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Thailand

PROVIDENT FUND ACT, B.E. 2530 (1987)

BHUMIBOL ADULYADEJ, REX.;

Given on 30th November B.E. 2530;Being the 42nd Year of the Present Reign.

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

Whereas it is expedient to have the law on provident fund;

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

Section 1.

This Act is called the "Provident Fund Act, B.E. 2530".

Section 2.

This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3.

In this Act:

"Fund" means a provident fund established jointly by the employer and the employees and registered under this Act, consisting of the contributions from the employees and the employer, including money or other properties donated to it and the gains arising therefrom, for the purpose of providing security to the employees in case of death, termination of employment or resignation from the Fund;

"wages" means money which an employer gives to an employee in return for the work done regardless of the way it is specified, calculated, or given in return and the name used, but it shall not include overtime, holiday pay, or money or other gains deducted by the employer or paid to the employee as a supplement for the benefit of working;

"employer" means a person agreeing to accept an employee for work by paying him wages regardless of whether such person is a natural person or legal person and whether or not the agreement is made in the form of written contract;

"employee" means a person agreeing to work for an employer in return for wages regardless of whether or not there is a written contract;

"Registrar" means a person appointed by the Minister to be the Registrar of the Provident Fund;

"competent official" means a person appointed by the Minister for the execution of this Act;

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"Minister" means the Minister having charge and control of the execution of this Act.

Section 4.

The Minister of Finance shall have charge and control of the execution of this Act and shall have the power to appoint the Registrar and competent officials, and issue Ministerial Regulations and prescribe other activities for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

CHAPTER 1

Establishment

Section 5.

The Fund shall only be established by the agreement between the employer and the employees. The employees and the employer shall pay contributions into the Fund in accordance with the rules prescribed in the Regulation of the Fund.

The object of the Fund is to provide security to the employees in the case of death, termination of employment or resignation from the Fund.

Section 6.

When the employer and the employees agree to establish the Fund under Section 5, they shall submit an application to the Registrar for the registration in accordance with the rules and procedure prescribed in the Ministerial Regulation.

With respect to the provident funds for employees established before the date this Act comes into force, if they wish to become the Funds under this Act, they shall proceed in accordance with paragraph one.

Section 7.

The Fund which has already been registered shall be a juristic person.

Section 8.

In applying for the registration of the Fund, if the applicant has completely complied with the provisions of Section 6 and has a Regulation in compliance with Section 9, and the Regulation does not conflict with the laws or the object of the Fund, the Registrar shall register the Fund, and shall issue the certificate of registration to the Fund.

The Registrar shall publish the registration of the Fund in the Government Gazette.

Section 9.

The Regulation of the Fund shall contain at least the following particulars:

- (1) the name of the Fund, which shall begin with the words "the Provident Fund" and end with the words "already registered";
- (2) the location of the Office;
- (3) the object;
- (4) the procedure for accepting members, and the termination of membership;
- (5) the provisions on the number of directors, the procedure for the election and appointment, the term of office, the vacation of office, and the meeting of the Committee of the Fund;

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(6) the provisions on the contributions of the employees and the contributions of the employers to be paid into the Fund;

(7) the provisions on the rules and procedure for the calculation of the benefits to which the employees are entitled to receive;

(8) the provisions on the rules, procedure and period of payment when the membership of the employee is terminated or when the Fund is dissolved in accordance with Section 29;

(9) the provisions on the operating expenditure of the Fund;

(10) the provisions on the general meeting;

(11) other particulars as prescribed in the Ministerial Regulation.

The Committee of the Fund shall have the amendments to the Regulation of the Fund registered within fifteen days as from the date of the resolution to make such amendments, and such amendments shall not become effective until the Registrar has already made the registration.

Section 10.

At every time the payment of wages is made, the employees shall pay contributions to the Fund. For this purpose, the employer shall deduct such contributions from the wages and shall himself pay his own contribution to the Fund at the rate fixed in the Regulation of the Fund; provided that, such Regulation shall prescribe that the deduction of the wages as contributions to the Fund shall be at the rate of not lower than three per cent but not exceeding fifteen per cent of the wages, and that the employer shall pay his own contribution to the Fund in accordance with the number of the employees at the rate not lower than the rate of contribution of the employees but not exceeding fifteen per cent of the wages.

The employer and the employees may, with the approval of the Minister, mutually agree to pay their contributions into the Fund at a higher rate than the rate prescribed in paragraph one.

The employer shall pay the contributions under paragraph one into the Fund within three working days as from the date of payment of wages.

In the case where the employer pays the contributions into the Fund later than three working days, the employer shall pay an additional amount to the Fund during the period of delay at the rate of five per cent per month of the amount of contributions the payment of which is delayed.

Section 11.

The Fund shall have the "Committee of the Fund", consisting of representatives elected by the employees and representatives appointed by the employer, having the duty to exercise general supervision of the affairs of the Fund, and the Committee shall have the power to appoint the Manager of the Fund who shall be the representative of the Fund in the conduct of its external affairs. For this purpose, the Committee of the Fund may designate one or more members of the Committee in writing to act on its behalf.

The Committee of the Fund shall have the appointment of the Manager of the Fund or the change of member of the Committee registered within fourteen days as from the date of the appointment or the change.

CHAPTER 2

Management of the Fund

Section 12.

The Minister shall have the general power to exercise general supervision over the management of the Fund. For this purpose, he shall have the power to order the Manager of the Fund to explain the facts and

submit a report on the management of the Fund, and shall have the power to order the Registrar or the competent officials to carry out an investigation of facts on the management of the Fund.

In the case where the Minister is of the opinion that the Manager of any Fund manages the Fund in such a manner as to cause damage to the Fund, the Minister shall have the power to order the Manager of the Fund to modify or suspend such act, or to dismiss the Manager of the Fund.

In order to exercise the powers under the provisions of paragraph one and paragraph two, the Minister may designate the Bank of Thailand to act on his behalf, and may appoint the officers of the Bank of Thailand to be competent officials for the execution of this Act.

Section 13.

The management of the Fund shall be carried out by other persons who are not the employer and shall possess the qualifications as prescribed in the Ministerial Regulation and receive the permission from the Minister.

Section 14.

The management and expenses incurred in the management of the Fund shall be in accordance with the rules, procedure and conditions as prescribed in the Ministerial Regulation.

Section 15.

The employer shall separate completely the account and the documents concerning his own finance and other properties from the account and the documents concerning the Fund's finance and other properties.

Section 16.

The Manager of the Fund shall make a report showing the total amount of the employees' contributions, the employer's contribution, including the benefit to which each employee is entitled to receive, and shall notify such employees at least twice a year.

Section 17.

The Registrar may order the Manager of the Fund to submit a report or to present any document at a definite period or from time to time as prescribed, and may order the Manager of the Fund to give written explanations to explain or clarify such report or document.

The report and the document submitted or presented or the written explanations to explain or clarify under paragraph one shall be complete, true and correct.

Section 18.

The Manager of the Fund shall prepare the account showing the financial status of the Fund in accordance with the form prescribed by the Registrar, and shall keep the documents supplemental thereto which show the correctness of such account.

The Manager of the Fund shall submit the report on the financial status of the Fund to the Minister in accordance with the rules, procedure and conditions as prescribed in the Ministerial Regulation.

Section 19.

The Manager of the Fund shall cause the account to be audited annually and shall submit the balance-sheet together with the report of the auditor to the general meeting within one hundred and twenty days as from the end of the accounting period of the Fund.

After the general meeting has already approved the balance-sheet, a copy thereof shall be sent to the Registrar within thirty days as from the date of such approval, and the balance-sheet shall be kept at the Office of the Fund for the employee's inspection.

Section 20.

The Manager of the Fund vacates office before the end of term specified in the contract upon:

- (1) being removed by the order of the Minister under Section 12 paragraph two;
- (2) being disqualified under Section 13;
- (3) the Fund or the Manager of the Fund rescinds the contract; or
- (4) the Fund is dissolved under Section 25.

Section 21.

In the case where the Manager of the Fund vacates his office, he shall deliver to the Committee of the Fund within seven days as from the date of vacating office the money and other properties of the Fund together with the account and the relevant documents.

Except in the case where the Manager of the Fund vacates office under Section 20 (4), the Committee of the Fund shall appoint a new Manager of the Fund within thirty days as from the date the outgoing Manager vacates office, and shall notify the Registrar of the appointment of the new Manager of the Fund within fourteen days as from the date of the appointment.

Section 22.

The employees and the employers may request for an inspection of the account and the documents of the Fund at the Office of the Fund during business hours.

CHAPTER 3

Payment from and Dissolution of the Fund

Section 23.

When the membership of an employee is terminated due to other causes than the dissolution of the Fund, the Manager of the Fund shall made a lump sum payment to the employee from the Fund in accordance with the rules and procedure prescribed in the Regulation of the Fund within thirty days as from the date of the termination of membership.

In case the membership is terminated because of death, if the employee failed to name the person entitled to receive the money from the Fund in his will or in writing deposited with the Manager of the Fund or he did name such a person but such person has died before the employee, the payment from the Fund under paragraph one shall be made to the following persons in accordance with the following rules:

- (1) the children of the employee shall be entitled to receive two portions of the payment; if the employee has three children or more, they shall be entitled to receive three portions of the payment;
- (2) the spouse of the employee shall be entitled to receive one portion of the payment;
- (3) the surviving parents or father or mother of the employee shall be entitled to receive one portion of the payment.

If the deceased employee does not have such person as mentioned in (1) (2) or (3) or if he has but such person has died before the deceased employee, the portion or portions that person is entitled to receive shall be divided among the rest who are still alive in such portions as prescribed in paragraph two.

If the deceased employee does not have any person entitled to receive payment from the Fund in accordance with paragraph two or does not have any heir, such payment shall devolve on the Fund to be managed in accordance with the Regulation of the Fund.

Section 24.

Subject to Section 23, the right to claim payment from the Fund shall not be transferable and shall not be subject to the execution of judgment.

Section 25.

The Fund shall be dissolved when:

- (1) the employer ceases to carry on his business;
- (2) the general meeting passes a resolution dissolving the Fund;
- (3) an event which the Regulation of the Fund prescribes for its dissolution has occurred; or
- (4) the Minister orders the dissolution of the Fund under Section 27.

In the case where more than one employer participate in the establishment of the Fund, the fact that only some of the employers cease to carry on business or withdraw from the Fund shall not cause the Fund to be dissolved, unless the Regulation of the Fund prescribes otherwise.

When the event under paragraph two has occurred, the Committee of the Fund shall notify the Registrar within seven days as from the date such employers cease to carry on business or withdraw from the Fund, and shall cause the liquidation of the Fund only to the extent in respect of the properties of the said employers and their employees in accordance with the procedure prescribed in the Regulation of the Fund. After the liquidation has already been completely carried out, the Committee of the Fund shall notify the Registrar within seven days as from the date of completion the liquidation.

Section 26.

When the Fund is dissolved in accordance with Section 25 (1) (2) or (3), the Committee of the Fund shall notify the Registrar within seven days as from the date of the dissolution of the Fund, and the Committee of the Fund shall cause the liquidation of the Fund to be carried out within thirty days and to be completed within one hundred and fifty days as from the date of the dissolution of the Fund; except in the case of necessity, the Minister may approve the extension of the period as he deems appropriate.

Section 27.

The Minister has the power to order the dissolution of the Fund in the following cases:

- (1) when there are circumstances showing that the operation of the Fund conflicts with its object or with the laws:
- (2) when there are circumstances showing that the activities of the Fund can no longer be carried out due to any cause whatsoever.

The order of the Minister shall be final and the Registrar shall notify the Fund in writing of such order within seven days as from the date the Minister issues the order.

After the Minister has already issued the order dissolving the Fund under paragraph one, the liquidation of the Fund shall be carried out and the Minister shall appoint the liquidation.

Section 28.

When the Fund is dissolved under Section 25, the Registrar shall publish the dissolution of the Fund in the Government Gazette and post up the notice at the Office of the Fund or at the Office of the Registrar.

Section 29.

The provisions of the Civil and Commercial Code on the liquidation of registered partnerships, limited partnership, and limited companies shall apply mutatis mutandis to the liquidation of the Fund.

During the process of liquidation, if the liquidation considers appropriate, he may make part payment to the employees, and when the liquidation is completed, all the payments due shall be made to the employees within thirty days as from the date the liquidation is completed. If there is some money left, such money shall be dealt with in accordance with the Regulation of the Fund.

The expenses and the remuneration incurred in the liquidation shall be paid out of the properties of the Fund.

CHAPTER 4

Competent Officials

Section 30.

For the purpose of inspection the management of the Fund, the Registrar and the competent officials shall have the following powers:

- (1) to enter the Office of the Fund or the Office of the Manager of the Fund in order to inspect the operation, the assets and the liability of the Fund during normal business hours;
- (2) to order the member of the Committee of the Fund, the Manager of the Fund, or the officer of the Fund having the duty concerning the management of the Fund to submit or produce the accounts, documents or other evidence of the Fund;
- (3) to summon such persons in (2) for asking questions or to give facts relating to the management of the Fund.

Section 31.

In the performance of duties, the Registrar and the competent official must produce the identity cards to the persons concerned.

The identity cards of the Registrar and the competent officials shall be in the form prescribed in the Ministerial Regulation.

CHAPTER 5

Penalties

Section 32.

Any Fund which does not use the name in Thai language which begins with the words "the Provident Fund" and ends with the words "already registered" or uses the name in foreign language having no words which have such meanings in the seal, the name-plate, the letter, the notice or other business documents of the Fund shall be liable to a fine not exceeding five thousand Baht.

Section 33.

Any person, not being the Fund under this Act, uses the name in Thai language beginning with the words "the Provident Fund" and ending with the words "already registered" or uses the name in foreign language having such meanings in the seal, the name-plate, the letter, the notice or other business documents, shall be liable to a fine not exceeding five thousand Baht and to a daily fine not exceeding five hundred Baht until the termination of such use.

Section 34.

The Committee of any Fund which fails to comply with Section 11 paragraph two, Section 13, Section 21 paragraph two, Section 25 paragraph three or Section 26 shall be liable to a fine not exceeding ten thousand Baht.

Section 35.

The Manager of any Fund who fails to comply with the order of the Minister under Section 12 or fails to comply with the Ministerial Regulation issued under Section 14 or fails to comply with Section 23 shall be liable to a fine not exceeding fifty thousand Baht.

[Section 36.](#)

Any person who manages the Fund without having received the permission from the Minister in accordance with Section 13 shall be liable to a fine not exceeding one hundred thousand Baht.

[Section 37.](#)

Any employer who fails to comply with Section 15 shall be liable to a fine not exceeding twenty thousand Baht.

[Section 38.](#)

The Manager of any Fund who fails to comply with Section 16, Section 17, Section 18 or Section 19 shall be liable to a fine not exceeding ten thousand Baht.

[Section 39.](#)

The Manager of any Fund who fails to comply with Section 21 paragraph one shall be liable to a fine not exceeding fifty thousand Baht and to a daily fine not exceeding one thousand Baht until the compliance is made.

[Section 40.](#)

Any person who fails to comply with the order of the Registrar or the order of the competent official, obstructs or fails to render facilities to the Registrar or the competent official performing the duties under Section 30 shall be liable to a fine not exceeding five thousand Baht.

[Section 41.](#)

In the case where the Committee of the Fund commits an offence under Section 34, every member of the Committee of the Fund shall be deemed an offender, unless he can prove that he does not participate with other members of the Committee of the Fund in the commission of the offence or that he has acted reasonably to prevent the commission of the offence.

[Section 42.](#)

A committee appointed by the Minister shall have the power to settle the offences under this act in accordance with Section 38 of the Criminal Procedure Code.

The committee appointed by the Minister under paragraph one shall consist of three members, one of whom shall be an inquiry official under the Criminal Procedure Code.

When the committee has settled any offence and the accused has paid the fine under the settlement within the period prescribed by the committee, the case shall be settled.

[Section 43.](#)

In case of an offence under this Act, if the offender is not prosecuted before the Court or the matter is not submitted to the committee to settle the offence in accordance with Section 42 within one year as from the date the Registrar or the competent official discovers the commission of the offence or within five years as from the date of the commission of the offence, prosecution shall be precluded by prescription.

Countersigned by General Prem Tinsulanonda as Prime Minister

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