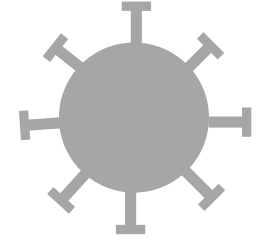
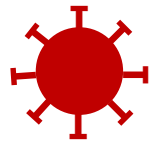


Lorenz & Partners

Legal Tax and Business Consultants



HR Management during **COVID-19 crises** – Relief mechanisms under Thai labour law



Till Morstadt

Managing Partner
German Attorney-at-Law

Rapeesak Kesusuwan

Partner
Thai Attorney-at-Law

26 March 2020

About Lorenz & Partners

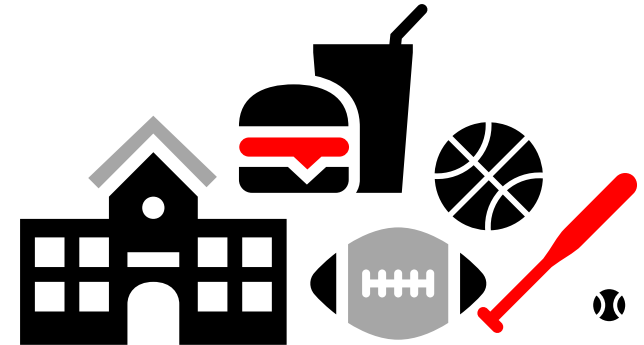
- International firm of business lawyers headquartered in Bangkok since 1995.
- The firm is specialised in legal, tax and business consultation for foreign companies investing in Southeast Asia.
- The firm maintains offices in Bangkok (*Thailand*), Hong Kong (*PR China*), Ho Chi Minh City (*Vietnam*) and Frankfurt am Main (*Germany*).

Introduction

Situation of Covid-19 in Thailand

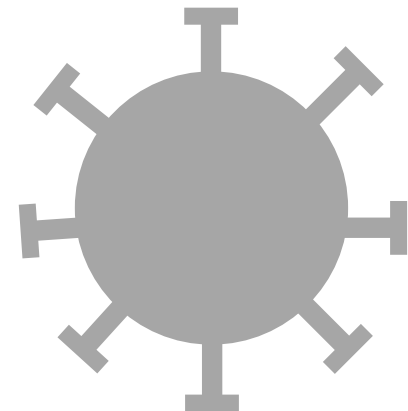
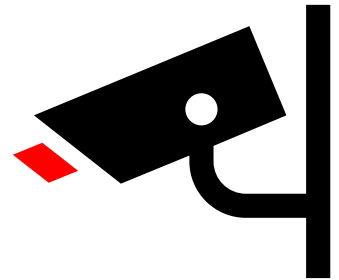
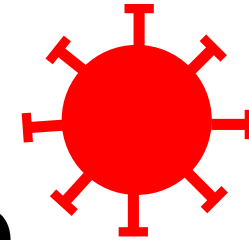
Citywide shutdowns for **high-risk** business activities
(especially for Bangkok)

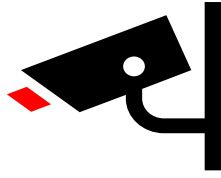
- Shopping malls
- Restaurants
- Sports facilities/arenas
- Schools
- Universities



Emergency Decree on COVID-19

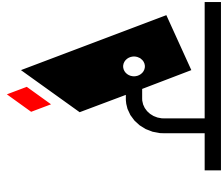
- Emergency Decree due to COVID-19 was announced on 25 March 2020
- For all areas in Thailand
- Effective during **26 March – 30 April 2020**





Important measurements announced on 25 March 2020

1. No entering and close down risky places (e.g. nightclub, sport arena, fitness gyms, etc.);
2. Close borders: with exceptions (e.g. for Thai national, non-Thai with work permit, diplomatic mission, goods carrier, etc.);
3. No stockpiling;
4. No public gathering;
5. Hospitals have to prepare medical supplies and personnel, and can turn hotels, schools, other buildings into temporary hospital; No travelling for risky persons (i.e. elderly 70 y/o or more, child under 5 y/o, persons with health conditions), except for important necessary activities (e.g. visit doctor, buy food or necessary consumables, court case, go to banks, etc.);



Important measurements announced on 25 March 2020

6. Preventive measures: clean all surfaces and remove trash everyday, wear mask, clean hands, distancing at least 1 meter;
7. Necessary places that should remain open: hospitals, pharmacies, restaurants (takeaway), convenience stores, supermarkets, factories, markets, ATMs, banks, gas stations, transportation services, government authorities;
8. Refrain from or postpone travelling across provinces, and people should stay and work from home (may be monitored by special app);
9. Social events (e.g. marriage, funeral, family or government activities) can be arranged with appropriate prevention measures.

Relief mechanisms under Thai labour law

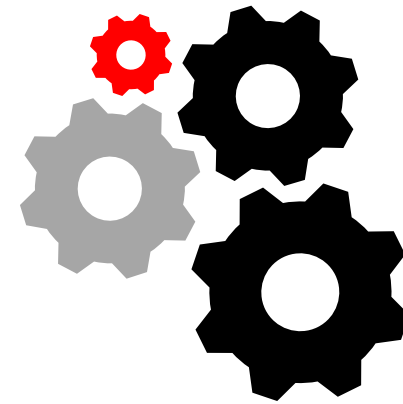
Relevant laws

- Labour Protection Act B.E. 2541 (1998) – (“**LPA**”)
- Social Security Act B.E. 2533 (1990) – (“**SSA**”)



Relief mechanisms under Thai labour law

1. Company Issue Vacation
2. Shut down
3. Lay Off
4. Temporary Shut Down
5. Wage Reduction
6. Work From Home



1. Company Issued Vacation

- Section 30 LPA: “... *the Employer can fix the Vacation in advance for the Employee, or as agreed by the Employer and Employee.*”
- Under the law, the employer can fix or appoint the vacation for the employees.
- This is the right of the employers under the LPA, unless it is prohibited by the working rules or employment agreement.

2. Shutdown Order

- High-risk business → order to close down **or**
- Shut down by Employer due to surrounding circumstances?
- Wage payment ?

No direct law → Force Majeure

- **NO WORK NO PAY**



3. Lay Off

- Restructuring by downsizing => termination
 - It is possible under the law, but it can be problematic in practice;
 - Unfair termination ?
- Severance pay
 - Advance notice
 - Unused vacation



3. Lay Off

- Unfair termination ?

Unfair: lay off due to loss of profit / reduced revenue / insignificant loss

Fair: significant losses, chronic losses, or cease of business operation due to losses

- How to avoid unfair termination ?

Offer an **amicable cease of employment**



→ an early retirement plan / separation package / voluntary resignation

(not yet officially announced
can be changed)

Social security benefits for employees

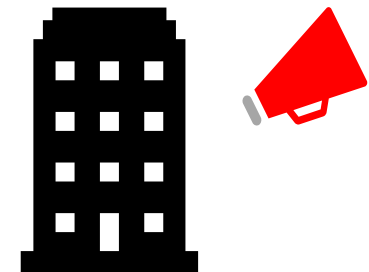
1. Shutdown order by the government

- The SSO will pay **50%** of salary (*Max* THB 7,500)
- For not exceeding **60 days**



2. **Temporary Shutdown by the employer:** An employee does not work/an employer does not allow to work due to the risk of COVID-19

- The SSO will pay **50%** of salary (*Max* THB 7,500)
- For not exceeding **180 days!!!!**



These benefits can be changed since they have not yet been officially announced

Social security benefits

(not yet officially announced
can be changed)

Increase unemployment benefits

Resignation

- The SSO will pay **45%** of salary (*Max* THB 6,750)
- For not exceeding **90 days**



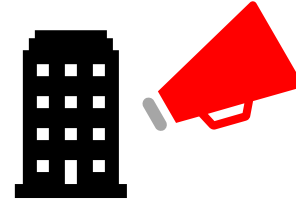
Dismissal

- The SSO will pay **70%** of salary (*Max* THB 10,500)
- For not exceeding **200 days**



These benefits can be changed since they have not yet been officially announced

4. Temporary Shutdown



- Affected by Covid-19 but no order to close down
- Lessen the wage payment obligation



Temporarily shut down (whole/part) – Section 75 LPA
(75% wage payment)

4. Temporary Shutdown(whole/part) – Section 75 LPA

- **Necessary cause** **excl. Force Majeure**
Necessary

- Buyers cancel significant amount of purchase orders;
- Dramatic decrease of purchase orders/businesses;
- Risk of COVID-19;

Unnecessary

- Poor management
- Affect business;
- Incapable to operate the business;
- Suspend in whole/ in part;

*The employer can claim the reason that derive from the employer's side alone.

75% of wages of working days

LPA 70
PAYMENT PERIOD

EMPLOYER MUST PAY

- Wage
- OT
- Work on holiday pay
- OT on holidays
- **Other payments that the employer must pay under the LPA**

AT LEAST ONCE/MONTH

LPA 75
TEMPORARY SHUTDOWN PAYMENT

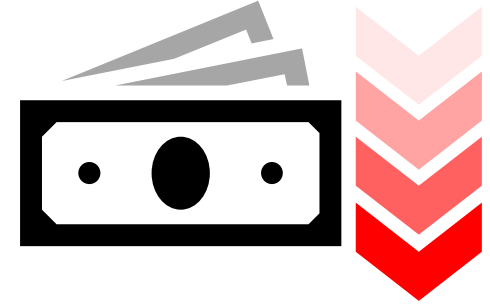
PLACE OF PAYMENT
(LPA 55)

- 75% of wage (basic salary, fix allowances, etc.)
- Benefit to be considered case by case

TIME OF PAYMENT
(LPA 70)

- **AT LEAST ONCE/MONTH**

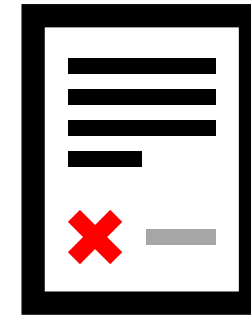
5. Wage Reduction



- Mutually agree to reduce the salary
- Change of wage = Change of working condition



- EMPLOYEE'S **CONSENT** required



6. Work From Home

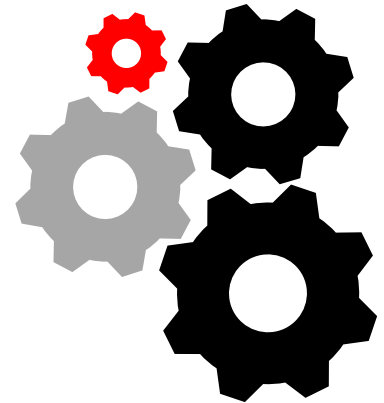
- No relevant precedences;
- Legal opinions:
 - Management authority of an employer → No **CONSENT** required
 - or
 - Changing of working condition → **CONSENT** required
- We recommend to discuss and agree with the employees to work from home, which normally the employees are happy to do so.



Other related issues

Appendix:

- Reduction of Social Sec Contribution
- Songkran Holiday Postponement
- THB 5,000 financial aid from the government
- Social security benefits



(not yet officially announced
can be changed)

Social security benefits

1. Reduce contribution to Social Security Fund

- Duration: March – August 2020
- Salary base for calculation: THB 1,650 – 15,000

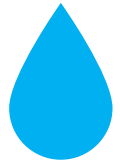


Compensation paid by	Contribution (%)	Min (THB/month)	Max(THB/month)
Employee	5 → 4%	82.5 → 66	750 → 600
Employer	5 → 4%	82.5 → 66	750 → 600
Government	2.75	45.375	412.5

* This table is for an insured person under Section 33 SSA (company's employee)

These benefits can be changed since they have not yet been officially announced.

Songkran Holiday Postponement



- Songkran holidays (13-15 April 2020)
- Private sector → government asked for the **cooperation** to postpone
 - Choose other existing holidays that is not part of the 13 announced holidays of the company; or
 - Have substitute holiday on the date the government announces on a later stage;

THB 5,000 aid stimulus package

- For who ?
 - Labours outside SSF (e.g. freelancers, temporary employees) or no entitlement for other reasons **and**
 - Affected by COVID-19 pandemic
- THB 5,000/month
- During April – June 2020 (3 months)
- Online registration via www.เราไม่ทิ้งกัน.com (from 28 March 2020)
- Approx. 3 million persons expected to apply;

Q & A

Lorenz & Partners

Legal Tax and Business Consultants

Thank you for your attention

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26 March 2020