

## ROYAL KROM

NS/RKM/0618/010

WE

**Preah Karona Preah Bath Samdech Preah Boromneath NORODOM SIHAMONI Saman  
Phoum Cheat Sasana Rokhathiya Khmerarothsas**

**Pouthitreathoramohakthat Khmereach Chorna Samohorpheas Kampuch**

**Ekareach Roth Boronaksanthi Sophekolea Sereivibolea Khmerasreipireash**

**Preahchau Krong Kampuchea Thipatei**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Kret N<sup>o</sup> NorSor/RorKorMor/0913/903, dated 24 September 2013 on the appointment of the Royal Government of Cambodia
- Having seen the Royal Krom N<sup>o</sup> 02/NorSor/94, dated 20 July 1994, on the organization and functioning of the Council of Ministers
- Having seen Royal Krom N<sup>o</sup> NorSor/RorKorMor/0105/003, dated 17 January 2005, which promulgates the Law on the Ministry of Labour and Vocational Training
- Having seen Royal Krom N<sup>o</sup> ChorNor/RorKorMor/0397/01, dated 13 March, 1997, which promulgates of the Labour Law
- Having seen the notification from Samdech Akka Moha Sena Padei Techo HUN SEN, Prime Minister of the Kingdom of Cambodia

### HEREBY PROMULGATE

The Law on Amendment of Article 87, Title "C", Section 3 of Chapter 4, Article 89, Article 90, Article 91, Article 94, Article 110, Article 120, and Article 122 of Labour Law which hereby promulgated by the Royal Krom CS/RKM/ 0397/01, dated 13 March 1997, which was adopted by the National Assembly on June 7<sup>th</sup>, 2018, during the 10<sup>th</sup> Session of the National Assembly of the 5<sup>th</sup> Legislature, and was completely checked on the format and legalized by Senate on June 15<sup>th</sup>, 2018 during the 1<sup>st</sup> Plenary Session of the 4<sup>th</sup> Legislature, with the details as follows:

**LAW**

**On**

**The Amendment of Article 87, Title "C", Section 3 of  
Chapter 4, Article 89, Article 90, Article 91, Article  
94, Article 110, Article 120, and Article 122 of the  
Labour Law, hereby promulgated by the Royal Krom  
CS/RKM/ 0397/01, dated 13 March 1997**

## **Article 1**

Article 87, title "C", Section 3 of Chapter 4, Article 89, Article 90, Article 91, Article 94, Article 110, Article 120, and Article 122 of Labour Law which hereby promulgated by the Royal Krom CS/RKM/ 0397/01, dated 13 March 1997 are amended as follows:

### **Article 87(New)**

For the change occurs in the legal status of the employer, particularly by succession or inheritance, sale, merger or transfer of fund form a company, all labour contracts in effect on the day of the change remains binding between the new employer and the worker of the former enterprise.

The contract can be terminated only under the conditions laid down in the present section.

The closing of an enterprise, except for acts of God, does not free the employer from the obligations as stated in this section III. Bankruptcy and judicial liquidation are not considered as acts of God.

For damages and compensation in lieu of prior notice shall not be applicable in the event of the closing of the establishment, enterprise, in the conditions set out in the Prakas of the Minister in charge of Labour.

### **C. Seniority Payment -New**

#### **Article 89(New)**

Employers shall provide employees (workers) who are still working a seniority payment equal to 15 days per year of a sum of wages and other payments. Every six months, the employer shall pay the employee half of seniority bonus.

If Unfixed Duration Contract( UDC) is terminated by the employer according to the labour law, the employer is required to grant the employee/worker whose the remaining seniority period from 1 month to 6 months a seniority payment equals to 7 days of a sum of wage and other payments. In the case of labour contract is terminated by the serious misconduct of the worker/employee, the seniority payment is not granted.

The employer has also to pay the seniority payment to the worker/employee if the worker is terminated for reasons of illness.

The scope and form of the seniority payment's implementation shall be determined by the Prakas of the Minister in charge of Labour.

**Article 90(New)**

Besides the seniority payment which has to pay to worker/employee, the worker/employee can claim for the damages in the event that the resignation happens from the bad feeling of employer to push the workers/employee to terminate the contract. While employers unfairly employ or frequently violate any terms of the labour contracts, the employers have to pay the employee's seniority payment and damages.

**Article 91(New)**

The labour contract termination made by the willingness of any party without valid reasons, each party shall be able to claim for the damage from another party.

These damages are not the same as the compensation in lieu of prior notice or the seniority payment.

The worker/employee can claim to be given a lump sum equal to the seniority payment and shall receive during the employment contract. In this case, he/she is free the obligation to proof the damage incurred.

**Article 94(New)**

Without prejudice to the provisions of Article 91 (New) above, the damages to be paid in the case of a breach of the labour contract without valid reasons, as well as those owed by the employer as per provision of Article 90 (New) above, are determined by the competent court and based on local custom, the type and importance of the service rendered, the worker's seniority and age, the pay deductions or payments for pension, and generally, on all circumstances that can justify the existence and the extent of the harm incurred.

**Article 110(New)**

The employer shall include the commissions or gratuities, if any, when calculating remuneration for paid holiday, seniority payment in the event of Fixed Duration Contract termination and for damages in the event of termination of the labour contract without prior notice, or for an abusive breach of the labour contract. The calculation is based on the average monthly commissions or gratuities which previously received within a period not to exceed the twelve months of the service up to the date of leave or termination.

**Article 120 (New)**

*Unofficial translation by CAMFEBA*

The rights to compliant for wage claim shall be expired within 3 (three) years after the date of the wage payment. The claim that is under the expiration date of this rights includes net wages, other payment of wages and all the claim of employee/worker that happen under the labour contract including final payment which is receivable in the event of employment termination .

### **Article 122(New)**

Wage that owe the employee/worker, including domestics or household servants, shall take Privilege over the movable or immovable assets of the debtor within the last 6 (six) months prior to the declaration of bankruptcy or the court-ordered liquidation on the employer.

Sale agents and commercial representatives have first Privilege for commission and remittances earned for the last 6 (six) months prior to the declaration of bankruptcy or court-ordered liquidation.

The privilege established under this article shall also applies for the claims of employee/worker for paid holidays and seniority payment.

### **Article 2**

The calculation and the seniority payment of the workers who have fulfilled their duties before this law comes into force shall be shall be determined by the Prakas of the Minister in charge of Labour.

### **Article 3**

This law is urgently promulgated.

**Royal palace, Date 26<sup>th</sup> June 2018**

**Signature and seal**

**NORODOM SIHAMONI**

PRL 1806.667

**Submitted for the Signature of the King**

**Prime Minister**

**Signature**

**Hun Sen**

**Submitted to the Prime Minister Hun Sen**

**From Minister of Labour and Vocational Training**

**Signature**

**Ith SamHeng**

**No. 677 SN**

*Unofficial translation by CAMFEBA*

**For distribution**

**Phnom Penh, June 28<sup>th</sup>, 2018**

**Deputy Secretary - General of the Royal Government**

**(Signed and sealed)**

**Soy Sokha**