Preah Reach Kram (Royal Code)

NS/RKM/0618/010 **I**

Preah Karona Preah Bat Samdech Boramneat Norodom Sihamoni
Saman Phum Cheat Sasna Rakha Thayea Khemra Rathreas Puthitrie Mohakasat Khereanea Smou Hotas Kampu Ekreach Rathboranak Sante Sopheakmanglea Sereyvibola Khemra Srey Pireas, Preah Chao Krang Kampuchea Thibpadey

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen Royal Decree No. NS/RKT/0913/903 dated 24 September 2013 on Appointment of the Royal Government of the Kingdom of Cambodia
- Having seen Royal Code No. 02/NS/94 dated 20 July 1994 promulgating the Law on Organization and Functioning of the Council of Ministers
- Having seen Royal Code No. NS/RKM/0105/003 dated 17 January 2005 promulgating the Law on Establishment of Ministry of Labour and Vocational Training
- Having seen Royal Code Ch.N./RKM/0397/01 dated 13 March 1997 promulgating the Labour Law
- Having seen the submission of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia

Promulgate

The Law on Amendment to Article 87, Point "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 promulgated by Royal Code Ch.S/RKM/0397/01 dated 13 March 1997, approved by the National Assembly on 7 June 2018 in the National Assembly's 10th session of the 5th legislature and which the Senate has completely reviewed all the legal format and legality on 15 June 2018 during the 1st plenary session of the 4th legislature has the full content as follows:

Law

On
Amendment to Article 87, Point “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 promulgated by Royal Code Ch.S/RKM/0397/01 Dated 13 March 1997

Article One
Article 87, Point "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 promulgated by Royal Code Ch.N/RKM/0397/01 dated 13 March 1997 shall be amended as follows:

Article 87 (new)
If a change occurs in the legal status of the employer, particularly by assignment or inheritance, sale, merger or transference of fund to form a company, all labor contracts in effect on the day of the change remain binding between the new employer and the workers/employees of the former enterprise.

The contracts cannot be terminated except under the conditions laid down in the present Section.

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

Damages and compensation in lieu of prior notice shall not be applicable in case of closing enterprise/establishment in accordance with the conditions stipulated in a Prakas of the Minister in charge of labour.

C (new) - Seniority Indemnity

Article 89 (new)
The employer shall provide workers/employees who are working with seniority indemnity which is equal to 15 (fifty) days per 1 (one) year. Every 6 (six) months, the employer shall pay workers/employees this seniority indemnity in half.

If an undetermined duration contract is terminated by the employer side in accordance with the provisions of the Labour Law, the employer shall provide workers/employees who have their remaining seniority from 1 (one) month to less than 6 (six) months with seniority indemnity which is equal to 7 (seven) days of wage and other benefits. In case this employment contract termination results from the worker/employee's serious misconduct, the seniority indemnity is not provided.

The employer shall also pay workers/employees this seniority indemnity in case of termination due to sickness.

The scope and formality of the implementation of this seniority indemnity shall be determined by a Prakas of the Minister in charge of labour.

Article 90 (new)
Besides the seniority indemnity to be paid to workers/employees, workers/employees can claim damages in case their termination results from the employer's evil actions to push the workers/employees into terminating the contract themselves. If the employer treats the worker/employee unfairly or repeatedly violates the terms of the contract, he also has to pay seniority indemnity and damages to the worker/employee.

Article 91 (new)
The termination of a labor contract without valid reasons, by either party to the contract, entitles the other party to damages.

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

The worker/employee, however, can request to be given a lump sum equal to the seniority indemnity and shall receive during the period of the employment contract. In this case, he is relieved of the obligation to provide proof of damage incurred.

Article 94 (new)
Without prejudice to the provisions of Article 91 (new), the damages owed in the case of a breach of the labor contract without valid reasons, as well as those owed by the employer as per the provisions of Article 90 above, are determined by the competent court and based on local custom, the type and importance of the services rendered, the worker/employee's seniority and age, the pay deductions or payments for a retirement pension, and, in general, 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, and when calculating seniority indemnity in the event of termination of undetermined duration contract and when calculating damages in the event of termination of the labor contract without prior notice or due to an abusive breach of the labor contract. The calculation is based on the average monthly commissions or gratuities previously received over a period of not exceeding 12 (twelve) months of service up to the date of leave or termination of work.

Article 120 (new)
A lapse of a lawsuit [the statute of limitations] for the payment of wages is three years from the date the wage was due.

Claims subject to the lapse of lawsuit include the actual wage, perquisites and all other claims of the worker/employee resulting from the labor contract, as well as the indemnity in the event of employment contract termination.

Article 122 (new)
Wage claims of the workers/employees, including domestic or household servants, shall take priority over the movable or immovable properties of the debtor within the last 6 (six) months prior to the declaration of bankruptcy or the court-ordered liquidation of the employer.

Sales agents and commercial representatives have priority for commissions and remittances earned for the last 6 (six) months prior to the declaration of bankruptcy or court-ordered liquidation.

Priority established by this article also applies to the claims of workers/employees for paid holidays and seniority indemnity.

Article Two
The calculation and payment of seniority of workers/employees who have worked before this law takes effect shall follow the formality determined by a Prakas of the Minister in charge of labour.

Article Three
This law shall be declared as a matter of urgency.

Royal Place, 26 June 2018
Signature and stamp
Norodom Sihamoni

PRL. 1806.667
Submitted to His Majesty
for signature
Prime Minister
Signature
Samdech Akka Moha Sena Padei Techo Hun Sen

Submitted to
Samdech Akka Moha Sena Padei Techo Hun Sen
Minister of Labour and Vocational Training
Signature
Ith Sam Heng
No: 677 S.N
Certified copy for dissemination
Phnom Penh, 28 June 2018
Secretary General of the Royal Government
(signed and stamped)
Soy Sokha