

## Thailand: Impact of amendments to the Labour Protection Act on severance payment and retirement

Two recent amendments to the Labour Protection Act (“LPA”) in Thailand will impact on companies’ retirement practices. The most recent amendment, approved in principle by the Thai Cabinet but still subject to review and royal assent, provides for an increase in the severance payment for employees with more than 20 years of service.

The previous amendment, which was effective 1 September 2017, established that an employee is entitled to retirement from age 60 and clarified that the severance payment is payable on retirement.

### In this issue:

- Increase in severance payment
- Potential increase in liabilities and cost
- Entitlement to retirement from age 60

### Increase in severance payment

An amendment to the LPA was approved in a Thai Cabinet Resolution dated 15 August 2017. Among a number of other proposed changes – including clarification of the definition of remuneration, formalisation of business leave, and clarification on the treatment of leave for maternity check-ups – the amendment proposes a change to the amount of severance payment for employees with at least 20 years of service on termination. The severance payment for such employees is proposed to increase from 300 days to 400 days of last wages.

The current and proposed amounts of severance payment under the LPA are shown in the following table, where the amounts are expressed as number of days of last wages:

PERIOD OF SERVICE	CURRENT SEVERANCE PAYMENT	PROPOSED SEVERANCE PAYMENT
120 DAYS TO BELOW 1 YEAR	30 DAYS	30 DAYS
1 YEAR TO BELOW 3 YEARS	90 DAYS	90 DAYS
3 YEARS TO BELOW 6 YEARS	180 DAYS	180 DAYS
6 YEARS TO BELOW 10 YEARS	240 DAYS	240 DAYS
10 YEARS TO BELOW 20 YEARS	300 DAYS	300 DAYS
20 YEARS AND OVER	300 DAYS	400 DAYS

### Potential impact on post-retirement liabilities and costs

The proposed change in the severance payment will have a direct impact on the post-retirement liabilities and costs for companies disclosing their post-retirement benefits under Thai Accounting Standard 19 (“TAS19”) and similar international accounting standards.

Based on a typical set of market actuarial assumptions, considering a typical workforce profile, and allowing for a retirement age of 60, we estimate that a company’s balance sheet liability (defined benefit obligation or “DBO” under TAS19) will increase by around 25% to 30%. The current service cost disclosed under profit or loss is estimated to increase by a few percentage points less than the increase in the DBO.

The actual impact for any particular company depends on the age profile of the company's employees and the company's retirement age. While the estimated impact above is likely to be indicative for most companies that have a retirement age of 60, the actual impact could lie outside this range. The impact depends on the proportion of employees who will have completed 20 years of service at retirement. Companies with a lower retirement age will typically see a lower percentage increase (as fewer employees will be expected to complete 20 years of service at retirement). In any event, the maximum possible increase in DBO or current service cost as a result of the change is 33.3% ( $400/300 - 1$ ).

For companies accounting under TAS19 or similar global standards, the increase in the DBO as a result of the change in the severance payment will be treated as a past service cost within profit or loss in the year that the change is implemented. This means that the defined benefit cost in profit or loss in respect of the severance payment may be several multiples of the "normal" defined benefit cost in the year the change is finalised.

The amendment is expected to come into effect in 2018, although it could still be subject to review. Companies should discuss the impact of the change with their auditor and their actuary.

## Entitlement to retirement from age 60

The previous amendment to the LPA was published in the Royal Thai Government Gazette on 31 August 2017 and became effective on 1 September 2017. Besides provisions around the setting of minimum wages for specific employee groups, and some easing of the administrative burden around the submission of work rules, the amendment established that an employee should be entitled to retirement from age 60 where a company has not set its own retirement age or has set a retirement age after age 60.

The amendment clarifies that retirement should be considered as termination of employment, and therefore eligible to severance payment under the LPA.

Previously, companies would typically set retirement age between ages 55 and 60 in the work rules or employment contracts. However not all companies would specify a retirement age, leaving the issue opaque. In such cases, if the employee could only retire by resigning, he or she would not then be entitled to severance payment under the LPA. The amendment establishes that if no retirement age is specified by the company, or if retirement age is set at an age older than 60, then an employee can exercise his or her right to retire from age 60 by informing the company of his or her intention to do so.

Companies should consider and clarify their retirement practice accordingly.



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