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New Thai Welfare Fund Regulations: Key Obligations for Employers

Background and Legal Framework

Since the promulgation and enactment of the Labor Protection Act in 1998, employees and employers alike have been anticipating the implementation of the regulations concerning the establishment of the Employee Welfare Fund, provided under Chapter 13 of the Labor Protection Act and under the purview of the Department of Labor Protection and Welfare. Now, the anticipation is finally over. In November 2024, the Employee Welfare Fund regulations were published in the Royal Gazette, providing a legal framework for the long-awaited Employee Welfare Fund and imposing a legal requirement for employers meeting the specific criteria to contribute to the said Fund, effective from 1 October 2025 onwards. The implementation of the Employee Welfare Fund provides protection for employees in cases of death, termination of employment, retirement, and other specific scenarios provided by the newly published Ministerial Regulations. This article aims to summarize the key points of the regulations in effect, with particular emphasis on the duties of employers who are under its obligation to implement under these regulations.

Scope of Application and Employer Obligations

As the Ministerial Regulations were promulgated under the power of Section 130 of the Labor Protection Act, the businesses required to enrol their employees in accordance with Section 130 are as follows:

- Businesses with more than ten employees
- Businesses with fewer than ten employees, as prescribed by Royal Decree

The above shall not apply to employers who have already established a Provident Fund pursuant to the Provident Fund Act, provided that such fund is duly registered and fully compliant with the requirements prescribed under the Act, including minimum contribution rates, governance obligations, and reporting standards. Employers whose internal funds do not meet these criteria would not be exempt from contributing to the Employee Welfare Fund. Although the law appears to require that employers subscribe to this social welfare fund for those employees who are not members of the company provident fund (whether by choice or otherwise), a labor official stated that the Department of Labor Protection and Welfare would issue further clarification on this point.

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It also remains to be clarified whether this welfare scheme applies to registered migrant workers, who represent a significant portion of the workforce in Thailand and are typically covered under national social protection systems.

Contribution Rates and Payment Mechanism

These Ministerial Regulations also include provisions governing the rates of Contributions and Supplementary Contributions that both employers and employees who are members of the Employee Welfare Fund must contribute. For the first five years from the effective date until 30 September 2030, the contribution rates for both employers and employees are fixed at a monthly rate of 0.25% of the individual employee's salary. After five years, from the 1st of October 2030 onwards, the rate will increase to 0.5%. The regulations further establish guidelines for contributions. Of particular importance is the requirement that employees' contributions shall be deducted before salary payments and deposited directly into the Employee Welfare Fund through the appropriate governmental channel.

Sanctions for Non-Compliance and Recommended Employer Action

Any employers subjected to this legal requirement should consider and review the regulations carefully as any failures to contribute will result in a penalty of 5% on the contributions amount, the supplementary contributions and/or the deficient amount, not including other penalty related to the filing of the relevant documentation. Additionally, the labor inspector may also issue an order to rectify any non-compliance of the laws which, if not cure, may result in a criminal prosecution for the employer or the directors in the case the employer is a juristic person. In response to the new enactment of Ministerial Regulations, employers should check and review their work rules to ensure that a Provident Fund has already been implemented in their workplace. If not, employers must implement the new Employee Welfare Fund regulations as they take effect on 1 October 2025.

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