

NEWSLETTER

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INSIDE THIS EDITION

1. **New International Air Carriage Law** 1
2. **Criminal Fines for Petty Offense and Sexual Harassment Updated** 2

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1. New International Air Carriage Law

The National Legislative Assembly passes the International Air Carriage Act, B.E. 2558 (2015) (the "Act"). The Act regulates the international air carriages, both carriage of passengers and carriage of goods. The Act will not apply to the postal services. The Act adopts the international practice.

First, a liability of a carrier is limited up to a specified amount. Second, any claim against a carrier must be made within a short period of time after a delivery of goods, otherwise the claim may be invalidated. Third, any claim against the carrier for the punitive damages is ruled out.

Overall, to promote international trade, any government has to keep international transportation costs low. Costly litigations especially from insurers only drive the costs up. To minimize the costs, the liability of a carrier has to be capped up to a specified amount and the circumstances under which any carrier is liable for any losses or damages has to be limited in nature.

1. Limitation of Carrier's Liability

For the carriage of passengers, the Act limits the compensation for death or damage to a body up to 113,100 special drawing right units. Any claim in excess of 113,100 special drawing right units is possible but the carrier has more grounds to reject the claim, which means a claimant will have a high burden of proof. A special drawing right is a pool of many currencies as announced by the International Monetary Fund.

For the carriage of goods the Act limits the compensation for destruction of, loss to or damages to any goods or delay to 90 special drawing right units per one kilogram, unless upon handover of the package to a carrier a consignor specifically notifies the carrier of special value and pays the additional money. Even if the consignor notifies the carrier of special value and pays the additional money, the carrier shall be liable up to the amount of the special value notified by the consignor unless the carrier can prove that the notified amount of the special value is higher than the actual amount of special value at the delivery in the destination.

2. Deadline for Filing a Claim against a Carrier

Upon delivery of the transported goods, if a person who is entitled to receive the goods takes the delivery of the goods without making any objection, it shall be prima facie (primary) evidence that the goods are delivered in good condition and in accordance with an airway bill or a receipt.

If there are any damages to the transported goods, a person who is entitled to receive the goods must notify in writing to the carrier immediately after finding such damages and within 14 days from the delivery date.

If the goods are delivered late, a person who is entitled to receive the goods must notify the carrier in writing within 21 days from the date that the person is entitled to receive the goods takes late delivery of goods.

Failure to notify the carrier within any of the aforementioned deadlines shall invalidate any right to file any claim against the carrier.

3. Exclusion of Punitive Damages

A passenger or a consigner may not claim any punitive damages against a carrier under this Act. This exclusion removes any possibility of demanding for any excessive punitive damages.

For more information, please contact our lawyers for consultation.

2. Criminal Fines for Petty Offense and Sexual Harassment Updated

The National Legislative Assembly passes the Act Amending the Penal Code (No. 22), B.E. 2558 (2015) (the "Amendment Act") updates the rates of the criminal fines for petty offenses in the Penalty Code. The petty offenses are minor crimes punishable with imprisonment of not exceeding one month or a fine of not exceeding Baht 10,000, or both imprisonment and fine as aforesaid together.

Inflation depreciates the value of paper money greatly from B.E. 2499 (1956) when the Penal Code was enacted. But the rates of criminal fines for the petty offenses have not been updated. The Amendment Act updates the rates of criminal fines for the petty offenses.

The Amendment Act also criminalizes harassment with the fine of not exceeding Baht 5,000 and sexual harassment with imprisonment of not exceeding one month or a fine of not exceeding Baht 10,000, or both.

If sexual harassment is committed by a person with a higher power over a victim due to a relationship as a superior, an employer or a person with a higher power for any other reason, the violator shall face with imprisonment of not exceeding one month and a fine of not exceeding Baht 10,000.

While the fine for the sexual harassment is quite minimal, in light of this statutory development companies may want to step up a procedure to prevent sexual harassment among workforce as this could end up in a criminal investigation.

For more information, please contact our lawyers for consultation.

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