee member who is a qualified person vacates office prior to the expiration of his/her term, the Minister shall appoint a member to fill the vacancy.

The appointed Committee member shall hold office for the remaining period of the Committee member he/she replaces.

Whereas the Committee member who is qualified person has vacated office upon expiration of his/her term and a new Committee member has not been appointed, the former shall continue to perform his/her duties pro tempore until the new member is appointed.

Section 27

In addition to the vacation of office upon expiration of term, the Committee member who is qualified person shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) dismissal by the Minister on account of absence from meetings on three consecutive occasions without reasonable cause;
- (4) being a declared bankrupt;
- (5) being a person of unsound mind or mental infirmity;
- (6) being an incompetent or quasi-incompetent person;
- (7) being adjudged of committing an offense as prescribe in this Act;
- (8) being imprisoned by a final judgment to a term of imprisonment, except for an offence committed by negligence, defamation, or a petty offence.

Section 28

A meeting of the Committee shall be present by the Committee members of not less than one-half of the total number of the Committee members of whom at least one member from the employer party and one member from the employer party in order to constitute a quorum.

At any meeting to determine an appeal, where the quorum is not constituted in according to paragraph one, another meeting shall be held within fifteen days from the date of the appointment for the first meeting. At the subsequent meeting, even without the presence of the Committee member from the employer party or the employee party, a quorum shall be constituted if at least one-half of total members of the Committee are present at the meeting.

At any meeting, where the chairperson of the Committee is not present or is unable to perform duties, the Committee members present shall elect one among themselves to be a chairperson of the meeting.

A decision of the meeting shall be made by a majority of votes. Each Committee member shall have one vote. In case of an equality of votes, the chairperson of the meeting shall have an additional vote as a casting vote.

Section 29

The Committee shall have power to appoint sub-committees to make consideration or to perform any duty as assigned by the Committee.

The Committee shall determine the quorum requirements and the procedures to be followed by the sub-committee, as it deems appropriate.

Section 30

In their duties under this Act, the Committee and the sub-committee shall receive meeting allowance and other benefits pursuant to the rules provided by the Minister with the approval of the Ministry of Finance.

Section 31

The Department of Labor Protection and Welfare, Ministry of Labor shall be responsible for administrative tasks of the Committee and shall have the following powers and duties:

- (1) To select, compile and analyze data on occupational safety, health and environment in order to prepare policy, work plan and project on occupational safety, health and environment to be presented to the Committee;
- (2) To prepare guidelines for prescribing the standards on occupational safety, health and environment to be presented to the Committee;
- (3) To prepare an annual action plan on occupational safety, health and environment to be presented to the Committee;
- (4) To coordinate plans and work operations of the Committee and sub-committee including the relevant agencies;
- (5) To follow up and assess the implementation of decision of the Committee;
- (6) To take responsible for administrative tasks of the sub-committee;
- (7) To perform other tasks as assigned by the Committee or the sub-committee.

Chapter 4

Control, Supervision and Administration

Section 32

For the purpose of control, supervision and administration operations on occupational safety, health and environment, an employer shall perform as follows:

- (1) To conduct hazard assessment;
- (2) To conduct study on impacts of working conditions which have an effect on employee;
- (3) To prepare operation plan on occupational safety, health and environment and supervisory plan for employee and the establishment
- (4) To submit results on hazard assessment, impact study, operation plan and supervisory plan under (1), (2) and (3) to the Director-General or a person entrusted by the Director-General.

Criteria, methods and conditions on performance under paragraph one, type of business, size of business required to be operated and operation period shall be as per prescribed by the Minister published in the Government Gazette.

In performing the work under paragraph one, the employer shall comply with recommendations of and results shall have been certified by the expert on occupational safety, health and environment.

Section 33

Any person who shall act as an expert on occupational safety, health and environment shall possess a license from the General-Director in conformity to this Act.

The application for a license, issuance of a license, qualification of the expert, control on operations of the licensee, renewal of a license, issuance of a substitute of license, suspension and revocation of license under paragraph one shall be in conformity with criteria, methods and conditions prescribed in the Ministerial Regulation.

The provisions of Section 12 shall apply to an application for an expert license on occupational safety, health and environment *mutatis mutandis*.

Section 34

Whereas any establishment has severe incident or an employee encounters danger from work, an employer shall perform as follows:

- (1) Whereas an employee is death, an employer shall reports a safety inspector immediately upon acknowledgement of such matter by telephone, facsimile, or any other means with sufficient details and shall reports about details and cause in writing within seven days from the date the employee is death;
- (2) Whereas an establishment damage or has to stop the production process or there is any person in the workplace encounters danger or injury as a result of fire, explosion, leakage or other server incident an Employer shall report to safety inspector immediately upon acknowledgement of such incident by telephone, facsimile or any other means and shall report in writing by specifying cause of such dangers, damages or injury, corrective and preventive measures to prevent any recurrence within seven days from the incident date;
- (3) Whereas an Employee encounters danger or illness in according to the Workmen's Compensation Law, after an employer report such danger or illness incident to the Social Security Office in according to such law, the Employer is also required to submit a copy of the report to the safety inspector within seven days.

Report under paragraph one shall be conformity with the form stipulated by the Director-General and when the Safety Inspector was informed, the inspection and hazard preventive measures shall be carried out without delay.

Chapter 5 Safety Inspector

Section 35

In performing his/her duties under this Act, a Safety Inspector shall have powers as follows:

- (1) To enter an establishment or office of an Employer during working hours or when there is an incident;
- (2) To inspect or record image and sound on working conditions concerning occupational safety, health and environment.
- (3) To use tools to measure or inspect machinery or equipment in an Establishment;

- (4) To collect any sample materials or products for analysis regarding safety;
- (5) To enquire about fact or investigate any matter within scope of power and to summon the concerned persons for clarification including to inspect or request for submission of relevant evidencing document and to propose hazard preventive measures to the Director-General expeditiously.

Section 36

Whereas a Safety Inspector has found that an Employer, an Employee or any concerned person has violated or failed to comply with this Act or the Ministerial Regulation issued under this Act or has found that the working conditions, buildings, premises, machinery or equipment used by the Employees may be dangerous to the Employees, the Safety Inspector shall have the power to order such person to stop such violating acts or to correct, improve or conform correctly or properly within thirty days. If there is necessary cause which prevents such operation to be able to be completed within such period, the Safety Inspector may extend such period not more than twice, each with thirty days from the due date of such period.

In case it is necessary, upon permission of the Director-General or a person entrusted by the Director-General, the Safety Inspector shall have the power to order to stop the usage of machinery or equipment, building, premise or to bind and stamp on material which may cause severe danger to such Employee, in whole or in part, during the compliance with the order of the Safety Inspector. When the Employer has corrected and improved to conform correctly to order of Safety Inspector under paragraph one, the Employer shall inform the Director-General or person entrusted by the Director-General for the consideration on revocation of such order.

Section 37

Whereas an Employer fails to comply with the order of a Safety Inspector under Section 36, if there is an incident which may cause severe danger that the Department of Labor Protection and Welfare deems necessary to take over the operations, the Director-General or a person entrusted by the Director-General shall have the power to order the Safety Inspector or to assign any person to rectify so as to conform to such order. In this respect, the Employer shall bear expenses for such takeover for the amount actually paid.

Before the Director-General or a person entrusted by the Director-General carries out the operations under paragraph one, there shall be a written warning notice requesting the Employer to comply with the order of the Safety Inspector within the specified period. Such warning notice may be issued together with the order of the Safety Inspector.

In performing operations under paragraph one, Department of Labor Protection and Welfare shall request a subsidy from the Fund as advance money to pay for its operation and shall reimburse to the Fund after receiving payment from the Employer.

Section 38

The Director-General shall have the powers to issue a written order to seize, attach and sell by auction the properties of an Employer who fails to make payment for operation costs under Section 37. However, the amount shall be necessary for the expenses actually paid for such takeover only.

The order of seizure or attachment of the properties under paragraph one shall be issued only after a written notice has been sent to the Employer to remit the due payment within a specified period of not less than thirty days from the date of the receipt of such warning and the Employer has failed to pay money within the specified period.

Criteria, methods and conditions on seizure, attachment and auction of properties under paragraph one shall be in according with the regulations prescribed by the Minister. However, the criteria, methods and conditions of the Civil Procedure Code shall apply *mutatis mutandis*.

Expenses in the seizure, attachment and auction that the Employer is required to be paid under Section 37 shall be deducted from the money received from auction of those

properties and the remaining money shall be returned to the Employer expeditiously. The Safety Inspector shall issue a written notice relating to the receipt of the remaining money via registered mail. If the Employer fails to claim the money within five years from the date so notified, such money shall then belong to the Fund.

Section 39

During work stoppage or during cease of production process under Section 36, the Employer shall pay money to the Employee whose work related to such work stoppage or cease of production process at a rate equal to the wages or any other benefits entitled by such Employee, except such Employee intentionally take any action which caused work stoppage or cease of production process.

Section 40

Whereas a Safety Inspector has an order under Section 36 paragraph one, if an Employer, Employee or any concerned person disagrees with the order, such person shall have the right to appeal in writing against the order to the Director-General within thirty days from the date of the acknowledgement of the order. The Director-General shall determine the appeal within thirty days from the date of receipt of the appeal. The decision of the Director-General shall be final.

Whereas the Safety Inspector has an order under Section 36 paragraph two, if the Employer, the Employee or any concerned person disagrees with the order, such person shall have the right to appeal in writing against the order to the Committee within thirty days from the date of acknowledgement of the order. The Committee shall determine the appeal within thirty days from the date of receipt of the appeal. The decision of the Committee shall be final.

The appeal shall not relieve the compliance with the order of the Safety Inspector, unless the Director-General or the Committee, as the case may be, issues an order otherwise.

Section 41

In the performance of his/her duties, a Safety Inspector shall produce his /her assigned identity card, upon requested by the concerned person.

The identity card of the Safety Inspector shall be in according with the forms prescribed by the Minister.

Section 42

An Employer shall be prohibited to terminate employment or reshuffle duty of an Employee on the grounds that the Employee brings charge against, is a witness or provides information on occupational safety, health and environment to a Safety Inspector or the Committee under this Act or to the court.

Section 43

Whereas an Employer, an Employee or the concerned person has complied with an order issued by the Safety Inspector under Section 36 within a specified period, criminal proceedings against the Employer, Employee or concerned person shall be extinguished.

Chapter 6

Occupational Safety, Health and Environment Fund

Section 44

There shall be an establishment of a fund in the Department of Labor Protection and Welfare which is cited as the "Occupational Safety, Health and Environment Fund" to be used as capital expenditure for operations on occupational safety, health and environment under this Act.

Section 45

The Fund shall consist of:

- (1) Initiated fund allocated by the government;
- (2) Annual money allocated from Workmen's Compensation Fund under the Workmen's Compensation Law;
- (3) Fines received from the punishment of offenders under this Act;
- (4) Subsidies paid by the government;
- (5) Donated money or properties;
- (6) Benefits gained from money of the Fund;
- (7) Fees from licenses and register certificates under Section 9, Section 11, Section 13 and Section 33;
- (8) Interests or fruit of money or properties of the Fund; and
- (9) Other income

Section 46

Money from the Fund shall be paid for the following operations:

- (1) Campaign to promote occupational safety, health and environment as well as to develop, improve and manage works on occupational safety, health and environment, with the approval from the Occupational Safety, Health and Environmental Fund Administration Committee;
- (2) To assist and subsidize government agencies, associations, foundations, private organization or person who proposes a project or work plan to promote, support the research, study and development on occupational safety, health and environment;
- (3) Expenses for Fund management and under Section 30;
- (4) To support operations of Occupational Safety, Health and Environment Promotion Institute as appropriate, on an annual basis.
- (5) To provide loan to the Employer to rectify conditions which are not safely or to prevent accident or illness arising from work.
- (6) Advance payment for operations under Section 37.

The operations under (1), (2), (3), (4), (5) and (6) shall be in cording with criteria, methods and conditions prescribed by Occupational Safety, Health and Environment Fund Administration Committee. In addition, interests and fruit of the Fund to be used for payment of operational expenses under (1), (2) and (3) shall not be more than seventy five percent of annual interest or fruit of the Fund.

Section 47

The money and properties of the Fund obtained under Section 45 shall not be remitted to the Ministry of Finance as state revenue.

Section 48

There shall be an "Occupational Safety, Health and Environment Fund Administration Committee" consisting of the Director-General of Department of Labor Protection and Welfare as chairperson, a representative of the Ministry of Finance, a representative of Social Security Office, a representative of Bureau of the Budget and one qualified person appointed by the Minister and five representatives each from the Employer party and the Employee party as members.

An official of Department of Labor Protection and Welfare shall be appointed as secretary by the Minister.

The acquisition of the representatives of the employer and the employee under paragraph one shall be in conformity with criteria, methods and terms stipulate by the Minister, by taking both male and female participation into consideration.

Section 49

The provisions of Section 26, Section 27 and Section 28 paragraph one, paragraph three and paragraph four shall apply to the holding of office, vacation of office and meeting of Occupational Safety, Health and Environment Fund Administration Committee and Section 29 shall apply to the appointment of sub-committee of the Occupational Safety, Health and Environment Fund Administration Committee *mutatis mutandis*.

Section 50

The Occupational Safety, Health and Environment Fund Administration Committee shall have powers and duties as follows:

- (1) To supervise on the Fund management and administration;
- (2) To consider on allocation of Fund money for contribution and subsidy, loan provision, advance payment and financial support for operations on occupational safety, health and environment;
- (3) To set rules of the receipt, payment and safe-keeping of money belonging to the Fund and procurement of benefits of the Fund money, with the consent of the Ministry of Finance;
- (4) To set rules on criteria, methods and conditions on provision of contribution money and subsidy, request for contribution money and subsidy, approval of advance payment, request for an advance payment, provision of loan and repayment to the Fund.
- (5) To perform any other act as prescribed by this Act or any other laws to be powers and duties of the Occupational Safety, Health and Environment Fund Administration Committee or as assigned by the Minister.

Section 51

Within one hundred and twenty days of the end of the fiscal year, the Occupational Safety, Health and Environment Fund Administration Committee shall submit a balance sheet and report on receipts and payments of the Fund for the last year to the Office of the Auditor General of Thailand to approve and certify then submit to the Committee T he Committee shall submit the above-mentioned balance sheet and report of receipt and payment to the Minister.

The Minister shall then submit to the Cabinet for their acknowledgment and for promulgation in the Government gazette.

Chapter 7

Occupational Safety, Health and Environment Promotion Institute

Section 52

There shall be the Occupational Safety, Health and Environment Promotion Institute for the purpose of promotion of occupational safety, health and environment that shall have powers and duties as follows:

- (1) To promote and solve problems concerning with occupational safety, health and environment;
- (2) To develop and support the preparation of standards to promote occupational safety, health and environment;

- (3) To operate, promote, support and jointly operate with agencies on occupational safety, health and environment, both from public and private sectors;
- (4) To arrange a research, study on promotion of occupational safety, health and environment, both on personnel and technical development;
- (5) Any other powers and duties as prescribed by the law.

The Ministry of Labor shall establish the Occupational Safety, Health and Environment Promotion Institute under supervision of the Minister within one year after this Act becomes in force.

Chapter 8

Penalty Provisions

Section 53

Any Employer who violates or fails to comply with standards prescribed in the Ministerial Regulations issued under Section 8 shall be penalized with imprisonment of not more than one year or a fine not exceeding four hundred thousand Baht, or both.

Section 54

Any person who is responsible for the certification or examination of documentary evidence or reports under the Ministerial Regulations issued under Section 8 paragraph two who fills a false statement on the certification or examination of the documents or reports shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 55

Any person who provides services on measurement, examination, test, certification, risk assessment, training or provision of consultation without registration under Section 9 or without having a license under Section 11 shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 56

Any Employer who fails to comply with Section 13, Section 16 or Section 32 shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 57

Any Employer who fails to comply with Section 14 or Section 34 shall be penalized with a fine not exceeding fifty thousand Baht.

Section 58

Any Employer who fails to comply with Section 15 or Section 17 shall be penalized with imprisonment of not more than three months or a fine not exceeding one hundred thousand Baht, or both.

Section 59

Any Employer who fails to comply with Section 18 paragraph one shall be penalized with imprisonment of not more than one year or a fine not exceeding four hundred thousand Baht, or both.

Section 60

Any person who fails to comply with Section 18 paragraph two shall be penalized with imprisonment of not more than three months or a fine not exceeding one hundred thousand Baht, or both.

Section 61

Any person who obstructs the performance of the Employer under Section 19 or obstructs the performance of the Safety Inspector or a person assigned under Section 37 paragraph one without any reasonable cause shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 62

Any person who fails to comply with Section 22 paragraph one or Section 23 shall be penalized with imprisonment of not more than three months or a fine not exceeding one hundred thousand Baht, or both.

Section 63

Any person who acts as an expert on occupational safety, health and environment without having a license under Section 33 shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 64

Any person who obstructs or fails to facilitate the performance of any duties of the Safety Inspector under Section 35 or Section 36 paragraph two shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 65

Any person who violates or fails to comply with the order of the Safety Inspector under Section 36 paragraph one shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 66

Any person who violates or performs any act to resume the operation which has been ordered to be ceased or to reactivate the materials bound and stamped by the Safety Inspector during the compliance period with the order of the Safety Inspector under Section 36 paragraph two shall be penalized with imprisonment of not more than two years or a fine not exceeding eight hundred thousand Baht, or both and an additional fine of not exceeding five thousand Baht daily until the order has been observed.

Section 67

Any Employer who fails to comply with Section 39 shall be penalized with a fine not exceeding fifty thousand Baht per occurrence.

Section 68

Any Employer who violates Section 42 shall be penalized with imprisonment of not more than six months or a fine not exceeding two hundred thousand Baht, or both.

Section 69

Whereas the offender is a juristic person, if a violation by such juristic person is due to an order or performance of any person, or a neglect of order, a neglect of a duty as required as a Managing Director or of any person who is responsible for carrying out the business of such juristic person, such person shall be penalized according to the provisions prescribed for such violations.

Section 70

Any person who discloses any fact in relation to the business of an Employer, which is normally a fact kept confidential by the Employer, that he or she obtains or ascertains as a result of performance under this Act, shall be penalized with imprisonment of not more than one month or a fine not exceeding forty thousand Baht, or both; unless it is disclosed for the official performance of this Act, or for the benefits of labor protection, labor relations or the inquisition or consideration of cases.

Section 71

For all violations under this Act with penalized with an imprisonment of not more than one year or a fine not exceeding four hundred thousand Baht, if the following officials deem that the offender should not be punished with imprisonment or sued in court, such officials shall have power to settle the matters as follows:

- (1) The Director-General or a person entrusted by the Director-General: for violation occurring in the Bangkok Metropolitan areas; or
- (2) The Governor of Province or a person entrusted by the Governor of Province: for violation occurring in the provinces.

Where there is an investigation, if the inquiry official finds that the any person has committed an offense that the official has powers to settle the matter under paragraph one and such person consents for settlement, the inquiry official shall propose the case to the Director-General or the Governor of Province, as the case may be, within seven days from the date that such person consents to settlement.

Where an offender pays the fine according to a settled amount within thirty days, the case shall be deemed extinguished under the Criminal Procedure Code.

Where an offender refuses settlement, or consents but fails to pay the fine within the period specified in paragraph three, the case shall be further preceded.

Section 72

For the offenses under Section 66, if the settlement committee consisting of the Director-General, the Commission-General of Royal Thai Police or a representative and the Attorney-General or a representative deem that the offender should not be punished with imprisonment or sued in court, such official shall have power to settle the matter and Section 71 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

Transitory Provisions

Section 73

During the initial stage, the Occupational Safety, Health and Environment Committee under the Labor Protection Act, B.E. 2541 (1998) who holds office during the date this Act has been in force and effect, shall continue performing committee duties under this Act until the Committee under this Act has been appointed which shall not be more than one hundred and eighty days from the date this Act is in force and effect.

Section 74

During the period where the Ministerial Regulation, notification or rule for the execution of this Act has not been issued, the Ministerial Regulation issued under the provisions under Chapter 8 of Labor Protection Act B.E. 2541 (1998) shall apply *mutatis mutandis*.

Countersigned by
Mr. Abhisit Vejjajiva
Prime Minister

Remarks:

The reasons for promulgation of this Act are as follows:

At present technology, tools, machinery, equipment, chemicals and hazardous chemicals have been used in the production process, construction and services however knowledge and understandings have not been developed in parallel with such usage. Therefore, they have impacted workforce with regards to occupational safety, health and environment. In addition, tendency on dangers from working and even injury, disability or loss of life and on occupational diseases is higher and with more severity. Moreover, most of principles in the Labor Protection Act B.E. 2541 (1998) are about general labor protection matters with limited scopes that it cannot be used to prescribe mechanism and measures on management of safety working effectively. Therefore, for the purpose on prescribing appropriate measures on control, supervision, and management of occupational safety, health and environment in order to protect and preserve human resources who are important workforce of the country, it is deemed appropriate to have a law on occupational safety, health and environment in particular, hence this Act is enacted.

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