

Unofficial Translation

STATE ENTERPRISE LABOUR RELATIONS ACT,  
B.E. 2543 (2000)<sup>1</sup>

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BHUMIBOL ADULYADEJ, REX.

Given on the 23<sup>rd</sup> Day of March B.E. 2543;

Being the 55<sup>th</sup> Year of the Present Reign.

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

Whereas it is expedient to revise the law on State Enterprise Labour Relations;

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 “State Enterprise Labour Relations Act, B.E. 2543 (2000)”.

**Section 2.**<sup>2</sup> This Act shall come into force as from the day following the date of its publication in the Government Gazette.

**Section 3.** The State Enterprise Personnel Relations Act, B.E. 2534 (1991) shall be repealed.

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<sup>1</sup> Translated by Ms. Vipatboon Klaosontorn 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. 117, Part 31a, page 1, dated 7<sup>th</sup> April B.E. 2543.

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**Section 4.** This Act is a law which contains certain provisions in relation to the restriction of liberty of dwelling and the restriction of liberty in forming an association, a union, a federation, a cooperative, a farmer group, a private organisation, or any other groups, and is enacted by virtue of section 35 and section 45 of the Constitution of the Kingdom of Thailand.

**Section 5.** This Act shall not apply to the State enterprise as prescribed in the Royal Decree.

All State enterprises shall be subject to this Act, regardless of what the law establishing such State enterprise or the relevant law has prescribed, except the State enterprise prescribed in the Royal Decree under paragraph one.

**Section 6.** In this Act:

“State enterprise” means–

(1) a Government organisation under the law on establishment of Government organisation or an undertaking of the State under the law establishing such undertaking and shall include a business organisation owned by the State;

(2) a company or juristic partnership in which a ministry, a sub-ministry, a department, or a political agency ascribed the equivalent status or a State enterprise under (1) aggregately holds more than fifty per cent of the capital;

“employee” means a person who agrees to work for the employer in return for receipt of wages;

“employer” means a State enterprise which agrees to accept the employee to work in return for payment of wages, and shall include the person with the authority to act on behalf of the State enterprise or any person entrusted by the person with the authority to act on behalf of the State enterprise;

“management” means an employee at the commander level who has the power to hire, terminate employment, increase the wages, deduct the wages or reduce the wages;

“employment conditions” means rules and conditions of employment or work, working day and time, wages, welfare, termination of employment or other benefits of employer or employee which are related to employment or work;

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“agreement relating to employment conditions” means an agreement between an employer and a labour union under this Act;

“labour dispute” means a conflict between an employer and an employee which is related to the employment conditions;

“lockout” means an act that the employer refuses to permit the employee to work temporarily due to a labour dispute;

“strike” means an act that employees collectively refuse to work, delay their work or take work-to-rule action in order to halt or slow down, in part or in whole, the operation of the State enterprise;

“labour union” means a labour union of a State enterprise formed under this Act;

“labour federation” means a labour federation of a State enterprise formed under this Act;

“Committee” means the State Enterprise Labour Relations Committee;

“Registrar” means the Director-General of the Department of Labour Protection and Welfare or the person entrusted by the Director-General;

“labour dispute conciliation official” means a person appointed by the Minister to perform the acts under this Act;

“competent official” means a person appointed by the Minister to perform the acts under this Act;

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

**Section 7.** The Minister of Labour shall have charge and control of the execution of this Act and shall have the power to appoint the labour dispute conciliation official and competent official to perform the acts under this Act.

The appointment under paragraph one shall be published in the Government Gazette.

## CHAPTER I

### STATE ENTERPRISE LABOUR RELATIONS COMMITTEE

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**Section 8.** There shall be a committee called the “State Enterprise Labour Relations Committee” consisting of the Minister as the Chairperson, the Permanent Secretary of the Ministry of Labour, the Secretary-General of the National Economic and Social Development Board, the Director of the State Enterprise Policy Office as *ex officio* members, and other members appointed by the Minister which are five persons appointed from the employer side and five persons appointed from the employee side; the Director-General of the Department of Labour Protection and Welfare shall be a member and secretary.

The employer side under paragraph one means the governor, the director, the managing director or any person who holds a position with similar powers and duties but is called differently in the State enterprise.

The employee side under paragraph one shall be appointed from the persons elected amongst the presidents of labour unions. The election shall be in accordance with the Rules prescribed by the Minister and published in the Government Gazette.

**Section 9.** A member of the Committee appointed by the Minister shall hold office for a term of two years. A member who vacates the office may be reappointed.

**Section 10.** In addition to vacating office on the expiration of the term under section 9, a member appointed by the Minister vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Minister due to acting in contravention of or failing to comply with this Act, or committing an offence under this Act;
- (4) no longer being an employer or a president of a labour union, as the case may be;
- (5) being bankrupt;
- (6) being an incompetent person or a quasi-incompetent person;

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(7) being imprisoned by a final judgement to a term of imprisonment except for the offence committed through negligence or a petty offence.

In the case where a member appointed by the Minister vacates the office before the expiration of the term, the Minister shall appoint a member to fill the vacancy, and the appointee shall be in office for the unexpired term of office of the member he or she replaces.

The appointment of a member from the employee side to fill the vacancy before the expiration of the term shall be made from presidents of the labour unions who are elected and ranked next in the election that the member vacating the office before the expiration of the term is elected.

**Section 11.** In the case where the member appointed by the Minister holds the office until the term is expired, the member vacating the office shall continue to perform the duties *pro tempore* until the newly appointed member assumes his or her duties.

**Section 12.** At a meeting of the Committee, the presence of at least one half of members and the presence of at least one member from both the employer side and the employee side is required to constitute a quorum.

At any meeting, if the Chairperson is not present at the meeting or is unable to perform the duties, the members present shall elect one amongst themselves to preside over the meeting.

A resolution of the meeting shall be by a majority of votes. In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

At any meeting, if the quorum is not constituted as prescribed in paragraph one, the meeting shall be convened within fifteen days from the date on which the first meeting is scheduled. In respect of the latter meeting, even if there is no member from the employer side or employee side attending at the meeting, and if no less than one half of the members attend the meeting, it shall be deemed that the quorum is constituted.

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**Section 13.** The Committee shall have the following powers and duties:

- (1) to specify the minimum standard of employment conditions;
- (2) to propose to the Council of Ministers to determine, for each State enterprise, the scope of employment conditions relating to financial matters that such State enterprise may act on its own;
- (3) to consider and approve the employment conditions under paragraph three and section 28;
- (4) to consider and make a decision on labour dispute under section 31;
- (5) to appoint a person or a body of persons to conciliate the labour dispute prior to making a decision under section 31 paragraph five;
- (6) to consider and make a decision under section 38;
- (7) to consider and make an order under section 39;
- (8) to present the opinion and recommendation to the State enterprise related to compliance with the law;
- (9) to perform other duties under this Act or as entrusted by the Minister.

The minimum standard of the employment conditions under (1), upon the approval of the Council of Ministers, shall apply to every State enterprise.

In the case where any State enterprise deems appropriate to revise the employment conditions related to financial matters other than those prescribed by section 13(2), an approval of the Committee and the Council of Ministers must be obtained prior to the proceedings thereof.

**Section 14.** The Committee has the power to appoint no more than five qualified persons as consultants of the Committee to render advice and present opinions on the matters entrusted by the Committee.

**Section 15.** The Committee has the power to appoint a sub-committee to consider or perform any act as entrusted by the Committee.

**Section 16.** In the course of performance of duties, the Committee, the sub-committee or a competent official entrusted by the Committee or sub-committee shall have the following powers:

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(1) to enter into the workplace of an employer, the place where an employee currently works or the office of an employer, a labour union, or a labour federation, during its operating hours in order to inquire into facts or to examine documents as necessary;

(2) to send out an inquiry letter or to summon a person concerned to give a statement or to send the relevant objects or documents for consideration of the Committee, sub-committee or entrusted competent official.

Any concerned person shall provide assistance, explain the facts, answer the inquiry letter or send the relevant objects or documents to the Committee, sub-committee or the competent official entrusted to perform duties under paragraph one.

**Section 17.** The Committee or sub-committee may send an invitation letter to an expert or a qualified person to give his or her view on the relevant matters.

**Section 18.** There shall be the Office of State Enterprise Labour Relations Committee in the Department of Labour Welfare and Protection, and it shall have the following powers and duties:

(1) to perform secretarial work of the Committee and sub-committee under this Act;

(2) to perform duties as entrusted by the Committee or sub-committee.

## CHAPTER II RELATIONS AFFAIRS COMMITTEE

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**Section 19.** There shall be the Relations Affairs Committee within each State enterprise consisting of one member of the State enterprise Board as determined by the State enterprise Board as Chairperson, and representatives from the employer side of such State enterprise appointed from the management of such State enterprise in the number as prescribed by the State enterprise which must be no less than five persons but must not exceed nine persons and representatives from the employee side

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appointed from members of the labour union in such State enterprise as presented by the labour union in the same number as the representatives from the employer side as members.

In the case where there is no labour union in a State enterprise or during the time the labour union is dissolved under section 65, the State enterprise shall arrange to have the employees who are not in the management to elect representatives from the employee side in the same number as the representatives from the employer side to be the members.

The employees elected under paragraph two shall be in office until representatives from a labour union is elected under paragraph one.

**Section 20.** A member of the Relations Affairs Committee shall hold office for a term of two years. A member who vacates the office may be reappointed.

**Section 21.** In addition to vacating office on the expiration of the term under section 20, a member of the Relations Affairs Committee vacates office upon:

- (1) death;
- (2) resignation;
- (3) being an incompetent person or a quasi-incompetent person;
- (4) ceasing to be the management, or being replaced when the State enterprise deems appropriate to change the representative, in the case of the representative from the employer side;
- (5) ceasing to be a member of the labour union, or being replaced when the labour union deems appropriate to change the representative, or ceasing to be an employee, in the case of the representative from the employee side;
- (6) being imprisoned by a final judgement to a term of imprisonment except for the offence committed through negligence or a petty offence.

In the case where a member of the Relations Affairs Committee vacates the office before the expiration of the term, the person appointed shall be in office for the unexpired term of office of the member he or she replaces.

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**Section 22.** The Relations Affairs Committee shall convene the meeting at least once a month and the provisions in section 12 shall apply to the meeting of the Relations Affairs Committee *mutatis mutandis*.

In the case where no less than one third of the members of the Relations Affairs Committee make a request, the Relations Affairs Committee shall convene the meeting within ten days as from the date of receiving the request.

**Section 23.** The Relations Affairs Committee shall have the following powers and duties:

(1) to consider and give opinions relating to the enhancement of the efficiency in the operation of the State enterprise, including to promote and develop labour relations affairs;

(2) to make a reconciliation and settle a dispute in the State enterprise;

(3) to consider a revision of the rules and regulations on working which will benefit the employer, employee and such State enterprise;

(4) to conduct consultation in order to solve the problem under a petition of an employee or the labour union, including a petition relating to disciplinary actions;

(5) to conduct consultation in order to consider the improvement of employment conditions.

**Section 24.** The employer shall facilitate the course of performance of duties of the members of the Relations Affairs Committee or omit any act which causes the Relations Affairs Committee to be unable to perform their powers and duties.

An employer may dismiss, reduce the wages of, or deduct the wages of a member of the Relations Affairs Committee only when the permission is granted by the Labour Court, except where the said member of the Relations Affairs Committee has given his or her consent in writing, or the dismissal is resulted from retirement.

### CHAPTER III

#### AGREEMENT RELATING TO EMPLOYMENT CONDITIONS

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## AND LABOUR DISPUTE SETTLEMENT

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**Section 25.** The agreement relating to employment conditions shall apply for the period as agreed upon by the employer and the labour union, but it shall not apply for more than three years. If the time period is not specified, it shall be deemed that the agreement relating to employment conditions applies for one year as from the date on which the employer and employee have reached agreement or as from the date on which the employer accepts the employment of the employee, as the case may be.

In the case where the time period specified under the agreement relating to the employment conditions has expired, if there is no new negotiation, it shall be deemed that the agreement relating to employment conditions shall continue to apply for a term of one year each time.

Regarding to a claim for an agreement relating to employment conditions or amendment of the agreement relating to employment conditions, the employer or labour union shall submit the claim, in writing, to another party and the party submitting such claim shall send a copy of the claim to the Registrar without delay.

The party submitting the claim shall indicate the names of the authorised persons as the representatives in negotiation, which shall not exceed seven persons.

The representatives in negotiation from employer side shall be appointed from the management of that State enterprise, and the representatives in the negotiation from the labour union shall be appointed from the members of its committee or members of that labour union.

**Section 26.** Upon receiving the claim, the party receiving the claim shall notify, in writing, the names of not exceeding seven representatives in the negotiation to the party submitting the claim without delay; both parties shall begin the negotiation within five days as from the day of receiving the claim.

The employer or the labour union may appoint a consultant in order to give advice to its representative, but the number of whom shall not exceed two persons for each party.

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**Section 27.** If the employer and the labour union are able to reach the agreement in relation to the claim, the agreement relating to the employment conditions shall be made in writing and signed by no less than one half of the representatives in the negotiation from the respective parties. The employers shall openly announce the agreement relating to employment conditions at the place where the employees work for at least thirty days; such announcement shall be made within three days as from the date of agreement.

The employer shall register the agreement relating to employment conditions under paragraph one with the Registrar or the person entrusted by the Registrar within fifteen days as from the date of the agreement.

**Section 28.** The agreement relating to employment conditions pertaining to financial matters other than those prescribed in section 13 (2) shall be executed upon the approval by the Committee and the Council of Ministers.)

**Section 29.** The agreement relating to employment conditions shall bind the employer and employees who are the members of the labour union.

No employer may enter into an employment contract with an employee who is a member of the labour union in a way that is contrary to or inconsistent with the agreement relating to employment conditions, except where such employment contract provides more benefits to the employee.

**Section 30.** In the case where there is no negotiation within the specified period under section 26 or the negotiation is conducted but no agreement is reached due to any reason whatsoever, it shall be deemed that a labour dispute has occurred and the party who submits the claim shall notify, in writing, the labour dispute conciliation official within seventy two hours from the prescribed period has lapsed or from the time the agreement cannot be reached, as the case may be.

**Section 31.** When the labour dispute conciliation official has been notified under section 30, the labour dispute conciliation official shall conduct the

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dispute conciliation within ten days as from the date on which the labour dispute conciliation official receives the written notification.

If the agreement has been reached within the time period under paragraph one, section 27 shall apply *mutatis mutandis*.

In the case where the agreement cannot be reached within the time period under paragraph one, the labour dispute shall be deemed as an unsettled labour dispute, and the party notifying the claim shall submit the unsettled labour dispute to the Committee within fifteen days as from the date on which it becomes an unsettled labour dispute.

Upon the receipt of an unsettled labour dispute, the Committee shall consider and decide it within ninety days as from the date of receiving such labour dispute.

In the case where the Committee deems appropriate, the Committee may appoint a person or a group of persons to conciliate such labour dispute prior to making the decision.

**Section 32.** The decision of the Committee shall be final. The party submitting the claim and the party receiving the claim shall comply therewith. However, if it is a decision relating to financial matter which falls outside of section 13 (2), it shall be applicable only when it has been approved by the Council of Ministers. The decision shall be applicable for one year as from the date on which the decision is made or the date on which it is approved by the Council of Ministers as the case may be.

**Section 33.** In any case whatsoever, neither the employer shall cause a lockout nor the employees shall strike.

**Section 34.** Upon the submission of the claim under section 25, if the claim is being in the process of negotiation, conciliation, mediation, or decision of labour dispute under section 26, section 27, section 28, section 29, section 30 or section 31, the employer shall not terminate employment of or reassign the duties of the employee, employee's representative, member of the committee or member of the sub-committee which relates to the claim, except where such person-

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(1) dishonestly perform duties or intentionally commits a criminal offence against the employer;

(2) intentionally causes damage to the employer;

(3) violates the legitimate working regulations, or rules or orders of the employer and the employer has given a written warning and a one-year period commencing from the date the employee receives the warning letter has not yet lapsed. In this respect, the regulations, rules or orders shall not be issued to prevent such person to proceed on the claim, except in a serious case where the employer is not required to give a warning;

(4) abandons his or her duties for three consecutive days without reasons.

No employee, representative of employee, member of the committee, member of the sub-committee or member of the labour union which relates to the claim shall support or cause a strike.

**Section 35.** No employer shall—

(1) terminate employment or commit any act which may result in employee not being able to continue working on the grounds that employees proceed to form a labour union, labour federation, or to become a member or member of the Board of a labour union, member of the Board of a labour federation, member of the Relations Affairs Committee, member of the State Enterprise Labour Relations Committee, or member of the sub-committee, or to take a legal action, to be a witness, or to submit evidence to a competent official, the Registrar or the Committee or to the Labour Court;

(2) obstruct an employee from being a member, or cause an employee to relinquish his or her membership of the labour, union, labour federation, a member of the Relations Affairs Committee, or give or agree to give money or properties to an employee or a staff member of a labour union in order not to apply for membership or accept the application for membership or to relinquish from the membership of the labour union;

(3) obstruct the operation of the labour union, labour federation, or obstruct the exercise of rights of an employee arising from being a member of the labour union; or

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(4) unlawfully interfere with the operation of the labour union or labour federation.

**Section 36.** No person shall–

- (1) force or coerce, directly or indirectly, an employee to be or not to be a member of a labour union or to leave the membership of the labour union; or
- (2) carry out any act which may result in the violation of section 35 by the employer side.

**Section 37.** During the period where the agreement relating to employment conditions under section 25 paragraph one or the decision under section 32 applies, the employer shall not terminate employment of or reassign the duties relating to the claim of a member of the Committee or a member of the sub-committee or a member of the labour union, except in the case of the dissolution of the State enterprise or any section of works of the State enterprise or where such person commits any of the following acts:

- (1) dishonestly performing duties or intentionally committing a criminal offence against the employer;
- (2) intentionally causing damages to the employer;
- (3) violating the legitimate working regulations, or rules or orders of the employer, provided that the employer has given a written warning and a one-year period commencing from the date the employee receives that warning letter has not yet lapsed. In this respect, the regulations, rules or orders shall not be issued to prevent such person to proceed on the claim, except in a serious case where the employer is not required to give a warning;
- (4) neglecting his or her duties for three consecutive working days without a justifiable reason;
- (5) carrying out any act which provokes, supports or induces the violation of the agreement relating to the employment conditions or the decision.

**Section 38.** A person injured from the violation of section 35 or section 37 shall have the right to submit a claim, within thirty days as from the date of being

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injured, to make allegation against the violator to the Committee for the consideration and making a decision.

The Committee shall make a decision and issue an order within sixty days as from the date of receiving the claim; the employer side and the employee side shall comply with the order. In this case, the Committee shall have the power to order the employer to reinstate the employee, or to pay the damages, or to order the violator to perform or not to perform any act as deemed appropriate.

**Section 39.** In the case where the Registrar deems that a member of the Board of a labour union or a labour federation commits an act which contradicts to the object of the labour union or the labour federation, as the case may be, and such act endangers the public order or national security, the Registrar shall submit the matter to the Committee for consideration and making decision without delay.

The Committee shall make a decision and issue an order within seven days as from the date of receiving the request; the violator shall comply with such order.

#### CHAPTER 4 LABOUR UNION

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**Section 40.** The labour union may be formed only by virtue of the provisions of this Act.

The labour union shall have the objects to-

- (1) promote good relations between employees and the employer and among employees;
- (2) consider the support for its member as requested by a petition;
- (3) seek or protect the benefits relating to employment conditions of employees;
- (4) act or provide cooperation for enhancing efficiency and maintaining interests of the State enterprise.

Each State enterprise shall only have one labour union.

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**Section 41.** The following persons have the right to collectively form a labour union:

- (1) being employees in the same State enterprise who are not the management;
- (2) being *sui juris*; and
- (3) being of Thai nationality.

**Section 42.** A labour union may be formed only where its members constitute no less than twenty five per cent of the total employee, which does not include employees engaged in work characterised as being occasional, contingent, seasonal or work of a project. It shall have regulations and shall be registered with the Registrar. Upon the registration, the labour union shall be a juristic person.

**Section 43.** In respect to registration of a labour union, no less than ten employees having the right to form a labour union shall be the promoters, and submit the application in writing to the Registrar together with at least three copies of the draft regulations of the labour union, the list of names and signatures of the persons intending to become members of the labour union, the number of whom shall be no less than ten per cent of the total employee which does not include employees engaged in work characterised as being occasional, contingent, seasonal or work of a project.

The application and the list of names shall be in accordance with the form prescribed by the Director-General of the Department of Labour Protection and Welfare.

One employee may be a member of only one labour union.

When the Registrar has accepted the application for registration of the labour union, the Registrar shall post the announcement up openly at the workplace of the employee in order to notify all employees.

**Section 44.** The regulations of the labour union shall contain the following statements:

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- (1) the name, which shall also contain the word “State enterprise labour union” in front of the name;
- (2) its object;
- (3) location of the office;
- (4) means of accepting a member and terminating the membership;
- (5) rates of application fee and member fee and method of payment;
- (6) rules on rights and duties of the members;
- (7) rules on the Board, i.e. number of members of the Board, election of a member of the Board, term of office of a member of the Board, vacation of office of a member of the Board and meeting of the Board;
- (8) rules on the general meeting;
- (9) rules on administration of the labour union;
- (10) rules on the expenditure, maintenance of money and other properties including the accounting and auditing.

The regulations under paragraph one shall contain provisions which can facilitate the fair operation of the labour union and maintain the benefits of the members and employees in the State enterprise, and shall not contain provisions which hinder the membership or terminate the membership without a justifiable reason.

**Section 45.** After the Registrar has received the application for registration of a labour union in a State enterprise, and has examined and deems that its objects are correct within the scope of section 40 and are not contrary to public order or good morals, that the applicant has the qualifications as prescribed in section 41, that such application contains the statements as well as the documents which are complete and correct under section 43, and that the regulations are correct under section 44 and contain a list of names and signatures of the persons intending to become members of the labour union, the number of whom is no less than twenty five per cent of the total employee, which does not include employees engaged in work characterised as being occasional, contingent, seasonal or work of a project, and that there has not been registration of a labour union in that State enterprise, the Registrar shall make registration and issue the registration certificate of the labour union to that labour union.

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Any application for registration which contains any statement as well as document which is incomplete or incorrect, or that the persons intending to become members of the labour union are less than twenty five per cent of the total employees under paragraph one, such registration applicant shall make an amendment thereof so as to be correct and complete within one year as from the date on which the Registrar makes a written notification. If the registration applicant fails to comply therewith within the prescribed time period, it shall be deemed that the application for registration of the labour union shall lapse.

**Section 46.** In the case where there are more than one applications for registration of labour unions in a State enterprise, if it appears that the application thereof contains the correct and complete statement and documents and the number of persons intending to be the members of the labour union is twenty five per cent of the total employees as prescribed in section 45 and such application is the first one, the Registrar shall make registration for that labour union. However, if there are more than one such complete applications, the Register shall require each registration applicant to jointly consider making an agreement to merge the applications into one application. If the agreement cannot be reached, the Registrar shall make registration for the labour union having the highest number of persons intending to be the members. If it appears that more than one applications for labour union registration contain the same highest number of persons intending to be the members, the Registrar shall carry out a draw of lots openly among the applicants and make registration for the labour union being drawn by lot.

**Section 47.** The registration applicant has the right to appeal against the order refusing to make registration to the Minister. Such appeal shall be made in writing to the Minister within thirty days as from the date of being notified of such order.

The Minister shall make a decision on the appeal and notify the appellant within thirty days as from the date of receiving the written appeal.

The decision on the appeal of the Minister shall be final.

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**Section 48.** Upon the registration, the Registrar shall publish the registration of the labour union in the Government Gazette.

**Section 49.** The promoters of the labour union shall convene the first ordinary general meeting within one hundred and twenty days as from the date of registration in order to elect the Board of the labour union and entrust all affairs to the Board of the labour union, to elect the auditor and to approve the draft regulations submitted to the Registrar under section 45.

When the general meeting has elected the Board of the labour union and has approved the draft regulations, a copy of the regulations and the list of names, addresses, occupations or professions of the members of the Board of the labour union shall be registered within fourteen days as from the date the general meeting resolves.

**Section 50.** An amendment to regulations of a labour union and a change of a member of the Board of a labour union shall only be made by a resolution of the general meeting and shall be registered within fourteen days as from the date the general meeting resolves.

An amendment to regulations and a change of a member of the Board of the labour union under paragraph one shall come into force upon registration by the Registrar.

Section 45 shall apply to an application for an amendment to regulations and a change of a member of the Board of the labour union *mutatis mutandis*.

**Section 51.** A member of the labour union in a State enterprise must be an employee of that State enterprise throughout the time of membership.

No person in the management shall be a member of a labour union.

**Section 52.** A member of the labour union has the right to request for inspection of the register of members, documents or accounts to ascertain the operation of the labour union during its operating hours.

In requesting for inspection under paragraph one, the staff member of the labour union shall provide reasonable assistance thereto.

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**Section 53.** Membership of a labour union terminates upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the general meeting on the grounds prescribed in the regulations of the labour union;
- (4) being disqualified under section 51.

**Section 54.** For the benefits of members of the labour union, the labour union has rights and duties as follows:

- (1) to submit a claim to the employer side in connection with employment conditions on behalf of the members;
- (2) to submit a petition to the Relations Affairs Committee for consideration under section 23 (4);
- (3) to appoint a representative to be a member in the Relations Affairs Committee;
- (4) to arrange services for the welfare of the members or to allocate money or properties for public benefit as the general meeting deems appropriate;
- (5) to collect application fee and membership fee in accordance with the rates prescribed in the regulations of the labour union;
- (6) to implement the objects as prescribed in section 40.

**Section 55.** A labour union shall have the Board of the labour union as the administrator and representative of the labour union in the affairs vis-à-vis third persons. For this purpose, the Board of the labour union may entrust one or several members of the Board to act on its behalf.

The Board of the labour union may appoint a sub-committee of the labour union to carry out works as entrusted.

The Board of the labour union consists of the President of the Labour Union as Chairperson and other members as prescribed in the regulations.

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**Section 56.** Members of the Board of a labour union or members of a sub-committee of a labour union under section 55 must be members of that labour union.

A member of the Board of a labour union who has been removed from office by an order of the Registrar under section 63 may hold a position of a member of the Board of the labour union again only when the time period of one year from the date the Registrar orders the removal from office has lapsed.

**Section 57.** A labour union may carry out the following acts only upon a resolution of the general meeting:

- (1) amending the regulations;
- (2) electing a member of the Board of the labour union, electing the auditor, certifying a balance sheet, an annual report and budget;
- (3) arranging services for the welfare of the members or allocating money or properties for public benefit;
- (4) jointly forming or becoming a member of a labour federation;
- (5) accepting supporting money from a person who is not of Thai nationality or a foreigner under the law on foreign business;
- (6) dissolving the labour union.

**Section 58.** When a labour union carries out the following acts for the benefits of members of the labour union, the labour union, a member of the Board of the labour union, a member of a sub-committee of the labour union and a staff member of the labour union shall be exempted from a criminal or civil allegation or action;

- (1) attending a negotiation to make an agreement with the employer for raising a claim relating to the employment conditions;
- (2) explaining or publishing facts on a claim or a labour dispute or an operation of the labour union.

However, this excludes criminal offences in the Titles on offences relating to causing public dangers, against life and body, against liberty and reputation, against property, and penal actions in connection with the criminal offences in such Titles.

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**Section 59.** Members of the committee of the labour union carrying out the affairs of the labour union or attending meetings of the labour union or seminars shall be regarded as carrying out work for the employer in accordance with the agreement by the labour union and the employer.

An employee who is a member of the Board of the labour union has the right to ask for a leave to attend a meeting of the labour union or to attend other meeting or seminar. In this regard, the labour union shall notify the employer in advance and it shall be deemed that the day and time the employee carries out such activity counts as a working day for the employer.

**Section 60.** A labour union shall arrange to have a register of members in the form prescribed by the Director-General of the Department of Labour Protection and Welfare and maintain it at the office and make it available for inspection during its operating hours.

A labour union shall put up an announcement on its operating days and hours at the office of the labour union.

**Section 61.** The labour union shall arrange to have an audit of accounts and shall submit the balance sheet together with the audit report to the general meeting.

When the general meeting has certified the balance sheet and the audit report, it shall submit one copy thereof to the Registrar within thirty days as from the date the general meeting passes a certification resolution.

**Section 62.** The Registrar or a competent official entrusted by the Registrar shall have the power to order an employer, a member of the Board of a labour union, or a member of a labour union to act or refrain from acting so as to be in accordance with the provisions in this Act or those prescribed in the law or regulations of the labour union as the case may be, and shall have the following powers:

(1) to enter into a State enterprise or an office of a labour union during its operating hours in order to inquire into facts or to inspect an operation of the labour union;

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(2) to order a employer side, a member of the Board of a labour union, a member of a sub-committee of a labour union or a staff member of a labour union to submit or present a document or an account of the labour union for consideration in the case where a problem has occurred;

(3) to question persons in (2) or to summon such persons for questioning or giving statement of facts in relation to an operation of the labour union.

**Section 63.** The Registrar has the power to order the removal of any member of the Board of a labour union or the Board of a labour union from office when it appears that such member or such Board–

(1) commits an unlawful act which obstructs performance of work as per the duties of the Committee, the sub-committee, the Registrar or the competent official;

(2) violates section 57 (5);

(3) violates or fails to comply with the order of the Registrar or the competent official entrusted by the Registrar under section 62;

(4) carries out an operation irreconcilable with the object of the labour union which is contrary to the law or public order or good morals or may be detrimental to the economy or security of the country; or

(5) allows or gives consent to allow any person who is not a member of the Board of the labour union to operate the labour union.

The order under paragraph one shall be made in writing and be notified to the concerned persons and the labour union without delay.

**Section 64.** A person who receives the order removing him or her from office of member of the Board of the labour union under section 63 has the right to appeal against such order to the Minister, in writing, within thirty days as from the date of receiving the order.

The Minister shall make a decision on the appeal and notify the appellant within sixty days as from the date of receiving the written appeal. The decision of the Minister shall be final.

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**Section 65.** A labour union shall be dissolved for one of the following reasons:

- (1) if the rules of the labour union prescribed conditions for dissolution upon their occurrence;
- (2) if the general meeting passes the resolution to dissolve the labour union;
- (3) upon bankruptcy;
- (4) if the Registrar orders a dissolution under section 66.

**Section 66.** The Registrar may have an order to dissolve a labour union in the following cases:

- (1) when the Registrar has conducted an inspection and later found that the acceptance of registration and the issuance of the certificate of the labour union registration to the registration applicant is not in accordance with section 45 or section 46;
  - (2) when it appears that operation of the labour union is contrary to the object, is contrary to the law, or is detrimental to the economy or security of the country, or is contrary to public order or good morals;
  - (3) when the Registrar has ordered a reelection of all of the members of the Board and the election is not conducted within the time period specified by the Registrar or within the time period extended by the Registrar until such time period has lapsed;
  - (4) when the labour union does not operate for two consecutive years;
- or,
- (5) when members remaining are less than twenty five per cent of the total employees, which does not include employees in the management or engaged in work characterised as being occasional, contingent, seasonal or work of a project.

When the Registrar orders the dissolution of a labour union, he or she shall notify, in writing, the labour union of the order without delay.

**Section 67.** In regard to the order to dissolve the labour union in section 66, more than one- half of the total members of the committee who are in office on

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the date of the dissolution order shall have the right to appeal, in writing, to the Minister within thirty days as from the date of being notified of such order.

An appeal of the order made to the Minister under paragraph one shall not be the cause of stay of execution of the order of the Registrar.

The Minister shall make a decision on the appeal and notify the appellant within thirty days as from the date of receiving the appeal. The decision on the appeal of the Minister shall be final.

The order to dissolve a labour union shall be published in the Government Gazette when the time period for the submission of the appeal has lapsed or when the Minister has made the decision as the case may be.

**Section 68.** When a labour union has to be dissolved under section 65, it shall appoint a liquidator; the provisions of the Civil and Commercial Code on the liquidation of registered ordinary partnership, limited partnership and limited company shall apply to the liquidation of the labour union *mutatis mutandis*.

**Section 69.** After liquidation, if there are properties remaining, they shall not be distributed among the members of the labour union, but those properties shall be transferred to other labour union as designated in the regulations on management procedures of the labour union or in accordance with the resolution of the general meeting.

In the case where the regulations or the general meeting does not designate any labour union to be the transferee of those remaining properties, the liquidator shall give those properties to a foundation or an association whose object is of assisting or promoting the welfare of labours.

## CHAPTER V LABOUR FEDERATION

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**Section 70.** Ten or more labour unions may collectively form a labour federation in order to protect the benefits in relation to employment conditions and promotion of education and promotion of good relations in the State enterprise.

The labour federation shall have regulations and be registered with the Registrar. Upon registration, the labour federation shall be a juristic person.

**Section 71.** The provisions on labour union in Chapter 4 shall apply to the labour federation *mutatis mutandis*.

**Section 72.** A labour federation may become a member of a labour association council under the law on labour relations.

## CHAPTER VI PENALTIES

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**Section 73.** Any person who violates or fails to comply with section 13 paragraph two or section 24 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand baht or to both.

**Section 74.** Any person who fails to provide assistance, fails to answer an inquiry letter, fails to explain facts or fails to send a relevant object or document to the Committee or Sub-committee under section 16, or violates or fails to comply with an order of the Registrar or a competent official entrusted by the Registrar under section 62 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand baht or to both.

**Section 75.** Any representative of the employer or representative of the labour union under section 25 or consultant of the employer or of the labour union in section 26 who accepts or agrees to accept money or properties from any person to conduct an act, which results in the State enterprise or labour union losing benefit it were supposed to gain, shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding sixty thousand Baht, or to both.

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**Section 76.** Any person who violates or fails to comply with the agreement under section 27 paragraph two, or violates or fails to comply with the decision of the Committee under section 32 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand baht or to both.

**Section 77.** Any person who violates section 33 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand baht or to both.

Any person who incites commission of an offence under paragraph one shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding forty thousand baht or to both.

**Section 78.** Any person who violates or fails to comply with the order of the Committee under section 39 paragraph two shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand baht or to both.

**Section 79.** Any person who violates section 34 or section 36, or fails to comply with the order of the Committee under section 38 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand baht or to both.

**Section 80.** Any person who is a member of the labour union knowing that the labour union has not been registered under section 45 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand baht or to both.

Any person who operates an unregistered labour union shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand baht or to both.

**Section 81.** Any promoter of a labour union who fails to comply with section 49 or any member of the Board of a labour union who fails to comply with

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section 50 shall be liable to a fine of fifty baht per day throughout the time period during which the violation continues.

**Section 82.** Any labour union which accepts a person to be a member in violation of section 51 shall be liable to a fine not exceeding five thousand baht.

**Section 83.** Any labour union which violates or fails to comply with section 60 or section 61 shall be liable to a fine not exceeding two thousand baht.

Any member of the Board of a labour union who connives at the act of the labour union under paragraph one shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand baht or to both.

**Section 84.** Any person who is a member of a labour federation knowing that such labour federation has not been registered under section 70 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand baht or to both.

Any person who operates an unregistered labour federation shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand baht or to both.

**Section 85.** Any labour federation which violates or fails to comply with section 71 in conjunction with section 60 or section 61 shall be liable to a fine of two thousand baht.

Any member of the Board of a labour federation who connives at the act of the labour federation under paragraph one shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand baht or to both.

**Section 86.** Any promoter of a labour federation who fails to comply with section 71 in conjunction with section 49 or any member of the Board of a labour federation who fails to comply with section 71 in conjunction with section 50 shall be liable to a fine of fifty baht per day throughout the time period during which the violation continues.

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**Section 87.** Any labour federation which accepts a person to be a member in violation of section 71 in conjunction with section 51 shall be liable to a fine not exceeding five thousand baht.

**Section 88.** Any person who uses the word “State enterprise Labour Union” or “State enterprise labour federation” or foreign letters which has the similar meaning in conjunction with a symbol, a sign, a letter, a statement, or any other document relating to the business operation without being a labour union or a labour federation shall be liable to a fine not exceeding twenty thousand baht and to a fine not exceeding five hundred baht per day until the use is stopped.

**Section 89.** When a labour union or a labour federation is dissolved under this Act, any member of the Board, any member of the sub-committee, or any member of the labour union or labour federation who obstructs the operation of the liquidator shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand baht or to both.

**Section 90.** Any person who operates a labour union or a labour federation which has been dissolved under this Act, except for the liquidation of the labour union or labour federation, shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand baht or to both.

**Section 91.** All offences under this Act which are only punishable by a fine, or punishable by a fine or imprisonment for a term not exceeding six months, or punishable by a fine not exceeding ten thousand baht or by both imprisonment and a fine may be settled by the Registrar by way of payment of a fine.

Subject to the provision under paragraph one, during inquiry, if an inquiry official finds that any person commits an offence under this Act and such person agrees to settle the offence by way of payment of a fine, the inquiry official shall submit the matter to the Registrar within seven days as from the date on which that person gives consent to settle the offence.

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If the offender has paid the fine in the settled amount within thirty days, the case shall be deemed to have terminated under the Criminal Procedure Code.

If the offender fails to consent to the settlement or, upon consent thereto, fails to pay the fine within the time prescribed in paragraph three, legal proceedings shall be continued.

### TRANSITORY PROVISIONS

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**Section 92.** It shall be deemed that an association of State enterprise personnel formed under the State Enterprise Personnel Relations Act, B.E. 2534 (1991) is a labour union under this Act and has the rights and duties to operate in so far as it is not contrary to or inconsistent with this Act.

After the expiration of ninety days from the date this Act comes into force, if any labour union under paragraph one fails to receive members in the number as specified in section 42, it shall be deemed that such labour union is terminated and the provisions in section 68 and section 69 shall apply *mutatis mutandis*.

**Section 93.** If the time prescribed under section 92 paragraph two, has lapsed, the labour union in section 92 paragraph one whose membership is complete in accordance with section 42 shall hold an election for new members of the committee of the labour union without delay.

A member of the Board of an association of State enterprise personnel who is a member of the Board of the labour union under section 92 shall vacate office when an election for new members of the Board of the labour union has been held or when a period of one hundred and fifty days from the date this Act comes into force has expired, regardless of what is prescribed in regulations of the labour union.

**Section 94.** An application for the formation of an association of State enterprise personnel submitted under the State Enterprise Personnel Relations Act, B.E. 2534 (1991) prior to the date on which this Act comes into force shall be deemed to be an application for the formation of a labour union under this Act.

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**Section 95.** All rules, notifications, resolutions, decisions or orders of the State Enterprise Relations Committee which have become final under the State Enterprise Personnel Relations Act, B.E. 2534 (1991) which exist prior to the date this Act comes into force shall remain in force.

It shall be deemed that all employment conditions which exist prior to the date this Act comes into force are agreements relating to employment conditions under this Act.

**Section 96.** In respect to all requests, petitions and recommendations concerning rights and benefits which are submitted under the State Enterprise Personnel Relations Act, B.E. 2534 (1991), if the consideration and decision thereof has not yet become final before the date this Act comes into force, it shall be proceeded further in accordance with this Act.

**Section 97.** Any provision of law which refers to the law on State enterprise personnel relations shall be deemed to refer to this Act, and the term “personnel” under such law shall mean “employee” under this Act.

Countersigned by:

Chuan Leekpai

Prime Minister

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