

Unofficial translation

HOMEWORKERS PROTECTION ACT,  
B.E. 2553 (2010)<sup>1</sup>

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BHUMIBOL ADULYADEJ, REX.

Given on the 11<sup>th</sup> Day of November B.E. 2553 (A.D. 2010)

Being the 65<sup>th</sup> Year of the Present Reign

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

Whereas it is expedient to have a law on the protection of homeworkers;

This Act contains certain provisions relating to the restriction of the rights and liberties of a person in respect of which section 29 in conjunction with section 33, section 41 and section 43 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

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

**Section 1.** This Act shall be called the “Homeworkers Protection Act, B.E. 2553 (2010)”

**Section 2.** This Act shall come into force after the expiration of one hundred and eighty days from the date of its publication in the Government Gazette.<sup>2</sup>

**Section 3.** In this Act:

“Home Work” means work given out by an employer in an industrial

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<sup>1</sup> Translated by Center for Translation and Language Services, Research Institute for Languages and Cultures of Asia, Mahidol University under contract for the Office of the Council of State of Thailand's Law for ASEAN project.- Initial version- pending review and approval.

<sup>2</sup> Published in the Government Gazette Vol. 127, Part 70a, Page 1, 16th November B.E. 2553 (2010).

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enterprise to a homemaker to produce or assemble outside the place of business of the employer or other works as prescribed in the Ministerial Regulations;

“Homemaker” means a person or group of persons who agree with an employer to accept home work to be carried out at home;

“Employer” means an entrepreneur who agrees to employ a homemaker to carry out home work whether by given out directly or through an agent or acting as a sub-contractor;

“Committee” means the Home Work Protection Committee.

“Labour Inspector” means a person from the central, provincial or local administration appointed by the Minister for the execution of this Act.

“Director-General” means the Director-General of the Department of Labour Protection and Welfare.

“Minister” means the Minister who has charge and control of the execution of this Act.

**Section 4.** The Minister of Labour shall have charge and control of the execution of this Act and shall have the power to appoint Labour Inspectors, to issue Ministerial Regulations and Notifications for the execution of this Act.

In the appointment of the Labour Inspectors, the scope of authority and conditions for the performance of duties shall also be prescribed.

Ministerial Regulations and Notifications shall be come into force upon their publications in the Government Gazette.

## Chapter 1

### General Provisions

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**Section 5.** The claim or acquisition of rights and benefits under this Act shall not prejudice the rights and benefits entitled to homeworkers under other laws.

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**Section 6.** In the case where the Director-General finds it appropriate to render assistance in taking legal action on behalf of homeworkers or when requested by a homeworker or his or her heir which in the opinion of the Director-General opinion would be of common interest, the Director-General may request the Attorney-General to appoint a public prosecutor to institute a legal action against the employer in the Labour Court, or may appoint a competent official of the Department of Labour Protection and Welfare with qualification of not lower than bachelor degree in law in order to represent the homeworker or his or her heir. After the Director-General has informed the Labour Department of the appointment, such person shall have the power to act until the case is final.

In carrying out the case in the Labour Court, the person referred to in paragraph one shall also have the power to file a claim of property or for damages on behalf of homeworker or his or her heir.

**Section 7.** Cases arising from disputes between employer and homeworker or his or her heir or which relate to the rights or duties under this Act shall come under the jurisdiction of the Labour Court for trial and adjudication.

**Section 8.** In the case where the employment contract or terms in documents relating to the acceptance of work to be carried out at home between an employer and homeworker give the employer undue advantage over the homeworker, the Labour Court shall have the power to order that the employment contract or terms in documents relating to the acceptance of work to be carried out at home shall only be enforced in so far as they are fair and reasonable.

## Chapter 2

### Rights and Duties of Employers and Homeworkers

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**Section 9.** The employer shall prepare documents relating to the acceptance of home work in Thai language at the time of assigning the work, one copy of

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which shall be given to the homeworker and one to be kept in the place of business or office of the employer, and which shall be readily produced for the inspection of the Labour Inspector during working hours.

Documents relating to the acceptance of home work shall at least contain the following details:

(1) name, address, sex and age of homeworker and in case of working in group, the name, address, sex and age of every person in the homeworker group;

(2) name and address of the employer and where employment is made through an agent or sub-contractor, the name of the agent or sub-contractor of the preceding stage(s) shall also be recorded;

(3) the rate and amount of remuneration a homeworker will receive, the method of computation and deduction of the remuneration and the amount of security received from the homeworker;

(4) type, quantity and value of home work;

(5) scheduled dates of commencement and completion of each work lot;

(6) scheduled delivery date of the work to the employer and date of payment of remuneration to the homeworker;

(7) signatures of the employer and the homeworker.

The employer shall maintain the documents relating to the acceptance of work to be carried out at home for not less than two years from the date of payment of remuneration.

**Section 10.** In the case where the home work has not been completed and negotiation is still pending, the employer shall not terminate the employment except with the fault of the homeworker or under an unavoidable necessity of the employer leading to termination by the employer for which the employer shall have to pay compensation to the homeworker.

**Section 11.** In the case where it is reasonably expected that the home work would not be completed within schedule, the homeworker shall promptly inform the

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employer in order to agree on the time extension for the delivery of work to the employer.

In the case where the employer does not agree to extend the time for the delivery of work and where the employer would incur damage from late delivery of work without the fault of the employer, the employer shall have the right to terminate the employment and assign the work to someone else to carry out the work instead.

**Section 12.** The termination of employment under section 10 and section 11 shall not bar any of the parties from the right to claim damages from the party that is liable to the cause of such termination.

**Section 13.** In the case where the essence of the employment lies in the knowledge and ability of the homemaker and such homemaker has died or is unable to carry on with the work without his or her fault, the employment shall terminate. However, if the part of work which has been carried out is useful to the employer, the employer shall be required to accept the same and pay remuneration in proportion of the work carried out.

**Section 14.** An employer is forbidden to demand or receive performance bond or security against damage in work performance from a homemaker except where the type, quantity or value of work being performed may cause damage to the employer. In this regard, the type, quantity or value of work for which the security is allowed to be demanded or received from a homemaker shall be in accordance with the criteria, procedure and conditions specified by the Director-General with the approval of the Committee.

The employer shall return the performance bond or security against damage in work performance to the homemaker within a period of not later than seven days from the receipt by the employer of the work performed.

**Section 15.** In the case where the raw materials, equipment or other things used for the performance of the work are supplied by the employer, the homemaker shall

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use the raw materials, equipment and such other things with care and sparingly and if not otherwise agreed upon, upon completion of the assigned work, the homemaker shall return what remains of the raw materials, equipment and other things used for the performance of the work to the employer.

### Chapter 3 Remuneration

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**Section 16.** In determining the remuneration for the home work, if the home work is of the same nature and quality and with the same quantity, the remuneration for the homemaker determined by the employer shall not be less than the wages under the labour protection law as prescribed by the Committee which shall be without discrimination.

The employer shall pay the remuneration in Thai currency unless the homemaker agrees to be paid in bills or foreign currencies.

**Section 17.** The employer shall pay the remuneration to the homemaker at the time of delivery of the work performed or as specified in the agreement but shall not be longer than seven days from the date of delivery by the homemaker of the work performed.

**Section 18.** The employer shall pay remuneration to the homemaker at the workplace of the homemaker. However, if payment is to be made at other place or by other method, the consent of the homemaker shall have to be obtained.

**Section 19.** In no case shall the employer deduct the remuneration unless it is for the following:

- (1) payment of tax in the amount to be paid by the homemaker;
- (2) other payments as specified by law;

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(3) compensation for damages to the employer due to willful or gross negligent act of the homemaker, with consent of the homemaker;

(4) payment of damages or penalties in case the homemaker delivers the home work later than scheduled delivery, with consent of the homemaker.

The deduction of remuneration in the cases referred to in (3) or (4) shall not be made more than ten per cent of the remuneration the homemaker is entitled to receive for each periodic payment of remuneration. Deduction for income tax in the case referred to in (1) shall be made in accordance with the Revenue Code.

## Chapter 4

### Safety in the Performance of Work

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**Section 20.** It is forbidden for anyone to give work to pregnant women or children under 15 years of age to carry out, which may be of hazardous nature to the health and safety of pregnant women or children under 15 years of age. The works, the nature of which may be hazardous to the health and safety of pregnant women or children under 15 years of age, shall be as prescribed in the Ministerial Regulations.

**Section 21.** It is forbidden for an employer to engage the homeworkers to carry out the following works:

(1) work involving hazardous substances pursuant to the law governing hazardous substances;

(2) work to be carried out with tools or machines, the vibration of which may be hazardous to the persons performing the work;

(3) work involving extreme heat or coldness which may be hazardous;

(4) other works which may affect health, safety or quality of the environment;

The nature or type of works referred to in (2), (3) or (4) shall be as prescribed in the Ministerial Regulations.

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**Section 22.** It is forbidden for an employer to procure or deliver raw materials, equipment or other things used for the performance of the work that are hazardous to homeworkers, residents of the house, visitors including the community or the environment in the vicinity.

**Section 23.** The employer shall give warning notice informing homeworkers of the hazards which may arise from the use of the raw materials, equipment or other things used for the performance of the work as well as protective and remedial procedures against such hazards and sufficiently provide homeworkers with equipment for safety protection suitable to the nature of the works.

Homeworkers shall use the safety protection equipment provided by the employer for the performance of the works and, upon completion of the work assigned, shall return what remains of the safety protection equipment to the employer.

**Section 24.** The employer shall be responsible for the medical expenses, rehabilitation expenses and funeral expenses in the case where the homeworkeer suffers from harm, is ill, disabled or deceased due to the use of the raw materials, equipment or other things used for the performance of the work procured or delivered by the employer, or due to the failure of the employer to provide safety protection equipment for the performance of the work or work accident, at the workplace. The payment of medical expenses, rehabilitation expenses and funeral expenses shall, however, be in accordance with the criteria, procedure and rates as prescribed in the Ministerial Regulations.

The provisions provided in paragraph one shall not apply to the case where suffering of harm, illness, disability or death arises from the willful or gross negligent act of the homeworkeer himself or herself.

## Chapter 5

### Home Work Protection Committee

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**Section 25.** There shall be a committee called the “Home Work Protection Committee” consisting of:

- (1) The Permanent Secretary for Labour, as Chairperson;
- (2) Five ex-officio members, namely, the Director-General of the Department of Employment, a representative from the Ministry of Public Health, a representative from the Ministry of Industry, a representative from the Department of Provincial Administration and a representative from the Department of Local Administration;
- (3) not more than three qualified members appointed by the Minister from among the persons with expertise in home works, of which number at least one shall be a representative from a Non-Governmental Organization with juristic person status;
- (4) three members who are representatives of employers elected by and among themselves;
- (5) three members who are representatives of homeworkers elected by and among themselves.

The Director-General of the Department of Labour Protection and Welfare shall be member and secretary who shall appoint not more than two officials of the Department of Labour Protection and Welfare as assistant secretaries.

The appointment or election of members referred to in (3), (4) and (5) shall compose of ladies and gentlemen and shall be carried out in accordance with the criteria and procedure prescribed by the Minister.

**Section 26.** Committee members referred to in (3), (4) and (5) of section 25 shall hold office for a term of two years and may be reappointed or reelected but shall not hold office for more than two consecutive terms.

Upon the expiration of the term of office under paragraph one, if a new member has not yet been appointed or elected in accordance with (3), (4) and (5) of section 25, the member whose term of office has expired shall be in office to continue to perform his or her duties until a new member who has been appointed or elected assumes his or her duties.

When an existing member is about to vacate his or her office on the

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expiration of term, the appointment or election of the same type of member to take his or her place shall be made not less than ninety days prior to the date of the expiration of term.

In the case where a member referred to in paragraph one vacates office before term, the appointment or election of the same type of member to take his or her place shall be made within ninety days from the date of vacancy and the person appointed or elected to replace the vacated member shall be in office for the unexpired term of the member so replaced.

In the case where the unexpired term of the vacated member is less than ninety days, the appointment or election of a member to fill the vacancy may or may not be made. In such a case, the Committee shall consist of the members still remaining.

**Section 27.** In addition to vacating office on the expiration of term, a member referred to in (3), (4) and (5) of section 25 vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Minister due to being absent from three consecutive meetings without justification or due to disgraceful behaviour, negligence, or dishonesty in performance of duties;
- (4) being bankrupt;
- (5) being an incompetent or a quasi-incompetent person;
- (6) being imprisoned due to a final judgement except for an offence committed through negligence or for a petty offence;

**Section 28.** The Committee shall have the following powers and duties:

(1) to propose and provide opinions to the Minister with respect to policies to protect, promote, and develop homeworkers, measures for skill development of labours, measures for the prevention of work-related affliction from harm, illness, or death, and the protection of the interests of homeworkers;

(2) to propose to the Minister with respect to the issuance of Ministerial

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Regulations or Notifications for the execution of this Act;

(3) to determine the rates of remuneration for home works;

(4) to encourage employers and homeworkers in setting up guidelines for good work performance practice as well as the promotion of cooperation and coordination among government agencies, private organizations and other organizations in matters relating to home works;

(5) to monitor the home work-related operations of all parties concerned and present reports on the results of which to the Council of Ministers at least once a year and disseminate the same to the general public;

(6) other operations prescribed by law as being the powers and duties of the Committee.

In determining the rates of remuneration under (3), the Committee shall fix such rates of remuneration to be not lower than those for employees under the law on labour protection.

In the performance of their duty under (1), (2), (4) and (5) the Committee shall consider making available to homeworkers the promotion, development and support from the government in respect of information on source of works, obtainment of works from government agencies, provision of academic services, development of working skills, and development of homeworker network as well as provision of credit or working capital to homeworkers.

**Section 29.** At a meeting of the Committee, the presence of not less than one-half of the total number of members is required to constitute a quorum.

At any meeting, if the Chairperson is absent or is unable to perform his or her duties, the members present shall elect one member among themselves to preside over the meeting.

The decision of the meeting shall be made by a majority of votes. Each member shall have one vote. In case of tied-vote, the person presiding over the meeting shall have an additional vote as a casting vote.

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**Section 30.** The Committee shall have the power to appoint sub-committees to consider or carry out any operation entrusted by the Committee.

In holding a meeting of the sub-committee, the provisions of section 29 shall apply *mutatis mutandis*.

**Section 31.** In the performance of duties under this Act, the member(s) or the sub-committee member(s) entrusted by the Committee shall have the following powers:

(1) to enter the place of business or office of an employer or the workplace of a homeworker during working hours in order to inspect or make inquiries of facts so as to obtain information for consideration, and the member or sub-committee member shall every time report result of their performance to the Committee.

(2) to issue a letter summoning a person to appear to give statements or to send any documents or objects to supplement the consideration as deemed necessary.

In this regard, the employers, the homeworkers or the persons concerned shall provide convenience, send or produce documents or furnish the facts to such persons and shall not obstruct the performance of their duty.

**Section 32.** In the performance of duties under section 31, the member or the sub-committee member shall present an identity card to the persons concerned.

The identity card of the member or the sub-committee member shall be in the form prescribed by the Minister.

## Chapter 6

### Petition Filing and Deliberation

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**Section 33.** In the case where an employer fails to pay a homeworker in violation to or not in compliance with this Act, the homeworker may file a petition to the Labour Inspector of the locality in which the homeworker carries out his or her work or in which the employer has his or her domicile, in the format prescribed in the notifications by

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the Director-General. If the homeworker has died before the petition is filed or while it is under deliberation, his or her heir shall have the right to file the petition to the Labour Inspector or take further steps pursuant to the provisions of this chapter.

**Section 34.** Upon a petition being filed pursuant to section 33, the Labour Inspector shall investigate into facts and issue an order within thirty days from the date of receipt of the petition.

When out of necessity an order could not be issued within the time prescribed in paragraph one, the Labour Inspector shall request for time extension, by furnishing the reason therefor, from the Director-General or the person entrusted by the Director-General who may grant permission if deemed reasonable. The time extension shall not exceed thirty days from the due date provided in paragraph one.

After having investigated the petition under section 33, it appears to the Labour Inspector that the homeworker or his or her heir is entitled to receive a certain kind of money the employer is obligated to pay pursuant to this Act, the Labour Inspector shall order the employer to make such payment in the format prescribed by the Director-General in the notifications within thirty days from the date the order is known or deemed to have been known, and at the same time notify the person who is entitled to receive such money.

The employer shall pay the person entitled to receive the money under paragraph three at the workplace of the homeworker. If the person so entitled requests that payment be made at the office of the Labour Inspector or at another place as agreed upon, the Labour Inspector shall have the power to order that the payment be made at the place so requested.

In the case where the Labour Inspector is of the opinion that the petitioner is not entitled to receive money from the employer, the Labour Inspector shall issue an order and inform the petitioner and the employer in writing to that effect.

**Section 35.** After the Labour Inspector has issued the order referred to in section 34, if the petitioner or the employer does not agree with the same, the case shall be referred to the Labour Court within thirty days from the date the order is known or deemed

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to have been known.

In the case where the petitioner or the employer fails to refer the case to the Labour Court within the specified period of time, the order shall become final.

In the case where the employer is the party referring the case to the Labour Court, the employer shall have to deposit with the Labour Court the sum of money equal to the amount due to be paid under the order in order to be able to institute the court case.

When the case has become final and the employer has the duty to pay any sum of money to the petitioner, the Labour Court shall be empowered to pay the petitioner out of the sum of money deposited by the employer with the Labour Court.

**Section 36.** In the case where the employer has complied with the order of the Labour Inspector under section 34 within the specified period of time or with the judgement or order of the Labour Court, the criminal proceedings against the employer shall be terminated.

## Chapter 7 Labour Inspector

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**Section 37.** In the performance of duties under this Act, the Labour Inspector shall have the following powers:

(1) to enter the place of business or office of employers or the workplace of homeworkers during working hours to inspect the working conditions of homeworkers and make inquiries about facts, to take photographs, to make copies of documents relating to home works or remuneration payment;

(2) to collect samples of raw materials or products made for the analysis of work safety and to carry out other actions to obtain facts for the execution of this Act, in this regard, the Labour Inspector shall have to obtain the consent of the employer or the homeworker or the approval of the Director-General or of the person entrusted by the

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Director-General;

(3) to issue a letter summoning a person to appear to give statements or to send any documents or objects to supplement the consideration as deemed necessary;

(4) to issue written orders requiring the employer or the homeworker to comply with this Act;

In carrying out inspection of the place of business or office of the employer or the workplace of the homeworker, the Director-General or the person entrusted by the Director-General may arrange for physicians, social workers or experts appointed by the Minister to enter such places in order to provide opinion or render assistance to the Labour Inspector in the execution of this Act.

**Section 38.** Appeals against the order of the Labour Inspector under section 37 (4) shall be filed with the Labour Court within the period of time specified in the order, but shall not be longer than thirty days from the date on which the order has become known.

The appeal referred to in paragraph one shall not be a stay of execution of the order of the Labour Inspector except where specified otherwise by the Labour Court or a security, as to be determined by the Labour Court, is deposited.

In the case where the employer or the homeworker fails to refer the case to the Labour Court within the specified period of time, the order shall become final. In the case where the employer is the party referring the case to the Labour Court, the Labour Court shall have the power to require that a security, which is to be determined by the Labour Court, be deposited with the Labour Court in order to be able to institute the case, except as otherwise stipulated by the Labour Court.

In the case where the employer or the homeworker has complied with the order of the Labour Inspector under section 37 (4) or with the judgement or order of the Labour Court, the criminal proceedings against the employer or the homeworker shall be terminated.

**Section 39.** Persons concerned shall provide convenience to the Labour

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Inspectors, physicians, social workers or experts under section 37 in the performance of their duties.

**Section 40.** In the performance of duties under section 37, the Labour Inspectors, physicians, social workers or experts under section 37 shall present identity card or letter of assignment, as the case may be, to the persons concerned.

The identity card of the Labour Inspector shall be in the format prescribed by the Minister in the Notifications.

## Chapter 8 Penalties

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**Section 41.** An employer who fails to comply with section 9 shall be liable to a fine not exceeding ten thousand baht.

**Section 42.** An employer who violates or fails to comply with section 14, section 16, section 17, section 18, section 19 or section 23 paragraph one, shall be liable to imprisonment for a term of not exceeding three months or to a fine not exceeding fifty thousand baht, or to both.

**Section 43.** Whoever violates section 20 shall be liable to imprisonment for a term of not exceeding six months or to a fine not exceeding one hundred thousand baht, or to both.

In the case where the violation under paragraph one has caused physical or mental hazard or death to a pregnant woman or a child under fifteen years of age, the violator shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding two hundred thousand baht, or to both.

**Section 44.** An employer who violates section 21 or section 22 shall be

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liable to imprisonment for a term of not exceeding one year or to a fine not exceeding two hundred thousand baht, or to both.

**Section 45.** Whoever fails to provide convenience, to give statements, to send any documents or objects required by the summoning letter of the Committee member or sub-committee member under section 31, or of the Labour Inspector under section 37, or fails to provide convenience to the Labour Inspectors, physicians, social workers or experts under section 39, shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding twenty thousand baht, or to both.

**Section 46.** Whoever obstructs the performance of duty of the Committee member or sub-committee member under section 31, or of the Labour Inspectors, physicians, social workers or experts under section 37, shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding two hundred thousand baht, or to both.

Whoever fails to comply with the order of the Labour Inspector issued under Section 34 shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding two hundred thousand baht, or to both.

**Section 47.** Whoever fails to comply with the order of the Labour Inspector issued under section 37 (4) shall be liable to a fine not exceeding twenty thousand baht.

**Section 48.** In the case where the offender to be penalized under this Act is a juristic person, the managing director, the manager or any person responsible for the operation of that juristic person shall also be liable to the punishment prescribed by law for such offence unless it can be proved that he or she did not have any part in the commission of the offence of the juristic person.

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**Section 49.** For all offences under this Act, if it is the opinion of the following officials that the offender should not be punished by imprisonment or prosecuted, the power to settle the case shall be as follows:

(1) the Director-General or the person entrusted by the Director-General for offences committed in Bangkok Metropolis;

(2) the *Changwat* Governor or the person entrusted by the *Changwat* Governor for offences committed in other *Changwat*.

In the case where an inquiry has been made and the inquiry official finds out who the offender committing the offence under this Act is, and such person consents to the settlement of the case, the inquiry official shall refer the case to the Director-General or the *Changwat* Governor, as the case may be, within seven days from the date such person has expressed his or her consent to the settlement of the case.

Upon payment by the offender of the fine in the sum required for the settlement of the case within thirty days, the case shall be deemed settled pursuant to the Criminal Procedure Code.

If the offender does not consent to the settlement or after having consented thereto fails to pay the fine within the time specified in the third paragraph, the case shall continue.

#### Transitory Provision

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**Section 50.** Appointment or selection of Committee members in accordance with (3), (4) and (5) of section 25, in order to form the Home Work Protection Committee under this Act shall be made within one hundred and twenty days from the date this Act coming into force.

Pending the formation of the Committee referred to in paragraph one, a Committee shall be formed comprising the Permanent Secretary for Labour as Chairperson, the Director-General of the Department of Employment, a representative from the Ministry of Public Health, a representative from the Ministry of Industry, a representative from the

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Department of Provincial Administration, a representative from the Department of Local Administration, as members, and the Director-General of the Department of Labour Protection and Welfare as committee member and secretary, to take charge and control of the execution of this Act for the time being.

Countersigned by:

Abhisit Vejjajiva

Prime Minister

*Office of the Council of State*

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