

## **Social Security Act, B.E. 2533 (1990)**

As Amended until Social Security Act (No.3), B.E. 2542 (1999)<sup>(1)</sup>

**Translation**

BHUMIBHOL ADULYADEJ, REX.

Given on 11th Day of August B.E. 2533;

Being the 45th Year of the Present Reign

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

Whereas it is expedient to revise the law on social security;

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 "Social Security Act, B.E. 2533 (1990)".

### **Section 2**

This Act shall come into force as from the day following the date of its publication in the Government Gazette, provided that the provisions of Chapter 2 of Part II shall come into force after the expiration of one hundred and eighty days as from the date this Act come into force and the provision of Section 40 shall come into force within four years as from the date this Act come into force<sup>(2)</sup>.

### **Section 3**

The Social Security Act, B.E. 2497 (1954) shall be repealed.

All laws, rules and other regulations in so far as they have been provided in this Act, or are contrary to or inconsistent with the provisions of this Act, shall be replaced by this Act.

### **Section 4**

This Act shall not apply to:

- (1) <sup>(3)</sup>public officials, permanent employees, daily temporary employees and hourly temporary employees of Central Administration, Provincial Administration and Local Administration but excluding monthly temporary employees;
- (2) an employee of foreign government or international organization;
- (3) an employee of the employer having office in the country and working abroad;
- (4) a teacher or headmaster of the private school under the law on private school;
- (5) a pupil, nursing student, student or intern physician who is an employee of school, university or hospital;
- (6) other undertakings or employees as prescribed by the Royal Decree.

### **Section 5**

In this Act:

"Employee" means any person who works for the employer in return of wage irrespective of the name of such relationship, but not includes the employer who does housework which is not related to business undertaking;

"Employer" means a person who accepts the employee to work and pays wage in return thereof, including a person who is entrusted to do work for the employer. In the case where the employer is a juristic person, the employer shall includes a person who has power to act on behalf of the juristic person and a person who is entrusted to act on behalf of the juristic person by a person having power to act on behalf of the juristic person;

"Wage" means all kinds of money which the employer pays to the employee in return of work for normal working day and hours, whether it is calculate upon the period of time or upon output produced by the employee, including money which the employer pays for the employees' holiday and leave of absence which the employee does not work, irrespective of the manner of its determination, calculation or paying method or procedure and regardless of the name thereof;

"Working day" means the day as determined to be working day of the employee;

"Insurer" means a person who pays the counterpart fund and being entitled to the benefits under this Act;

"Parturition" means an act of giving birth with gestational period of not less than twenty eight weeks, irrespective of whether such infant is still alive or not;

"Infirmity" means the losing of organ or capacity of organ or human body or the losing of normal mental condition until being unable to work under the rule determined by the Medical Committee;

"Unemployment" means the situation that the insurer shall stop working due to juristic relation between the employer and employee under the hire of work is terminated;

"Fund" means the Social Security Fund;

"Office" means the Office of Social Security;

"Committee" means the Social Security Committee;

"Member" means a member of the Social Security Committee;

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

"Secretary-General" means the Secretary-General of the Office of Social Security;

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

#### **Section 6<sup>(4)</sup>**

The calculation of wages for payment of contribution shall be based on the monthly basis.

In the case an employee does not receive a monthly wages, the calculation shall be based on monthly basis, and it shall be considered that actual wages received by the employee is monthly wages.

For the purpose of counting time for paying contribution of insured person, it shall be deemed that contribution being deducted from wages paid to the employee in any month, shall be payment of such specified month and, no matter such contribution is computed or is monthly paid, it shall be deemed that the contribution equals to one month.

#### **Section 7**

The Minister of Labor and Social Welfare<sup>(5)</sup> shall have charge and control of the execution of this Act and shall have the power to appoint competent officials, issue Ministerial Regulations prescribing fees not exceeding the rates provided in the schedules hereto attached, granting exemption from fees, and prescribing other activities for the execution of this Act.

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

### **PART I**

#### **General Provisions**

-----

#### **Chapter 1**

#### **Social Security Committee**

## **Section 8**

There shall be a Committee called the "Social Security Committee" consisting of the Permanent Secretary for Labor and Social Welfare as Chairman, a representative of the Ministry of Finance, a representative of the Ministry of Public Health, and a representative of the Bureau of the Budget, and five representatives of employers and five representatives of employees appointed by the Minister, as members and the Secretary-General shall be a member and secretary<sup>(6)</sup>.

The Committee may appoint any person to be assistant secretary of the Committee.

The Minister may appoint not more than five qualified persons to be advisors to the Committee. The qualified person to be appointed shall be at least the qualified person in the field of social security system, labor, medicine, law and other.

## **Section 9**

The Committee shall have powers and duties as follows:

- (1) to give recommendations to the Minister related to the social security policy and measures under this Act;
- (2) to give advice to the Minister for the issuance of the Royal Decrees, Ministerial Regulations and regulations for the execution of this Act;
- (3) to lay down regulation, with approval of the Ministry of Finance, related to the receipt, payment and keeping of money of the fund;
- (4) to lay down regulation, with approval of the Ministry of Finance, related to earnings of fund;
- (5) to consider the balance sheet and financial statement of the fund and annual report of the Office related to social security under this Act;
- (6) to give advice and suggestion to other Committees or to the Office;
- (7) to carry out other acts which are prescribed by this Act or other laws to be powers and duties of the Committee or as entrusted by the Minister.

In the carrying out of duties under paragraph one, the Committee may entrust the Office to do so and propose the Committee for further implementation.

## **Section 10**

A member or advisor appointed by the Minister holds office for a term of two years.

A member of advisor who vacates from office may be reappointed, but not more than two consecutive terms.

## **Section 11**

In addition to vacating office at the end of the term under Section 10, a member or advisor appointed by the Minister vacates from office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Minister;
- (4) being bankrupt;
- (5) being incompetent or quasi-incompetent;
- (6) having been sentenced by a final judgment of the Court to a term of imprisonment, except for an offence committed through negligence or a petty offence.

In the case where a member appointed by the Minister vacates from office before term, the Minister shall appoint another person having the same qualification under Section 8 to replace him or her, and such person shall remain in office for the un-expired term of office of the member he or she replace.

If there is an appointment of the additional advisor while the appointed advisors remain in office, the additional advisor shall hold office for the remaining term of the appointed advisor.

### **Section 12**

At the expiration of term of office and the new members have not been appointed, the members appointed by the Minister who vacate from office shall remain in office to continue their duties until the new members have been appointed.

### **Section 13**

At a meeting of the Committee, the presence of not less than one-half of the total number of the members shall constitute a quorum.

In the case where the Chairperson is unable to attend the meeting, or is unable to perform his or her duty, the members shall select one among themselves to preside over at the meeting.

A decision shall be made by a majority of votes. In casting votes, each member shall have one vote. In case of an equality of votes, the person who presides over at a meeting shall cast an additional vote as a casting vote.

### **Section 14<sup>(7)</sup>**

There shall be a Medical Committee consisting of a Chairman and other members, totally not more than sixteen persons, appointed by the Minister, and representative of the Office shall be member and secretary.

Chairman and other members under paragraph one shall be appointed from qualified persons in the fields of medical science and shall hold office for a term of two years.

Section 10 paragraph two, Section 11, Section 12 and Section 13 shall be applied *mutatis mutandis*.

### **Section 15**

The Medical Committee shall have powers and duties as follows:

- (1) to give recommendation to the Committee related to the providing of medical service;
- (2) to lay down rules and rates for medical benefits of the insurer under Section 59, Section 63, Section 66, Section 68, Section 70 and Section 72;
- (3) to give advice to the Committee related to the issuance of the Ministerial Regulations under Section 64;
- (4) to give medical advice and suggestion to the Committee, the Appeal Committee and the Office;
- (5) to carry out other acts which are prescribed by this Act to be powers and duties of the Medical Committee or as entrusted by the Minister or the Committee.

### **Section 16**

The Committee or Medical Committee may appoint sub-committee for consideration or execution any matter as may be entrusted by the Committee or Medical Committee.

The provisions of Section 13 shall be applied to the meeting of the sub-committee *mutatis mutandis*.

### **Section 17**

The Committee, Medical Committee and their sub-committee shall have the power to order any person to send any document or information necessary for its consideration. In this regards, they may summon any person to testify.

### **Section 18**

A member, advisor, a member of Medical Committee, a member of Appeal Committee and a member of sub-committee may be entitled to the meeting allowance, travel fee, per

diem, lodgings fee and other expenses for the execution of duties under this Act in accordance with the regulations determined by the Minister with approval of the Ministry of Finance.

## **Chapter 2**

### **Office of Social Security**

#### **Section 19**

There shall be established the Social Security Office under the Ministry of Interior<sup>(8)</sup> having the following powers and duties:

- (1) to perform the administrative works of the Committee, other Committee and sub-committee under this Act;
- (2) to collect, compile and analyze data in regard to social security;
- (3) to organize the registration of employers and insured persons who are required to pay contributions;
- (4) to perform other functions as prescribed in this Act or any other laws to be powers and duties of the Office;
- (5) to carry out other activities as entrusted by the Minister, the Committee, other Committee or the sub-committee.

#### **Section 20**

The Secretary-General shall have duty to control generally on the officials work of the Office and shall be supervisor of all officials of the Office. For this purpose, there shall be one or more Deputy Secretary-General to be his or her assistant.

The Secretary-General and Deputy Secretary-General shall be ordinary civil servant.

## **Chapter 3**

### **Social Security Fund**

#### **Section 21**

There shall establish a fund in the Office of Social Security called the Social Security Fund so as to be paid in lieu of all benefits entitled by the insurer under Chapter 3 and to be paid for all expenses under Section 24 paragraph two.

#### **Section 22<sup>(9)</sup>**

The fund composes of:

- (1) contributions from the government, employers and insured person under Section 40 and Section 46;
- (2) additional payment under Section 39, Section 49, and Section 53,
- (3) interest of the fund under Section 26;
- (4) fee under Section 45;
- (5) donation or subsidy;
- (6) money becoming property of the Fund under Section 47, Section 47 bis, Section 50, Section 53 and Section 56;
- (7) subsidy or advanced money which the Government has paid under Section 24 paragraph three;
- (8) fine collect through settlement under Section 102;
- (9) other incomes.

### **Section 23**

The fund money under Section 22 shall devolve on the Office and shall not be remitted to the Ministry of Finance as State's income.

### **Section 24**

The fund money shall be paid as benefits under this Act.

The Committee may allocate the fund money in an amount of not exceeding ten per cent of the counterpart fund of each year to be paid under Section 18 and to be paid for the administration of the Office.

In the case where the fund money shall not cover the expense under paragraph one or paragraph two, the government shall pay subsidy or advance money as necessary to the fund.

### **Section 25**

The receipt, payment and keeping of the fund money shall be in accordance with the regulation determined by the Committee with approval of the Ministry of Finance.

### **Section 26**

The earnings of fund shall be in accordance with the regulation determined by the Committee with approval of the Ministry of Finance.

### **Section 27<sup>(10)</sup>**

The Committee shall, within six months from the last day of the calendar year, submit the balance-sheet and statement of incomes and expenditures of the Fund in the foregoing year to the Office of the Auditor-General of Thailand to be audited and certified before submitting to the Minister.

The Minister shall submit the said balance-sheet and statement of incomes and expenditures to the Prime Minister to further submit to the Parliament for information and such balance-sheet and statement shall be published in the Government Gazette.

## **Chapter 4**

### **Social Security Survey**

### **Section 28**

For the purpose of social security work under this Act, the Royal Decree on labor problems and information survey may be enacted.

The Royal Decree under paragraph one shall, at least, specify:

- (1) survey's objectives;
- (2) survey's official or competent official;
- (3) enforcement period of the Royal Decree which shall no longer than two years.

### **Section 29**

Upon an enactment of the Royal Decree under Section 28, the Secretary-General shall notify:

- (1) survey's form;
- (2) period in which the official or competent official shall send the survey's form to the employers;
- (3) period in which the employers shall return the filled survey's form to the official or competent official which shall not less than thirty days and such period shall be specified in the survey's form.

The notification under this Section shall be published in the Government Gazette.

### **Section 30**

The survey's form under Section 29 (1) to be sent to the employer shall be sent by registered mail with advice of delivery or the official or competent official hands it to the domicile, residence or office of the employer between sunrise and sunset or working hour of the employer. If the employer is not found at his or her domicile, residence or office, such form may be hand to any sui juris person living or working in the dwelling place or office which appears to be of the employer.

### **Section 31**

The employer shall, upon receiving of the survey's form, fill it with true statement and shall return such filled form to the official or competent official within the period under Section 29 (3).

### **Section 32**

All statements or numerals filled in the survey's form shall be deemed confidential. No person having duties for the execution of this Act shall disclose such statements or numerals to any person having no duties for the execution of this Act, provided that there is beneficial to social security work, labor protection or case investigation or consideration.

## **PART II**

### **Social Security Work**

-----

#### **Chapter 1**

#### **Being an Insurer**

### **Section 33<sup>(11)</sup>**

The employee, who has been over fifteen years of age and not more than sixty years of age, shall be insured person.

The insured person under paragraph one who has become sixty years of age and has continually been an employee of the employer under this Act, shall be deemed to be an employee who is an insured person.

### **Section 34**

The employer having the employee who is insurer under Section 33 shall submit a list stating insurer's name, wage and other information in accordance with the form determined by the Secretary-General to the Office within thirty days as from the date such employee being an insurer.

### **Section 35**

In the case where the entrepreneur hires any person to control working and pay wage to the employees whereby the entrepreneur pays lump sum labor costs to such person in so doing, or entrusts any person to provide the employees to do work which is not a job providing business, if such work is a part of the production line or business which is done within the place of business or working place of the entrepreneur and the main working equipments and instruments for such work have been provided by the entrepreneur, the entrepreneur in such case shall be the employer having duties to act in accordance with this Act.

In the case where the entrepreneur who has been sub-contracted by the wholesale wages method under paragraph one is acting as an employer by submitting the statement to the office under Section 34, such entrepreneur shall have responsibility to comply with this Act in the same manner as the employer. In this case, the principal shall discharge from the responsibility for payment of contribution and additional money, for the amount of which the entrepreneur who has been sub-contracted by the wholesale wages method, has paid to the office.<sup>(12)</sup>

### **Section 36**

If the employer submits a list under Section 34, the Office shall make a certificate stating social security registration to the employer and shall issue social security card to the employee in accordance with form, rules and procedure as prescribed by the Ministerial Regulations.

### **Section 37**

If it appears to the Office, or from the complaint of the employee, that the employer fails to submit the list under Section 34 or names of some employees is not appear in the submitted list under Section 33, the Office shall, upon considering the related evidences, have power to record any statements under Section 34 to the list and shall make a certificate stating social security registration to the employee and/or issue social security card to the employee under Section 36, as the case may be.

### **Section 38**

The insurer status of the insurer under Section 33 shall terminate upon:

- (1) death;
- (2) not being employee.

In the case where the insured person who ceases to be an employee under (2) has paid full amount of contribution, according to the condition of time which shall entitle him or her to receive benefits under Title 3. The said insured person shall be entitled under Chapter 2, Chapter 3, Chapter 4 and Chapter 5 for a further period of six months from the date his or her employment is terminated or for a period of time prescribed in the Royal Decree which shall not be longer than twelve months from the date his or her employment is terminated<sup>(13)</sup>.

### **Section 39**<sup>(14)</sup>

Any person who is an insured person under Section 33, has paid contribution for a period of not less than twelve months and, subsequently ceases to be insured person in pursuance of Section 38 (2), if such person wishes to continually be insured person, he or she shall, within six months from the date of his or her termination to be insured person, notify his or her statement to the Office according to the regulations prescribed by the Secretary-General.

The amount of money using as basis for calculating contribution which the insured person under paragraph one has to pay to the Fund under Section 46 paragraph two, shall be in accordance with the rate prescribed in the Ministerial Regulations and with due consideration of suitability of economic situation.

The insured person under paragraph one, shall pay monthly contribution to the Fund within the fifteenth day of the following month.

The insured person under paragraph one, who does not pay contribution or cannot pay full amount of contribution within the prescribed time under paragraph three, shall pay an additional amount at the rate of two per cent per month of the unpaid contribution or of the late payment contribution starting from the day following the due date. For any fraction of the month, if it is fifteen days or more, it shall be counted as a month. If less, it shall be disregarded.

### **Section 40**

Any person who is not the employee under Section 33 may apply to be an insurer under this Act by express his or her intention to the Office.

The rules and rates on remittance of the counterpart fund, category of entitled benefits under Section 54 as well as the rules and conditions of the right to receive the entitled benefits shall be enacted by the Royal Decree.



### **Section 41**<sup>(15)</sup>

The insurer status of the insurer under Section 39 shall terminate upon:

- (1) death;
- (2) having subsequently become an insured person under Section 33;
- (3) resigning from being insured by notifying his or her intention to the Office;
- (4) paying none contributions for an uninterrupted period of three months;
- (5) paying contributions on his part within the period of twelve months, less than contribution specified for the period of nine months.

In the case of (4), the insurer status shall terminate as from the first month the insurer has failed to remit the counterpart fund, and in case of (5), the insurer status shall terminate as from the month which the counterpart fund the counterpart fund is not complete nine months.

In the case where the insurer, who his or her insurer status has terminated under (3), (4) and (5), has remitted the counterpart fund in full amount within the period of time which entitle the right under the provisions of Chapter 3, such person shall enjoy the right under Chapter 2, Chapter 3, Chapter 4 and Chapter 5 for further six months as from the termination date of the insurer status<sup>(16)</sup>.

### **Section 42**

In order to entitle the insurer the right to request for benefits under the provisions of Chapter 3, each period of being the insurer under Section 33 and/or Section 39 shall be counted altogether.

### **Section 43**

An undertaking under this Act shall be subjected to this Act until its liquidation even though the number of its employees is less than the determined number, and the remaining employees shall be the insurer. If such undertaking accepts new employees to work, such employees shall also be insurers under this Act even though the total number of its employees is less than the determined number.

### **Section 44**<sup>(17)</sup>

In the case where the fact related to the statements in the list submitted to the Office has changed, the employer shall notify, in writing, the Office in accordance with the regulations determined by the Secretary-General so as to alter or revise such statements within the fifteenth day of the month following the month having such change.

The provisions of Section 37 shall be applied to the case where the employer fails to comply with this Section *mutatis mutandis*.

### **Section 45**

In the case where the certificate stating social security registration or the social security card is lost, destroyed or seriously damaged, the employer or the insurer shall apply for the substitution of the certificate stating social security registration or the social security card, as the case may be, to the Office within fifteen days as from the date the lost, destroy or serious damage has known thereto in accordance with the regulations determined by the Secretary-General.

## **Chapter 2** **Counterpart Fund**

### **Section 46**<sup>(18)</sup>

The government, employer and employee under Section 33 shall remit the counterpart fund to the fund so as to pay for danger or sickness benefits, infirmity benefits, death

benefits and parturition benefits in an equal amount as prescribed by the Ministerial Regulations, but shall not exceed the counterpart fund rate attached to this Act.

The government, employer and employee under Section 33 shall remit the counterpart fund to the fund so as to pay for child allowance benefits, old age benefits, and unemployment benefits at the rate as prescribed by the Ministerial Regulations, but shall not exceed the counterpart fund rate attached to this Act.

As for the insurability under Section 39, the government and insurer shall remit the counterpart fund to the fund whereby the government remits one time and the insurer remits two times of the counterpart fund which each party shall remit under paragraph one and paragraph two.

The determination of the counterpart fund rate under paragraph one and paragraph two shall regard to the benefits and administration expense of the Office under Section 24.

The minimum and maximum wage to be basis for calculation of the counterpart fund to be remitted by each insurer under Section 33 shall be in accordance with the Ministerial Regulations. In calculating the counterpart fund to be remitted by each insurer, the remainder of the counterpart fund in an amount of fifty Satang or more shall be counted as one Baht and the amount less than that shall be omitted. If the insurer works for many employers, the counterpart fund shall be calculated upon wage received from each employer.

#### **Section 47**<sup>(19)</sup>

At each payment of wage, the employer shall deduct wage of the insurer in an amount to be remitted as the counterpart fund by the insurer under Section 46. Upon such deduction, it shall be deemed that the insurer has remitted the counterpart fund as from the date such deduction has been made by the employer.

The employer shall remit the counterpart fund of the employee deducted under paragraph one together with the counterpart fund to be remitted by the employer to the Office within the fifteenth day of the month following the month the deduction has been made and shall submit the list stating the remittance of counterpart fund in accordance with the form determined by the Secretary-General.

If the employer fails to pay wage on time, he or she shall have duty to remit the counterpart fund as prescribed in paragraph two as if the wage has paid.

In the case where the counterpart fund to be remitted by the insurer or the employer which has been remitted to the Office by the employer is excess the amount to be remitted, the employer or insurer shall make an application to recall the excess amount in accordance with the regulations determined by the Secretary-General. If the employer or insurer fails to make such application within one year as from the date of remittance or fails to collect such money within one year as from the date he or she has been informed to make a collection, such money shall devolve on the fund.

#### **Section 47 bis**<sup>(20)</sup>

In the case where the employer fails to remit the counterpart fund, or remit an incomplete amount, within the period as prescribed in Section 47 under paragraph two, the competent official shall have a written notice warning the employer to remits the overdue counterpart fund and surcharge within specified period which shall not less than thirty days as from the date of receiving such notice. If the employer who has received such warning fails to remits the overdue counterpart fund and surcharge within specified period, the competent official shall have power to assess the counterpart fund to be remitted by the employer and inform, in writing, the employer as follows:

- (1) in the case where the employer has remitted the counterpart fund, it shall be deemed that the amount of the counterpart fund to be remitted by the employer for each following month shall be equal to the amount of the counterpart fund of the last month, calculated in full month, which has been remitted by the employer;

- (2) in the case where the employer having duty under this Act fails to submit the list under Section 34, or submit the list under Section 34, but never remit the counterpart fund, or submit the list under Section 34, but states the amount and names of the employees less than the actual amount, the counterpart fund shall be assessed upon the list which has been submitted by the employer or upon the amount of employees which appears to the competent official after inspection, as the case may be. In this regards, it shall be deemed that each employee receives monthly wage at the rate which has been stated in the submitted list. If the list has not been submitted or has incomplete statements, it shall be deemed that each employee receives monthly wage at a rate of not less than the minimum daily wage under the law labor protection applying to such locality multiplied by thirty.

In the case where it can be proved within two years as from the date the assessment of the counterpart fund under paragraph one has been notified that the actual amount of the counterpart fund to be remitted by the employer more or less than the amount assessed by the competent official under (1) or (2), the Office shall inform, in writing, the proof thereon to the employer within thirty days as from the date the proof has known to the Office so as to enable the employee to remit the additional counterpart fund within thirty days as from the date of receiving such information, or to make an application to recall the excess amount. If the employee fails to collect such money within one year as from the date he or she has been informed the proof, such money shall devolve on the fund. The provisions of Section 30 shall be applied to the informing of warning, assessed counterpart fund and the proof *mutatis mutandis*.

#### **Section 48**

In the case where the insurer works with many employers, all employers shall have duty to comply with Section 46 and Section 47.

#### **Section 49**

In the case where the employer fails to remit the counterpart fund to be remitted by the employer or the insurer, or remit an incomplete amount, within the period as prescribed in Section 47, such employer shall be responsible for surcharge at the rate two per cent per month of the amount of the overdue or deficit counterpart fund as from the day following the date of remittance. In the case where there is a remainder of the month, if a remainder is fifteen days or more, it shall be counted as one month. If the remainder is less than that, it shall not be counted.

In the case where the employer fails to deduct wage of the insurer for the counterpart fund or the deducted amount is less than the amount under Section 47 paragraph one, the employer shall be responsible for the counterpart fund to be remitted by the employee in full amount and shall pay surcharge under paragraph one as from the date he or she has to remit the counterpart fund. In this case, such insurer shall be entitled to his or her right as if the insurer has completely remitted the counterpart fund.

#### **Section 50**

The Secretary-General shall have power to order in writing to seize, attach and auction properties of the employer who fails to remit the counterpart fund or surcharge or remits incomplete amount thereof under Section 49. Such order shall be made as necessary for the remittance of the undue amount thereof.

The order to seize, attach or auction properties under paragraph one shall be made if the written notice has been sent to warn the employer to remit the undue counterpart fund and /or surcharge within the determined period which shall not less than thirty days as from the date of receiving such notice, but the employer fails to comply therewith.

The rules and procedure for seizure, attachment and auction of properties under paragraph one shall be in accordance with the regulations determined by the Minister. In this regards, the rules and procedure under the Civil Procedure Code shall be applied *mutatis mutandis*.

The remaining money received from such auction, after deducted to pay for the expenses incurred in seizure, attachment and auction and to pay for undue counterpart fund and surcharge, shall be returned to the employer without delay. If the employer fails to collect such remaining money within five years, such money shall devolve on the fund.

### **Section 51**

The Office shall have preferential right in the obligation incurred from the failure in paying the counterpart fund and/or surcharge over all properties of the employer who is a debtor as same as the preferential right in tax and duties under the Civil and Commercial Code.

### **Section 52**

If the employer is a sub-contractor, all previous sub-contractors, if any, through the primary contractor shall be jointly responsible with the sub-contractor who is the employer in the counterpart fund which the employer has duty to remit under this Act.

### **Section 53<sup>(21)</sup>**

The provisions of Section 49, Section 50 and Section 51 shall be applied *mutatis mutandis* to the sub-contractor under Section 52 who fails to remit the counterpart fund, or remit an incomplete amount, within the determined period.

## **PART III**

### **Benefits**

-----

#### **Chapter 1**

#### **General Provisions**

### **Section 54**

The insurer or the person under Section 73 shall be entitled to the benefits of the fund as follows:

- (1) danger or sickness benefit;
- (2) parturition benefit;
- (3) infirmity benefit;
- (4) death benefit;
- (5) child allowance benefit;
- (6) old age benefits;
- (7) unemployment benefit, except the insurer under Section 39.

### **Section 55**

In the case where the employer has provided welfare related to danger or sickness, infirmity, death from other reasons other than working, parturition, child allowance, old age benefit or unemployment, prior to the date this Act comes into force, to his or her employees who are the insurers under Section 33 and have worked with the employer prior to the date this Act comes into force, if the payment of any welfare is higher than the benefits under this Act, such employer shall represents its regulations related to working, hire of labor agreement or working condition agreement stating such welfare clause to the Committee so as to deduct the counterpart fund rate for the benefits which has been provided by the employer from the counterpart fund rate which the insurers and the employer have to remit to the fund under Section 46. In this regards, the employer shall, after such deduction, use the remaining counterpart fund rate to be calculated for the

counterpart fund which the insurers and the employer having duty to remit to the fund for the purpose of paying other benefits.

The requesting for, and the considering of, the deduction of the counterpart fund under paragraph one shall be in accordance with the rules, procedure and condition as determined by the Committee.

#### **Section 56**<sup>(22)</sup>

The insurer or any person who is of opinion that he or she shall be entitled for any benefit as prescribed in Section 54 and desires to claim for such benefit shall apply for such benefit to the Office in accordance with the regulation as determined by the Secretary-General within one year as from the date he or she is entitled to such benefit. In this case, the Secretary-General or a person entrusted by the Secretary-General shall consider and decide such application without delay.

In the case where the benefits under paragraph one is cash, if the insurer or any entitled person fails to collect within two years as from the date of receiving an information from the Office, such cash shall devolve on the fund.

#### **Section 57**<sup>(23)</sup>

In calculating daily wage for the money in lieu of loss earning of the insurer under Section 33, the wages of the first three months, which are the basis for calculation of the counterpart fund remitted to the Office by the employer, shall be traced back for nine months and then divided by ninety. In the case where the insurer can prove that if the wages of other three months within the period of such nine months has been brought into consideration, the result may be higher than the aforesaid result, the wages of such three months shall be divided by ninety. In the case where the insurer remits the counterpart fund less than nine months, the result calculated by dividing the wages of the last three months, which are the basis for calculation of the counterpart fund remitted to the Office by the employer, by ninety shall be the basis for calculation.

In calculating daily wage for the money in lieu of loss earning of the insurer under Section 39, the average of the amount of money which is the basis for calculation of the counterpart fund under Section 39 paragraph two shall be basis for calculation.

#### **Section 58**

In receiving benefits under this Act which is related to medical service, the insurer or his or her spouse shall receive medical service from the infirmary under Section 59.

The details and conditions related to medical service to be received by the insurer of his or her spouse shall be in accordance with the regulations determined by the Secretary-General with approval of the Committee.

#### **Section 59**

The Secretary-General shall publish in the Government Gazette the localities and names of the infirmary where the insurer or his or her spouse is entitled to receive medical service.

If the insurer or his or her spouse who is entitled to receive medical service works or has domicile in any locality, he or she shall receive medical service from the infirmary under paragraph one which located in such locality. In the case where there is no the infirmary under paragraph one, or where there is a reasonable ground showing that the insurer or his or her spouse is unable to receive medical service form such infirmary, the insurer or his or her spouse may receive medical service from the infirmary under paragraph one located in other localities.

In the case where the insurer or his or her spouse has received medical service from an infirmary other than the infirmary prescribed in paragraph two, the insurer shall be entitled to money in lieu of medical service which he or she has to pay to such infirmary in the amount as determined by the Office with regards to conditions of danger or sickness, parturition, economics situation of each locality and nature of medical service to be provided, but such amount shall not exceed the rate as determined by the Medical Committee with approval of the Committee.

## **Section 60**

In the case where the insurer or his or her spouse has received medical service from an infirmary, but unreasonably omits, or fails to comply with, suggestion or order of the physician, the Secretary-General or a person entrusted by the Secretary-General may, with approval of the Medical Committee, reduce medical benefit.

## **Section 61**<sup>(24)</sup>

The insurer or a person under Section 38 paragraph two, Section 73 or Section 73 bis shall not entitle to benefits if it appears that the state of being danger, sickness, infirmity or death is intentionally made by such person or is made by other persons with consent of such person.

## **Section 61 bis**<sup>(25)</sup>

In the case where the insurer is entitled to the money in lieu of loss earning under Section 64 and Section 71 or the assistance money during maternity leave under Section 67 at the same time, such insurer shall have right to receive either the money in lieu of loss earning or the assistance money during maternity leave by expressing intention according to the form as determined by the Secretary-General.

## **Chapter 2**

### **Danger or Sickness Benefits**

## **Section 62**<sup>(26)</sup>

The insurer shall be entitled to the danger or sickness benefits for any danger or sickness caused by any reason other than working if the insurer has, within the period of fifteen months before receiving medical service, remitted the counterpart fund for not less than three months.

## **Section 63**

In accordance with the rules and rates as determined by the Medical Committee with approval of the Committee, the danger or sickness benefits for any danger or sickness caused by any reason other than working are, viz.:

- (1) diagnosis fee;
- (2) medical treatment fee;
- (3) residence and nursing service in the infirmary fee;
- (4) pharmacy and medical equipment fee;
- (5) ambulance or transmitting vehicle for patient fee;
- (6) other necessary service fee,

If the insurer who has to stop working during medical treatment upon an order of the physician shall also be entitled to the money in lieu of loss earning under Section 64.

## **Section 64**

In the case of being in danger or sickness caused by any reason other than working, the insurer shall be entitled to the money in lieu of loss earning at the rate fifty per cent of the wage under Section 57 if he or she has to stop working during the medical treatment upon an order of the physician for not more than ninety days each time, and the total period thereof shall not exceed one hundred and eighty days in each calendar year. In the case of being sickness by chronic disease as determined by the Ministerial Regulations, the insurer shall be entitled to the money in lieu of loss earning more than one hundred and eighty days, but the total period thereof shall not exceed three hundred and sixty five days.

The period for receiving the money in lieu of loss earning shall begin as from the date the insurer has stopped working upon an order of the physician until the date the physician has ordered to stop working or, in the case where the insurer goes back to work prior to the expiration of the period determined by the physician, the last date he or she stops working, but not exceeding the period under paragraph one.

In the case where the insurer has right to receive wage from the employer during the period he or she stops working for medical treatment under the law on labor protection or regulations related to working, hire of labor contract or working condition agreement, as the case may be, the insurer is not entitled to money under paragraph one until the expiration of the right to receive wage from the employer. In this case, the insurer shall be entitled to the money in lieu of loss earning for the remaining period. If the wage received by the employer in any case less than the money in lieu of loss earning to be paid by the fund, the insurer shall have right to the money in lieu of loss earning for the deficit.

### **Chapter 3** **Parturition Benefits**

#### **Section 65**<sup>(27)</sup>

The insurer shall be entitled to the parturition benefits for himself or his wife or for a woman who openly live together with the insurer upon husband and wife relationships in accordance with the regulations as determined by the Secretary-General if such insurer has no wife. In this regards, the insurer shall, within the period of fifteen months before receiving medical service, remit the counterpart fund for not less than seven months.

Each insurer shall be entitled to the parturition benefits not exceeding two times.

#### **Section 66**

In accordance with the rules and rates as determined by the Medical Committee with approval of the Committee, the parturition benefits are, viz.:

- (1) obstetric fee;
- (2) medical treatment fee;
- (3) pharmacy and medical equipment fee;
- (4) childbirth fee;
- (5) residence and nursing service in the infirmary fee;
- (6) guardian and nursing service for infant fee;
- (7) ambulance or transmitting vehicle for patient fee;
- (8) other necessary service fee,

The insurer who has to stop working for parturition shall also be entitled to the money in lieu of loss earning in accordance with Section 67<sup>(28)</sup>.

#### **Section 67**<sup>(29)</sup>

In the case where the insurer has to stop working for parturition, the insurer shall be entitled to the money in lieu of loss earning not exceeding two times. The money in lieu of loss earning to be paid each time shall be made in form of lump sum at the rate fifty per cent of the wage under Section 57 for the period of ninety days.

#### **Section 68**

In the case where the insurer or the insurer's spouse is not entitle to the benefits under Section 66 due to the fact that the parturition of the insurer or the insurer's spouse is not made at the infirmary under Section 59, the insurer shall be entitled to the parturition benefits in accordance with the rules and rate determined by the Medical Committee with approval of the Committee.

## **Chapter 4**

### **Infirmity Benefits**

#### **Section 69**<sup>(30)</sup>

The insurer shall be entitled to the infirmity benefits for any infirmity caused by any reason other than working if the insurer has, within the period of fifteen months before becoming infirmity; remitted the counterpart fund for not less than three months.

#### **Section 70**

In accordance with the rules and rates as determined by the Medical Committee with approval of the Committee, the infirmity benefits are, viz.:

- (1) diagnosis fee;
- (2) medical treatment fee;
- (3) pharmacy and medical equipment fee;
- (4) residence and nursing service in the infirmary fee;
- (5) ambulance or transmitting vehicle for the infirmity person fee;
- (6) physical, mental and occupational rehabilitation fee;
- (7) other necessary service fee,

#### **Section 71**<sup>(31)</sup>

The insurer being infirmity by any reason other than working shall be entitled to the money in lieu of loss earning at the rate fifty per cent of the wage under Section 57 for the rest of his or her life.

#### **Section 72**

In the case where the Medical Committee has decided that the infirmity condition of the insurer under rehabilitation under Section 70 (6) has been in better condition, the Secretary-General or a person entrusted by the Secretary-General shall reduce the amount of money in lieu of loss earning due to being infirmity in accordance with the rules and procedure as determined by the Medical Committee with approval of the Committee.

In the case where it appears that the infirmity condition has deteriorated after the reduction under paragraph one has been made, if the Medical Committee confirms that the infirmity condition has deteriorated from the condition which had been decided under paragraph one, the Secretary-General shall increase the amount of money in lieu of loss earning.<sup>(32)</sup>

## **Chapter 5**

### **Death Benefits**

#### **Section 73**<sup>(33)</sup>

The insurer shall be entitled to the death benefits for the death caused by any reason other than working if the insurer has, within the period of six months before the death; remitted the counterpart fund for not less than one month. The death benefits shall be paid as follows:

- (1) funeral expense at the rate prescribed in the Ministerial Regulations, but shall not less than one hundred times of the maximum daily wage under the law on labor protection shall be paid to the person as follows:
  - (a) the person named by the insurer in the letter specifying funeral manager;
  - (b) the husband or wife, father or mother or child of the insurer having evidence showing that he or she is a funeral manager;



- (c) other persons having evidence showing that he or she is a funeral manager;
- (2) assistance money upon the death of the insurer shall be paid to the person named by the insurer in the letter specifying that he or she is entitled to such assistance money. If there is no such person, such money shall be paid to the husband or wife, father or mother or child of the insurer equally as follows:
  - (a) if, before death, the insurer had remitted the counterpart fund for more than thirty six months, but not exceeding ten years, such assistance money shall be paid in the amount equal to fifty per cent of the monthly wage calculated by Section 57 multiplied by three;
  - (b) if, before death, the insurer had remitted the counterpart fund for more than ten years, such assistance money shall be paid in the amount equal to fifty per cent of the monthly wage calculated by Section 57 multiplied by ten.

#### **Section 73 bis**<sup>(34)</sup>

In the case where the infirmity insurer under Section 71 becomes death, the provisions of Section 73 shall be applied *mutatis mutandis*. In this case, the money in lieu of loss earning which the insurer had received in the month before death shall be basis for calculation.

In the case where the infirmity insurer entitling to the funeral expense and assistance money is dead while being the insurer and being the infirmity insurer under paragraph one at the same time, such insurer shall only be entitled to the funeral expense and assistance money.

## **Chapter 6**

### **Child Allowance Benefits**

#### **Section 74**<sup>(35)</sup>

The insurer shall be entitled to the child allowance benefits if the insurer has, within the period of thirty six months before the month entitling to benefits; remitted the counterpart fund for not less than twelve months.

#### **Section 75**

The child allowance benefits are, viz:

- (1) child living condition assistance;
- (2) studying fee;
- (3) child medical treatment fee;
- (4) other necessary assistance, in accordance with the rules and rates as prescribed by the Ministerial Regulations.

#### **Section 75 bis**<sup>(36)</sup>

In the case where the insurer entitling to the child allowance benefits under Section 74 being infirmity and being entitle to the infirmity benefits or death benefits, such infirmity insurer or the person under Section 75 quarter shall also be entitled to the child allowance benefits.

#### **Section 75 ter**<sup>(37)</sup>

The insurer shall be entitled to the child allowance benefits for not more than two legitimate children each time whereby such children shall have ages as prescribed by the Ministerial Regulations but not exceeding fifteen years. Such legitimate child shall not include adopted child or a child adopted by other person.

In the case where both father and mother are insurers, either father or mother shall be entitled to the child allowance benefits, provided that there is a divorce registration or separation and a child is in care of each insurer, such insurer shall be entitled to such benefits.

The rules, procedure and conditions in paying the child allowance benefits shall be prescribed by the Ministerial Regulations.

#### **Section 75 quarter**<sup>(38)</sup>

In the case where the insurer is dead, the child allowance benefits shall be paid to the following persons respectively:

- (1) a husband or wife of the insurer or a person who openly live together with the insurer upon husband and wife relationships in accordance with the regulations as determined by the Secretary-General and being guardian of a child;
- (2) a person who takes care of a child of the insurer in the case where the person under (1) is not a person who takes care of a child, or has been revoked a guardianships or death.

## **Chapter 7 Old Age Benefits**

#### **Section 76**<sup>(39)</sup>

The insurer shall be entitled to the old age benefits if the insurer has remitted the counterpart fund for not less than one hundred and eighty months irrespective of the consecutiveness of such period.

#### **Section 77**<sup>(40)</sup>

The old age benefits are, viz:

- (1) pension paid monthly, called the old age pension;
- (2) lump sum money paid one time, called the old age lump sum.

The rules, procedure, payment period and rate of the old age benefits under paragraph one shall be prescribed by the Ministerial Regulations.

#### **Section 77 bis**<sup>(41)</sup>

The insurer who has remitted the counterpart fund for not less than one hundred and eighty months shall be entitled to the old age pension as from the month following the month in which such insurer reaches fifty years of age, except where the insurer status of such insurer is not terminated under Section 38 or Section 41, such person shall be entitled to the old age pension as from the month following the month in which his or her insurer status is terminated.

In the case where the insurer remits the counterpart fund less than one hundred and eighty months and his or her insurer status is terminated under Section 38 or Section 41, such person shall be entitled to the old age lump sum.

#### **Section 77 ter**<sup>(42)</sup>

In the case where the person receiving the old age pension becomes the insurer, the payment of the old age pension shall cease until the insurer status of such person is terminated under Section 38 or Section 41, as the case may be.

If the insurer status is terminated upon any reason other than the death, such person shall be entitled to the old age pension.

If the insurer status is terminated upon the death of the insurer, the hires of such person under Section 77 quarter shall be entitled to the old age lump sum.

#### **Section 77 quarter**<sup>(43)</sup>

In the case where the insurer who is entitle to the old age benefits under Section 77 bis is dead before receiving the benefit, or where the person entitling to the old age pension is dead within sixty months as from the month he or she has entitled to the old age pension, the hires of such person shall be entitled to the old age lump sum.

The hires who shall have right under paragraph one are, viz.;

- (1) a legitimate child, except adopted child or a child adopted by other person, shall receive two portions thereof. If the dead insurer having at least three children, those children shall receive three portions thereof;
- (2) a husband or wife shall receive one portion;
- (3) the living father and mother, or a living father or mother, shall receive one portion.

If there is no such hire in any sub-Section above or such hires have passed away, the allocation of money under Section 77 (2) shall be made among the hires having right in the sub-Section having the hires.

#### **Section 77 quinque**<sup>(44)</sup>

In the case where the insurer is entitle to the money in lieu of loss earning under Section 71 and the old age pension at the same time, the insurer shall be entitled to the money in lieu of loss earning under Section 71 and the old age lump sum instead.

If the insurer has received the old age pension and has then become the infirmity within the period as prescribed in Section 38 paragraph two, the payment of the old age pension shall be ceased and the payment of the old age lump sum shall be made instead. In this regards, the amount of the old age pension which such person has received before being infirmity shall be deducted from the old age lump sum to be paid, and such deduction shall be remitted to the fund.

## **Chapter 8**

### **Unemployment Benefits**

#### **Section 78**

The employee who is the insurer shall be entitled to the unemployment benefits if the insurer has, within fifteen months before being unemployed, remitted the counterpart fund for not less than six months and shall be subjected to the conditions as follows:

- (1) such person shall have capability in working and ready to do appropriate work as provided or never refuse any training, and shall be registered with the jobs provider office of the State and report to the office at least once a month;
- (2) the state of being unemployed of the insurer shall not caused by the termination of employment due to the fact that he or she is dishonest in the discharge of duties, commits a crime against the employer intentionally, willfully causes damage to the employer, violates any regulation related to working or lawful order in a serious matter, unreasonably neglects his or her duty for seven consecutive days which cause serious damage to the employer, has been sentenced by a final judgment of the Court to a term of imprisonment, except for an offence committed through negligence or a pretty offence;
- (3) such person shall not be entitled to the old age benefits under Chapter 7 of this Part.

## **Section 79**

The insurer shall be entitled to the unemployment benefits as from the eighth day as from the date of being unemployed by the last employer under the rule and rate as prescribed by the Ministerial Regulations.

## **PART IV**

### **Competent Official, Inspection and Control**

## **Section 80**

For the execution of duties, the competent official shall have powers and duties as follows:

- (1) to enter into the work place or office of the employer or work place of the employee between sunrise and sunset or during working hours so as to examine or interrogate fact, properties or documents or other evidences or to take a photograph, to make copies of documents related to employment, wage payment, employees register, remittance of the counterpart fund and other relevant documents or to bring relevant documents or evidences for examination or to execute any appropriate action so as to inquire into fact for the execution of this Act;
- (2) to search any suspected place or vehicle if there is a reasonable ground to belief that properties of the employer who fails to remit the counterpart fund and/or surcharge or remits incomplete amount are kept therein. Such search shall be made during the working hours or between sunrise and sunset, except for a continuation thereof;
- (3) to inquire or summon, in writing, any person to testify or submit relevant evidence or document or other necessary things for its consideration. In this case, the provisions of Section 30 shall be applied mutatis mutandis;
- (4) to seize or attach properties of the employer in accordance with the order of the Secretary-General under Section 50 if the employer fails to remit the counterpart fund and/or surcharge or remits incomplete amount.

In exercising of powers and duties under paragraph one, the competent official may seek help from a civil service or employee of the Office.

## **Section 81**

For the execution of duties of the competent official under Section 80, all related persons shall facilitate the competent official as appropriate.

## **Section 82**

For the execution of duties, the competent official shall present his or her identification card.

The form of the identification card of the competent official shall be determined by the Minister.

## **Section 83**

For the execution of duties under this Act, the competent official shall be competent official under the Penal Code.

## **Section 84**

For the purpose of inspection and control of work related to social security, the employer shall make the insurers register and keep it at the office of the employer in the manner that is ready for examination of the competent official.

The form of the insurers registers under paragraph one shall be determined by the Secretary-General.

### **Section 84 bis**<sup>(45)</sup>

In the case where the person having duty to act in compliance with the period of time as prescribed in Section 39, Section 45, Section 47, Section 47 bis and Section 56 is not in the country or there is an unavoidable reason which cause such person from doing any act within such period, and such person apply for the extension or postponement of such period, together with reason, before the expiration of such period, the Secretary-General may, if he or she thinks fit, extend or postpone such period as necessary, but the extended or postponed period shall not exceeding one time of the period as prescribed in those Section.

The extension of the period of time as prescribed in Section 39 or Section 47 shall not be a reason for reducing or exempting the surcharge.

## **PART V**

### **Appeal**

#### **Section 85**

The employer, insurer or other persons who is not satisfy with the order of the Secretary-General or the competent official under this Act other than the order under Section 50 shall have right to appeal, in writing, to the Appellate Committee within thirty days as from the date of receiving such order.

The rules and procedure in applying shall be prescribed by the Ministerial Regulations.<sup>(46)</sup>

#### **Section 86**

The shall be the Appellate Committee appointed by the Minister, consisting of a Chairperson and qualified members in the field of law, medicine, social security system and labor and three representatives of the employer and three representatives of the employee. A representative of the Office shall be member and secretary. The composition of the Appellate Committee shall not exceed thirteen members.

#### **Section 87**

The Appellate Committee shall have powers and duties in considering the appeal submitted under Section 85.

The decision of the Appellate Committee shall be informed to the appellant in writing.

The appellant who is not satisfy with the decision of the Appellate Committee shall have right to institute the case to the Labor Court within thirty days as from the date of receiving such decision. If the case is not instituted to the Labor Court within such period, the decision of the Appellate Committee shall be deemed final and conclusive.

#### **Section 88**

An appeal shall not stay the execution under the order of the Secretary-General or the competent official made under this Act, except where the appellant requests the Secretary-General for such stay and the Secretary-General has an order to stay the execution during an appeal.

#### **Section 89**

The Appellate Committee shall have power to appoint the sub-committee for the execution of its duty. The sub-committee shall, upon the completion of the entrusted duty, make a comment or report to the Appellate Committee.

The provisions of Section 13 shall be applied mutatis mutandis to the meeting of the sub-committee.

#### **Section 90**

The Appellate Committee shall hold office for a term of two years.

A member who vacates from office may be reappointed, but shall not exceed two consecutive terms.

## **Section 91**

The provisions of Section 11, Section 12, Section 13, and Section 17 shall be applied *mutatis mutandis* to the Appellate Committee.

## **PART VI** **Penalties**

### **Section 92**

Whoever fails to give statement or documents, evidence or necessary information under the order of the Committee, Medical Committee, Appellate Committee, sub-committee or competent official shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding ten thousand Baht, or to both.

### **Section 93**

Whoever intentionally fails to fill the survey fills incomplete statement or fails to return the survey within the prescribed period shall be liable to a fine of not exceeding five thousand Baht.

### **Section 94**

Whoever intentionally fills any fault statement or numeral in the survey shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding twenty thousand Baht, or to both.

### **Section 95**

Whoever violates Section 32 shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding twenty thousand Baht, or to both.

### **Section 96**

Any employer who intentionally fails to submit the list to the Office within the period as prescribed in Section 34 or fails to notify the Office to alter or revise the list within the period as prescribed in Section 44 shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding twenty thousand Baht, or to both.<sup>(47)</sup>

If the offense under paragraph one has been committed continuously, the offender shall also be liable to a daily fine of not exceeding five thousand Baht per day throughout the period of such violation or failure.

### **Section 97**<sup>(48)</sup>

Any employer who submits the list under Section 34 or notifies the Office to alter or revise the list under Section 44 with an intention to specify fault statement therein shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding twenty thousand Baht, or to both.

### **Section 98**

Whoever obstructs or fails to render appropriate facilities to the competent official for the execution of its duties under Section 80 shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding ten thousand Baht, or to both.

### **Section 99**

Any employer who fails to comply with Section 84 shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding ten thousand Baht, or to both.

### **Section 100**

Whoever discloses any acquired or acknowledged fact related to the undertaking of the employer, which normally be classified by the employer, upon the execution of duties under this Act shall be liable to imprisonment for a term of not exceeding one month or to

a fine of not exceeding three thousand Baht, or to both, except for the disclosure in the course of official duty for the purpose of this Act or for the purpose of labor protection or case investigation or consideration.

### **Section 101**

In the case where the juristic person is an offender and being penalized under this Act, the representatives of such juristic person, all directors and other persons who are responsible for the implementation of such juristic person shall be liable to the same penalty as imposed to the juristic person, provided that such person can prove that he or she is not connive at the commission of such offense or has provided a reasonable measure to prevent the commission of such offense.

### **Section 102**

If the following competent official is of opinion that the offender in an offense punishable with fine only or an offense punishable with fine and imprisonment for a term on not exceeding six months, except an offense under Section 95, shall not be liable to imprisonment, such competent official shall have power to settle them:

- (1) Secretary-General or the entrusted person, for the offense committed within the Bangkok Metropolis;
- (2) Changwat Governor or the person entrusted by Changwat Governor, for the offense committed within other province.

In the case where there is an investigation, if the inquiry official found that any person commits an offense under this Act which may be settled and such person agrees to conclude the settlement, the inquiry official shall proceed the case to the Secretary-General or Changwat Governor, as the case may be, within seven days as from the date such person agrees to conclude the settlement.

If the offender pay the full amount of settlement fine within thirty days, such case is settled under the Criminal Procedure Code.

If the offender does not agree to conclude the settlement or fails to pay the full amount of settlement fine within the period as prescribed in paragraph three, the case shall be continued.

## **Transitory Provisions<sup>(49)</sup>**

### **Section 103**

This Act shall apply to the undertaking having twenty employees or more as from the date this Act comes into force.

After the expiration of three years as from the date this Act comes into force, this Act shall apply to the undertaking having ten employees or more.

The application of this Act to the undertaking having less than ten employees in which locality and which period, shall be prescribed by the Royal Decree.<sup>(50)</sup>

### **Section 104**

The collection of the counterpart fund for danger or sickness benefits, infirmity benefits, death benefits for the death caused by any reason other than working and parturition benefits shall be made as from the date the provisions of Chapter 2 of Part II comes into force.

The collection of the counterpart fund for child allowance benefits and old age benefits shall begin upon the date as prescribed by the Royal Decree which shall be within 31st December B.E. 2541.<sup>(51)</sup>

The collection of the counterpart fund for unemployment benefits shall begin upon the date as prescribed by the Royal Decree.

Countersigned by  
General Chartchai Chunhavan  
Prime Minister

**Fee Rate**

- (1) A substitution for a certificate stating social security registration 50 Baht each
- (2) A substitution for a social security card 10 Baht each

**Counterpart Fund Rate attached to the Act**

1. Counterpart fund for danger or sickness benefits, infirmity benefits, death benefits and parturition benefits:
  - (1) Government 1.5% of the wage of the insurer
  - (2) Employer 1.5% of the wage of the insurer
  - (3) Insurer 1.5% of the wage of the insurer
2. Counterpart fund for child allowance benefits and old age benefits:
  - (1) Government 3% of the wage of the insurer
  - (2) Employer 3% of the wage of the insurer
  - (3) Insurer 3% of the wage of the insurer
3. Counterpart fund for unemployment benefits:
  - (1) Government 5% of the wage of the insurer
  - (2) Employer 5% of the wage of the insurer
  - (3) Insurer 5% of the wage of the insurer



## **Amendment**

- (1) As last amended by the Social Security Act (No.3), B.E. 2542 (1999) (published in the Government Gazette Vol.116, Part 22 a, dated 31<sup>st</sup> March B.E. 2542 (1999))
- (2) Published in the Government Gazette Vol. 107, Part 161, Special Issue, dated 1<sup>st</sup> September B.E. 2533 (1990)
- (3) As amended by Section 3 of the Social Security Act (No.2), B.E. 2537 (1994)
- (4) As amended by Section 4 of the Social Security Act (No.2), B.E. 2537 (1994)
- (5) By virtue of the Act on the Organization of Ministries, Sub-Ministries and Departments (No.8), B.E. 2536 (1993), the Ministry of Labor and Social Welfare is established, and under the Act Transferring Some Parts of the Powers, Duties and Administration of the Ministry of Interior to the Ministry of Labor and Social Welfare, B.E. 2536 (1993), the power and duties of the Minister of Interior, in respect of the execution of the law which is under the powers and duties of the Social Security Office, Ministry of Interior, shall be transferred to the Minister of Labor and Social Welfare.
- (6) As amended by Section 5 of the Social Security Act (No.2), B.E.2537 (1994)
- (7) As amended by Section 6 of the Social Security Act (No.2), B.E.2537 (1994)
- (8) By virtue of the Act on the Organization of Ministries, Sub-Ministries and Departments (No.8) B.E. 2536 (1993), the Ministry of Labor and Social Welfare is established and in this regard the Social Security Office is now under the Ministry of Labor and Social Welfare.
- (9) As amended by Section 7 of the Social Security Act (No.2), B.E. 2537 (1994)
- (10) As amended by Section 8 of the Social Security Act (No.2), B.E. 2537 (1994)
- (11) As amended by Section 9 of the Social Security Act (No.2), B.E. 2537 (1994)
- (12) As added by Section 10 of the Social Security Act (No.2), B.E. 2537 (1994)
- (13) As amended by Section 3 of the Social Security Act (No.3), B.E. 2542 (1999)
- (14) As amended by Section 12 of the Social Security Act (No.2), B.E. 2537 (1994)
- (15) As amended by Section 13, *ibid*
- (16) As amended by Section 4 of the Social Security Act (No.3), B.E. 2542 (1999)
- (17) As amended by Section 14 of the Social Security Act (No.2), B.E. 2537 (1994)
- (18) As amended by Section 5 of the Social Security Act (No.3), B.E.2542(1999)
- (19) As amended by Section 16 of the Social Security Act (No.2), B.E. 2537 (1994)
- (20) As added by Section 17, *ibid*.
- (21) As amended by Section 18 of the Social Security Act (No.2), B.E. 2537 (1994)
- (22) As amended by Section 19 of the Social Security Act (No.2), B.E. 2537 (1994)
- (23) As amended by Section 20 of the Social Security Act (No.2), B.E. 2537 (1994)
- (24) As amended by Section 21 of the Social Security Act (No.2), B.E. 2537 (1994)
- (25) As added by Section 22, *ibid*.
- (26) As amended by Section 23 of the Social Security Act (No.2), B.E. 2537 (1994)
- (27) As amended by Section 24 of the Social Security Act (No.2), B.E. 2537 (1994)
- (28) As amended by Section 25 of the Social Security Act (No.2), B.E. 2537 (1994)
- (29) As amended by Section 26, *ibid*.
- (30) As amended by Section 27 of the Social Security Act (No.2), B.E. 2537 (1994)
- (31) As amended by Section 28, *ibid*.
- (32) As added by Section 29 of the Social Security Act (No.2), B.E. 2537 (1994)
- (33) As amended by Section 30, *ibid*.
- (34) As added by Section 31 of the Social Security Act (No.2), B.E. 2537 (1994)
- (35) As amended by Section 6 of the Social Security Act (No.3), B.E.2542 (1999)
- (36) As added by Section 7, *ibid*.
- (37) As added by Section 7 of the Social Security Act (No.3), B.E. 2542 (1999)

- (38) As added by Section 7, *ibid*.
- (39) As amended by Section 8, *ibid*.
- (40) As amended by Section 8 of the Social Security Act (No.3), B.E. 2542 (1999)
- (41) As added by Section 9, *ibid*.
- (42) As added by Section 9, *ibid*.
- (43) As added by Section 9, *ibid*.
- (44) As added by Section 9 of the Social Security Act (No. 3), B.E. 2542 (1999)
- (45) As added by Section 32 of the Social Security Act (No. 2), B.E. 2537 (1994)
- (46) As amended by Section 33, *ibid*.
- (47) As amended by Section 34 of the Social Security Act (No.2), B.E. 2537 (1994)
- (48) As amended by Section 35, *ibid*.
- (49) In addition to those transitory provisions, Section 38, Section 39, Section 40 and Section 41 of the Social Security Act (No.2), B.E. 2537 (1994) has added the following transitory provisions:
- “Section 38
- Any person who is entitled to any benefit from the Fund before or at the date of this Act comes into force, shall be further entitled to such benefit until his entitlement is terminated.
- Section 39
- The temporary employees of the Central Administration, Provincial Administration and Local Administration, who ceased to be the insured person under this Act, whether such person has paid any amount of contribution. Such person shall be further entitled to benefit under the provisions of chapter 2, chapter 3, chapter 4 and chapter 5 of title 3 of the Social Security Act, B.E. 2533 (1990) for a period of six months from the date this Act comes into force.
- The provisions of Section 39 of the Social Security Act, B.E. 2533, as amended by this Act, shall enforce to the temporary employee ceasing to be the insured person under paragraph one, *mutatis mutandis*.
- Section 40
- For the benefit of calculating the period of time for paying contributions under this Act, contributions of each month which, either having a total of days or being deducted and paid per month, was paid or deemed to have been paid before the date this Act comes into force, shall be considered that the period of payment equals to one month.
- Section 41
- All money which an employer or an insured person is entitled to refund before the date this Act comes into force and having no application to the Office for refunding within one year from the date this Act comes into force, shall belong to the Fund.”
- (50) As added by Section 36 of the Social Security Act (No.2), B.E. 2537 (1994)
- (51) As amended by Section 37, *ibid*

### **Disclaimer**

This translation is intended to help Thais or foreigners to understand Thailand laws and regulations only, not to use as references, because it is only the original Thai version of legislation that carries legal effect. [www.ThaiLaws.com](http://www.ThaiLaws.com), therefore, shall not be held responsible in any way for any damage or otherwise the user may incur as a result of or in connection with any use of this publication for any purposes. It's the responsibility of the user to obtain the correct meaning or interpretation of this publication or any part thereof from Thai version or by making a formal request to the appropriate or related authorities.