In Thailand, domestic workers, including maids and nannies, are often integral to the daily functioning of households. While domestic workers make up a significant and important part of the Thai workforce, most are informally employed. This does not mean, however, that domestic workers do not enjoy protections under the Law. The purpose of this article is to explain the labor law as it pertains to domestic workers and answer common questions concerning employing domestic workers in Thailand.

AN OVERVIEW


Holidays and Work Hours

- Domestic workers are entitled to at least one weekly holiday (rest day) per week. (Section 13)
- Domestic workers are entitled to 13 paid traditional holidays, including National Labour Day on May 1. (Section 29)
- After one continuous year of service, a domestic worker is entitled to at least six paid annual holidays (these are personal leave days in addition to weekly and traditional holidays) per year. (Section 30)
- A domestic worker is entitled to up to 30 paid sick days. The employer can request a medical certificate if the worker is absent for more than three days in a row. (Section 32)
- There are no provisions regarding work hours, overtime, and break periods during the workday. In other words, a “standard” 8-hour day with a 1-hour break does not apply to domestic workers.

Wages

- Domestic workers are entitled to be paid at least once per month. (Section 70)
- Wages must be paid in Thai currency unless an agreement has been made between the employer and employee for wages to be paid in a different currency. (Section 54)
- If a domestic worker who is normally paid monthly works on a weekly, traditional, or annual holiday, the worker is entitled to at least one extra day’s wage in compensation. (Sections 62 and 64) For example, if a domestic worker earns 15,000 baht per month in salary, her daily rate would be 500 baht (15,000 baht/30 days). She is entitled to at least an extra 500 baht for working on a weekly, traditional, or annual holiday.
- Since the law does not specify standard daily work hours for domestic workers, there are no provisions for hourly overtime pay.

Termination of Employment and Severance Pay

- If an employer would like to terminate a domestic worker’s employment, the employer must give advance notice of at least one pay period. For example, if a domestic worker is paid monthly, notice must be given one month in advance. (Section 17)
- An employer may terminate employment immediately if the employer pays wages for the normal notice period. For example, if an employer would like to terminate employment on April 30 and this is the worker’s normal pay date, then the employer can pay full wages for the months of April (period already worked) and May (notice period) and terminate employment immediately. (Section 17)
- An employee can be terminated immediately for the following reasons stated in Section 119 in the Labor Protection Act B.E. 2541 (1998): (Sections 17 and 119)
  1. performing his/her duty dishonestly or intentionally committing a criminal offence against the employer;
  2. willfully causing damage to the employer;
  3. committing negligent acts causing serious damage to the employer;

Domestic Workers and Thai Labor Laws

By Dr. Jessica Vechbanyongratana and Dr. Panthip Pruksacholavit

Domestic workers: How to pay, terminate or manage holidays. Use this guide to learn how the law requires you to deal with your helpers.

** This is an updated version of the original article first published in BAMBI Magazine in April 2015 **
4. violating work rules, regulations, or orders of the employer which are lawful and just after having been given written warnings by the employer, except for serious cases in which there is no requirement for the employer to give a warning. A written warning shall be valid for and not exceeding one year from the date when the employee commits the offence;
5. absenting himself/herself from duty without justifiable reason for three consecutive working days regardless of whether there is a holiday in between; and
6. being sentenced to imprisonment by a final court judgment.
• Provisions regarding severance pay do not apply to domestic workers. This means domestic workers are not entitled to severance pay regardless of how long they have been working for their employers.
• Any outstanding wages and holiday pay must be paid within three days of termination. (Section 70)

Other Provisions
• Domestic workers must be 15 years of age or older. (Section 44)
• Employers may not demand a bond or deposit. (Section 10)

Q&A FROM EMPLOYERS
Q. Do minimum wage laws apply to domestic workers?
A. Minimum wage laws do not apply to domestic workers. However, the average pay for full-time domestic workers in Bangkok is higher than the official 300 baht daily (7,800 baht monthly) minimum wage.

• Provisions regarding severance pay do not apply to domestic workers. This means domestic workers are not entitled to severance pay regardless of how long they have been working for their employers.
• Any outstanding wages and holiday pay must be paid within three days of termination. (Section 70)

Other Provisions
• Domestic workers must be 15 years of age or older. (Section 44)
• Employers may not demand a bond or deposit. (Section 10)

Q. How long is a standard work day?
A. Domestic workers are not covered under Section 23 of the Labor Protection Act, which regulates standard work hours. Since a “standard” 8-hour workday (48-hour week) does not apply, it is up to employers and employees to agree upon work hours.

Q. When do I need to pay overtime? How much do I need to pay for overtime?
A. The answer depends on the type of overtime.
• If the domestic worker is paid on a monthly basis and works on a weekly, traditional, or annual holiday, she is entitled to at least an extra day’s wages in compensation. For example, if a domestic worker earns 15,000 baht per month in salary, her daily rate would be 500 baht.

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
<th>Day</th>
<th>Occasion</th>
<th>Thal Traditional Holidays</th>
<th>US Company Holidays</th>
<th>13 Paid Traditional Holidays</th>
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<tr>
<td>January</td>
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<tr>
<td>April</td>
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<td>Thursday</td>
<td>Chakri Day</td>
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<td>National Labour Day (Thailand)</td>
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<td>May</td>
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<td>Monday</td>
<td>US Memorial Day</td>
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<td>X</td>
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<tr>
<td>July</td>
<td>4</td>
<td>Tuesday</td>
<td>US Independence Day</td>
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<td>July</td>
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<td>Monday</td>
<td>Asarnha Bucha Day (Substitute day for Saturday, July 8)</td>
<td>X</td>
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<td>14</td>
<td>Monday</td>
<td>Her Majesty The Queen’s Birthday (Substitute day for Saturday, August 12)</td>
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<td>Labor Day (US)</td>
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<td>October</td>
<td>23</td>
<td>Monday</td>
<td>Chulalongkorn Day</td>
<td>X</td>
<td>X</td>
<td>11</td>
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<tr>
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<td>November</td>
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<td>Thanksgiving Day</td>
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<td>5</td>
<td>Tuesday</td>
<td>His Majesty the King’s Birthday</td>
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<td>X</td>
<td>12</td>
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<td>25</td>
<td>Monday</td>
<td>Christmas Day</td>
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*Note that domestic workers are entitled to a holiday on National Labour Day (May 1st)

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The provisions of the Labor Protection Act covering domestic workers do not cover overtime pay for extra hours worked above and beyond the normal work hours. Since a standard 8-hour workday (48-hour week) does not apply to domestic workers, it is up to the employer and the employee to agree upon overtime hours and rates, if any.

Q. I have heard that employers are obligated by law to pay one month’s salary for each year of work upon terminating employment. For example, if my maid earns 15,000 baht per month and has worked for us for five years, am I legally bound to pay her 75,000 baht severance if we need to terminate her employment due to relocation?

A. Since domestic workers are not covered by Section 118 of the Labor Protection Act, domestic workers are not entitled to severance pay. If you have given sufficient notice—which is one month if you pay your domestic worker monthly—there is no legal obligation to provide any severance pay. The only exception is if you terminate without notice, in which case you must provide one month’s wages. Many employers choose to give a bonus to their employees at the time of termination in appreciation of good service, but there is no legal obligation to do so.

Q. My husband and I both work at an American company. The Law says that employers have to give domestic workers 13 “traditional holidays” off. The holiday calendar that my company follows is a mix of Thai and American holidays. Does this mean that my nanny will have some Thai holidays off while I am supposed to be at work? Is it legal to have my nanny follow the same holiday calendar used at my company to ensure that my children have childcare when I am at work?

A. The Law allows for the observance of religious holidays, such as Christmas, but does not allow for, say, American Independence Day to be considered a “local traditional holiday”. While you cannot strictly follow the American company’s holiday calendar, note that you do have some flexibility to pick which 13 paid holidays will be observed. For the year 2017, for example, the Government has announced 17 official holidays, of which you must pick (at least) 13, including National Labour Day. Here is a hypothetical example of how a couple working for an American company might set the official holiday schedule for their domestic worker taking into consideration both official Thai holidays and American holidays observed by the company.

In this scenario there are only three days (May 1, May 10, and July 10) in which the domestic worker is entitled to a day off when the employers must work. It is a good idea to determine and write down the holiday schedule your domestic worker will follow at the time of termination in appreciation of good service, but there is no legal obligation to do so.

Q. If the Government announces additional official holidays, is my maid/nanny entitled to those additional holidays?

A. The Law states that domestic workers are entitled to at least 13 traditional holidays. This means that employers are not obligated to give more than 13 holidays, even when additional holidays are announced by the Government. It is up to the employer to decide whether to provide additional paid holidays beyond the 13 that are mandated by law.

Q. My maid is from Myanmar and has been working for us for two years. She would like to take 3 weeks off this year to travel home. Can she “save up” vacation days by working during traditional holidays and combining those days with her six annual holidays to give her enough time to travel home and back?

A. No. traditional holidays must be observed on the day itself. If your maid works on one of the 13 traditional holidays (see example in the previous question), then you must pay holiday pay rates. It is common for workers to combine traditional holidays, such as Songkran, with their 6 days of annual holidays. Suppose your maid regularly takes Sundays as a weekly holiday and that your maid would like to take 3 weeks of leave over the Songkran period, say Sunday April 2nd through Sunday April 23rd. The calendar below specifies the types of leave your maid would be entitled to take:

Note that the days in green are not covered by weekly, traditional, or annual holidays. In this case, it is up to the employer and the employee to agree upon taking additional leave (days specified

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### Example of 3 weeks Leave Arranged to be Taken in April 2017

<table>
<thead>
<tr>
<th>Sunday</th>
<th>Monday</th>
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</tbody>
</table>

- **Weekly Holiday**
- **Traditional Thai Holiday**
- **Annual Holiday**
- **Other Leave Arranged with Employer**
Q. If a traditional holiday falls on a Saturday, which is a normal work day for my nanny, and a substitute holiday is celebrated on the following Monday, which day is she entitled to have off? For example, this year Mother’s Day is Saturday, August 12th, and the substitution day is Monday, August 14th. Do I give her the 12th, the 14th, or both?
A. In this case, you have to first look if Mother’s Day is one of the 13 traditional holidays that you and your maid had agreed upon. If not, there is no need to give her any day off. However, if the Mother’s Day is one of your agreed traditional holidays, then you definitely need to give her an off day, which in this case would be the 12th.

Q. I just hired a part-time housekeeper who works Tuesday and Thursday mornings for a total of 8 hours per week. Which and how many holidays is she entitled to?
A. According to the law, provisions regarding holidays of full-time workers and part-time workers are the same. This means that both are entitled to the same weekly, traditional, and annual holidays. In this example, the parttime housekeeper would be entitled to 4 traditional holidays with pay according to the 2017 holiday calendar above. However, section 56 says that parttime workers can only get paid on traditional and annual holidays; they are not entitled to get paid on their weekly holiday.

Q. Do we need to sign a written contract with our maid or nanny?
A. While it is not legally required to sign a contract, it is not a bad idea to do so. It is important for both you and your employee to understand and agree on job tasks, remuneration, number and timing of holidays (weekly, traditional, and annual), etc.

Q. Do the labor laws apply even if I do not have a written contract with my maid?

Q. How can I sign my domestic worker up for social security? What is the legal responsibility of the employer to provide medical care?
A. Unfortunately, domestic workers are explicitly excluded from social security. If your employee is Thai, she should be eligible for free medical care under the Universal Coverage Scheme (UCS) also known as the “Gold Card” scheme. Foreign workers who have a work permit for domestic work should also be covered under a government health insurance scheme (workers sign up for the scheme as a part of the process to obtain their work permit). Some employers purchase additional private accident and emergency medical insurance, but this is not mandatory by law. It is common practice for employers to cover the costs of medical care and wellness checks, especially when the worker is registered for the UCS program at a distant hospital or is non-Thai, but this is not mandatory by law.

Q. What recourse do I have as an employer if a maid or nanny is dishonest, steals, or has poor performance?
A. If there is a criminal act involved, contact your local police department immediately. An employee can be terminated effectively immediately if the employee’s conduct falls into one of the six categories specified in Section 119 of the Labor Protection Law (listed above in the section on “Termination of Employment and Severance Pay”). Note that the conduct listed in section 119 is very severe. Dishonesty and stealing are covered under section 119. However, poor performance is not. Therefore, if an employer would like to terminate based on poor performance, the employer has to give advance notice or, in the case of immediate termination, pay one month severance. If an employer is concerned the terminated employee might sue for wrongful termination, the employer should give the employee a written letter stating all the reasons of termination at the time the employer terminates the employee. The employer should ask the employee to sign the letter in order to show that the employee acknowledges the reasons for termination. The employer can use this letter as evidence before court in the unlikely event that there is a need.

Q. I just hired a new domestic worker one week ago. She seemed to have lots of experience and a good recommendation from a previous employer, but she does not seem to be a good fit for my family’s needs. Do I have to pay her a month’s salary if I want to terminate her immediately? Is there such thing as a probation period?
It does not matter how long you hire the person to work for you, provisions regarding advance notice period always apply when you terminate your employee. Unless the reason of termination falls into one of the six categories specified in Section 119 (see details under Termination of Employment and Severance pay.) In this case, if the worker just does not seem to a good fit for your family, you are required to give her advance notice for at least one pay cycle. However, if you feel uncomfortable having her around, you can also opt to pay her for the next full cycle (which is normally one month) and ask her to leave right away.

Q. I have been told by friends that it is mandatory to pay a one-month bonus at the end of the year. Is this mandatory by law?
A. While it is common to pay a one-month bonus, the law does not stipulate that any bonus needs to be paid. Whether or not you pay a bonus to your domestic worker is up to you and what was negotiated in the employment contract.

Helpful Resources: