

Ministerial Regulation
concerning Labour Protection in Sea Fishery Work B.E.2557 (2014)

By virtue of Section 6 paragraph 1 and Section 22 of the Labour Protection Act B.E.2541 (1998), the Minister of Labour hereby issues the following Ministerial Regulation ;

Clause 1 The Ministerial Regulation No.10 B.E. 2541 (1998) issued under the Labour Protection Act B.E.2541 (1998) shall be repealed.

Clause 2 In this Ministerial Regulation ;
“Sea fishery work” means work or any activities involving sea fishing on fishing boat or other types of boats related to fishing.

“Fishing boat” means a boat used for sea fishery work.

“Employer” means an employer as defined in the labour protection law and includes an owner of a fishing boat who uses or allows another person to use a fishing boat to perform sea fishery work for a purpose of sharing profits, but does not include an owner of a fishing boat whose boat is rent by another person to perform sea fishery work without his or her involvement.

“Wage” means wage as defined in the labour protection law and includes shared profits in which an employer has agreed to pay according to the value of the aquatic animals being caught.

Clause 3 Labour protection in sea fishery work shall comply with this Ministerial Regulation, but in relation to the following provisions, an employer and an employee shall comply with the provisions regulated in the Labour Protection Act B.E.2541(1998) ; Chapter 1 General Provision, Section 7, Section 8, Section 9, Section 10, Section 11, Section 11/1, Section 12, Section 13, Section 14, Section 14/1, Section 15, Section 16, Section 17, Section 18, Section 19, Section 20, and Section 21, Chapter 5 Wages, Overtime Pay, Holiday Pay, and Holiday Overtime Pay, Section 76, and Section 77, Chapter 6 Wage Committee, Section 89, and Section 90, Chapter 12 Lodgment and Consideration of Complaints, Section 123, Section 124, Section 124/1, and Section 125, Chapter 13 Employee Welfare Fund, Section 134, Section 135, Section 136, and Section 137, Chapter 14 Labour Inspectors, Section 139, Section 140, Section 141, and Section 142, and Chapter 15 Delivery of Notices, Section 143.

Clause 4 An employer shall not employ a person under 18 years of age to work in a fishing boat.

Clause 5 An employer shall provide a rest period of not less than 10 hours in any 24-hour period and not less than 77 hours in any 7-day period for an employee. An employer shall prepare a rest period’s record to be inspected by a labour inspector.

In case of emergency or necessity, an employer may require an employee to work during a rest period, however, a compensatory rest shall be immediately given to an employee. An employer shall prepare a rest period's record.

Clause 6 An employer shall prepare written employment contract in duplicate and provide one copy of such contract to an employee to be inspected by a labour inspector.

The employment contract under paragraph 1 shall be in accordance with a form prescribed by the Director-General of the Department of Labour Protection and Welfare

An employer shall bring an employee to present himself before a labour inspector once a year after the date the contract in paragraph 1 is made.

Clause 7 Whereas an employer employs 10 or more employees, an employer shall create a record of employees in Thai and keep it at a workplace to be inspected by a labour inspector. An employer shall send a copy of a record of employees thereof to the Director-General or a person entrusted by the Director-General within 30 days after a commencement date of employment.

A record of employees under paragraph 1 shall be in accordance with a form prescribed by the Director-General.

An employer shall keep a record of employees for at least 2 years from a termination date of employment of each employees concerned.

When there is a change in a record of employees, an employer shall complete a revision of a record of employees within 60 days and report to the Director-General or a person entrusted by the Director-General every time a change occurs.

Clause 8 In addition to a provision prescribed in Clause 7, an employer shall create a document regarding payment of wage and holiday pay in Thai and keep such document at a workplace. The document thereof shall contain at least the following particulars ;

- (1) Name and surname of each employee
- (2) position and duty in sea fishery work
- (3) rate and amount of wage, holiday pay that an employer has agreed to pay to each employee

When wage or holiday pay is paid to an employee, an employer shall prepare document under paragraph 1 to be signed by an employee as evidence.

Whereas an employer pays wage or holiday pay to an employee by transferring money to a commercial bank or financial institution's deposit account, an evidence of such money transfer shall be deemed to be the document regarding payment mentioned above.

An employer shall retain the document under paragraph 1 for at least 2 years from the date of payment.

Caluse 9 Whereas a complaint is lodged that an employer has failed to comply with this Ministerial Regulation or a legal dispute over labour issue occurs or a labour litigation occurs, an employer shall keep a record of employee and the document regarding payment of wage and holiday pay thereof until an order or final judgment is handed down.

Clause 10 An employer shall pay wage and holiday pay correctly according to the following conditions ;

(1) Whereas wage is calculated on a monthly, daily or hourly basis or on the basis of other time periods not exceeding 1 month, wage shall be paid not less often than once a month unless otherwise agreed in favour of an employee.

(2) Shared profits in which an employer has agreed to pay according to the value of the aquatic animals being caught shall be paid according to mutually agreed payment schedule, but the payment frequency shall not be less frequent than once every 3 months.

(3) Holiday pay shall be made not less frequently than once a month.

Clause 11 Whereas an employer fails to pay wage and holiday pay, an employer shall pay interest arisen during default period to an employee at a rate of 15 percent per year

Whereas an employer intentionally defaults on payment under paragraph 1 without sufficient reason, at the expiry of 7 days from the due date, an employer shall pay additional money at a rate of 15 percent of the unpaid money thereof every 7 days

If an employer is ready to pay money mentioned in paragraph 1 and paragraph 2 and has deposited such money with a labour inspector working in an area where an employment contract is made or where an employer has domiciled in order to be paid to an employee, the payment of interest or additional money thereof shall be extinguished from the date of money deposit thereof.

Clause 12 An employer shall provide annual holidays with pay for an employer for not less than 30 days per year. In this regard, an employer shall determine the dates of such annual holidays in advance or in according to mutual agreement between an employer and an employee, and an employee shall receive wage at a rate of not less than the minimum wage rate unless an employer has agreed to pay wage thereof at a higher rate than the minimum wage rate.

If an employer requires an employee to work on annual holidays under paragraph 1, an employer shall pay holiday pay at a rate of not less than 1 time of wage mentioned in paragraph 1

Clause 13 An employee is entitled to sick leave according to actual sickness. An employer shall pay wage to an employee during sick leave at the same rate as wage on workday, but the payment of wage during sick leave thereof shall cover only 30 days of sick leave per year.

Clause 14 Whereas an employee is left aboard due to work, an employer shall pay money to an employee at a rate of not less than 50 per cent of the minimum wage rate during the entire period of time that an employee is left aboard unless an employer agreed to pay wage at higher rate than the minimum wage rate, the calculation of money thereof shall be based on the agreed wage rate instead of the minimum wage rate.

The provision of paragraph 1 shall not be applied if an employer has notified the competent authority in writing within 60 days since the date an employee has been left aboard

and has expressed an intention to bring all employees who have been left aboard back to the place where they were recruited and has paid for relevant transportation expense.

Clause 15 An employer shall bring or pay for an expense to bring an employee back to the place where an employee was recruited in the following cases :

- (1) the fishing boat shrinks or becomes totally unable to be used.
- (2) an employee gets injured, ill or dead resulting from work.
- (3) an employer terminates an employment contract before its expiration or

revises the conditions of employment contract without an employee's consent.

(4) an employment contract expires during a time when an employee works in a place other than the place where the contract was made.

Whereas an employer did not comply with the provision in paragraph 1 and the competent authority has repatriated an employee thereof, the competent authority is entitled to take recourse for the payment on repatriation against an employer.

Clause 16 An employer shall provide adequate hygienic food and drinking water, toilet, medical supplies and medicine for basic first aid and for work and living on fishing boat.

Clause 17 An employer shall provide knowledge on working conditions, tool usage, health and hygiene, living conditions on fishing boat and safety equipment for an employee before any work performances.

Given on this 22nd day of December B.E. 2557(2014)
General Surasuk Kanchanarat
The Minister of Labour