

*(Unofficial Translation)**

PROVIDENT FUND ACT
B.E. 2550
(No. 3)

BHUMIBOL ADULYADEJ, REX.,

Given on the 12th day of December B.E. 2550;
Being the 62nd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is deemed expedient to amend the law governing provident funds;

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Assembly, as follows:

SECTION 1. This Act shall be called "the Provident Fund Act (No. 3) B.E. 2550".

SECTION 2. This Act shall come into force on and from the thirtieth day following the date of its publication in the Government Gazette.

SECTION 3. The definition "fund" in Section 3 of the Provident Fund Act B.E. 2530 shall be repealed and replaced with the following definition:

““fund” means a provident fund.”

SECTION 4. The following definitions shall be inserted as "single fund" and "pooled fund" between the definitions "fund" and "wages" in Section 3 of the Provident Fund Act B.E. 2530:

““single fund” means a fund established for employees of a single employer.

““pooled fund” means a fund established for employees of multiple employers.”

* Readers should be aware that only the original Thai text has legal force and that this English translation is strictly for reference. The SEC, Thailand cannot undertake any responsibility for its accuracy nor be held liable for any loss or damages arising from or related to its use.

SECTION 5. The provision in Section 5 of the Provident Fund Act B.E. 2530 shall be repealed and replaced with the following provision:

“SECTION 5. A fund shall come into existence only when it is established by agreement of the employees and the employer and registered under this Act, to serve as a security for the employees in case of their death, termination of employment, or resignation from the fund, by payments of the employees’ savings and the employer’s contribution in accordance with the rules prescribed in the fund’s articles. A fund may be established as a single fund or a pooled fund which may have one or multiple investment policies.”

SECTION 6. The following provision shall be added as Section 7/1 of the Provident Fund Act B.E. 2530:

“SECTION 7/1. A fund shall consist of the following assets:

- (1) savings and contribution;
- (2) provident funds pursuant to the second paragraph of Section 6;
- (3) surcharges pursuant to the third paragraph of Section 10;
- (4) donated assets;
- (5) assets derived from investments or interests incurred from assets of the fund;
- (6) the whole amount of the employee’s assets transferred from his previous fund or from the Government Pension Fund, provided that the transfer of such assets to the fund shall be in accordance with the rules and procedures prescribed by the registrar’s notifications;
- (7) other assets as prescribed by the registrar’s notifications.”

SECTION 7. The provision in (8) Section 9 of the Provident Fund Act B.E. 2530 shall be repealed and replaced with the following provision:

“(8) the provisions regarding the rules, procedures and period of time thereby the payment upon termination of employee’s membership or dissolution of the fund pursuant to Section 25 shall be prescribed, without unreasonable grounds for eliminating the employee’s rights;”

SECTION 8. The provision in (10) Section 9 of the Provident Fund Act B.E. 2530 shall be repealed and replaced with the following provision:

“(10) the provisions regarding the general meeting or member meetings classified by investment policies or employers in cases where the fund is established with multiple investment policies or as a pooled fund, as the case may be;”

SECTION 9. The following provisions shall be added as Section 16 and Section 17 of the Provident Fund Act B.E. 2530 as repealed by the Provident Fund Act (No. 2) B.E. 2542:

“SECTION 16. In respect of investing or seeking benefits for the fund, the fund manager shall make use of the employee’s savings and the employer’s contribution in accordance with the investment policy assigned by the employee. In cases where no investment policy has been assigned by the employee, the previous investment policy or that associated with minimal risks shall apply, as the case may be.

SECTION 17. The fund manager shall prepare an account segregating all fund assets by recording incomes and expenses according to the types of funds, as follows:

(1) in case of pooled fund, the incomes and expenses of the fund shall be recorded according to the employees’ interest segregated by each employer, provided that the following incomes and expenses of the fund shall be calculated and recorded as incomes or expenses in the accounts of the employees of the same employer:

- (a) surcharges paid into the fund by the employer;
- (b) the employer’s contribution and its interest which are not entitled upon the employees whose memberships have been terminated, and are determined by the fund’s articles to be an asset of the fund;
- (c) damages or interest paid by the fund as a result of court judgment or order;
- (d) money devolved onto the fund pursuant to the fourth paragraph of Section 23;
- (e) other incomes or expenses as prescribed by the registrar’s notification;

(2) In case of fund with multiple investment policies, the account shall be prepared to segregate the assets of each investment policy, provided that the incomes and expenses incurred from the management under a particular investment policy shall be recorded as incomes and expenses in the account of such investment policy while other incomes and expenses shall be distributed into every investment policy of the fund in proportion to each investment policy’s net asset value, and shall be recorded as incomes and expenses in the account of each investment policy.”

SECTION 10. The provision in Section 23 of the Provident Fund Act B.E. 2530 shall be repealed and replaced with the following provision:

“SECTION 23. Under Section 23/2 and Section 23/3, when an employee’s membership terminates on a cause other than the dissolution of the fund, the fund manager shall make payment out of the fund to the employee in accordance with the rules and procedures provided in the fund’s articles and as prescribed by Section 23/1, and such payment shall be made in one lump sum within thirty days from the date of termination of membership.

In case of termination of membership because of death, if the employee did not, by a will or in writing delivered to the fund manager, designate a person who shall receive the payment out of the fund, or has designated the person but such person died before the payment is made, the payment shall be made out of the fund under the first paragraph to the persons pursuant to the following criteria:

- (1) the children by two portions, but where the deceased has three or more children, by three portions;
- (2) the husband or wife, by one portion;
- (3) the parents, or the living father or mother, by one portion.

If the deceased has none of the persons in (1), (2), or (3), or had but such person died before the payment is made, the portion of the payment otherwise entitled to such person shall be allocated to the persons who are alive in the proportion described in the second paragraph.

If the deceased has no person who shall be entitled to the payment out of the fund as provided in the second paragraph, or has no legal heir, such amount shall devolve onto the fund.”

SECTION 11. The following provisions shall be added as Section 23/1, Section 23/2 and Section 23/3 of the Provident Fund Act B.E. 2530:

SECTION 23/1. In case of pooled fund, the fund manager shall calculate the benefit of an employee upon termination of his membership from the interest of all employees of the same employer.

In case of fund with multiple investment policies, the fund manager shall calculate the benefit of an employee upon termination of his membership from the assets in the account of the investment policy where such employee has interest.

SECTION 23/2. In cases where any employee’s membership terminates due to his retirement as specified in the fund’s article, if the retiree declares his intention to receive installment payments from the fund, the fund manager shall make such payments from the fund as intended by the retiree who shall maintain his membership for the period of time specified by the fund’s articles. Such retired employee and his employer, however, shall not make further payments of savings or contribution respective to such employee.

The installment payments from the fund shall be made in accordance with the rules prescribed by the registrar’s notification.

SECTION 23/3 In cases where any employee's membership terminates upon the end of his employment for whatever reasons, such employee shall be entitled to maintain the whole amount of the benefits he is entitled to receive within the fund as well as his membership. Such employee and his employer, however, shall not make further payments of savings or contribution respective to such employee during the period of time as specified in the fund's articles, provided that the period so specified in the fund's articles shall not be less than ninety days from the date on which his employment ends."

SECTION 12. The provision in Section 24 of the Provident Fund Act B.E. 2530 shall be repealed and replaced with the following provision:

"SECTION 24. The claim for payment out of the fund pursuant to Section 23, Section 23/2 and Section 23/3 shall be neither transferable nor subject to execution."

SECTION 13. The provision in Section 35 of the Provident Fund Act B.E. 2530 as amended by the Provident Fund Act (No. 2) B.E. 2542 shall be repealed and replaced with the following provision:

"SECTION 35. Any fund manager who fails to comply with the order of the registrar under Section 12bis, or fails to comply with Section 16, Section 17, Section 23, Section 23/1 or Section 23/2, shall be subject to a fine not exceeding fifty thousand baht."

Countersigned by:

General Surayuth Julanont
Prime Minister