

**KINDOM OF CAMBODIA
NATION-RELIGION-KING**

Ministry of Labour and Vocational Training

No: 050/19 កែប/ស.ណ.ន.ត.ប.ក

**Instruction
On
Determination of Type of Employment Contract**

The Ministry of Labour and Vocational Training would like to inform owners or directors of factories, enterprises, establishments, employer associations, unions and employee who are under the scope of Labour Law that in order to clarify on the determination of type of employment contract as stipulated in chapter 4 part 1 of Labour Law, the Ministry would like to instruct as follows:

1. Fixed Duration Contract (FDC):

- A.** The FDC is the employment contract which is made for a specific duration. This contract shall be made in writing with clear starting and ending date.

The FDC shall be made with unspecified ending date unless that contract is made for:

- Replacing a worker who is temporarily absent
- For seasonal work
- Occasional period of extra work or the non-customary activity to the enterprise.

In this case, this contract shall be finished by:

- Returning to work of the worker who was temporarily absent or the termination of labor contract of those workers/employee
- At the end of season
- At the end of the occasional period of extra work or the non-customary activity to the enterprise.

- B.** Shall be considered as FDC with unspecified date for the contracts of daily or hourly workers who are hired for a short-term job and who are paid at the end of the day, the week or fortnight period.

- C.** Based on Article 67 point 2 of Cambodia Labour Law, the employment contract signed with consent for a specific duration cannot be longer than two years. It can be renewed once or many times, as long as the renewal does not surpass the maximum duration of two years. In the event of renewal surpass the maximum of two years; the FDC shall become undetermined duration contract.

Example:

- If the first FDC has the specific duration for 6 months, thus the maximum duration of this contract is 2 years and 6 months.

- If the first FDC has the specific duration for 1 year, thus the maximum duration of this contract is 3 years.
- If the first FDC has the specific duration for 2 years, thus the maximum duration of this contract is 4 years.

Therefore, the FDC shall have the maximum duration of 4 years includes both the first contract and renewal. Surpass this period; the FDC will automatically become the Undetermined Duration Contract (UDC).

In case, the FDC has reached the maximum duration allowed by law, the employers can sign another new FDC with the same employee in the same position or similar unless there is at least one month the break period between old contract and new contract by consent from both parties. Otherwise, this new contract will be considered as the renewal contract from the previous one which will become the Undetermined Duration Contract. But, this requirement shall not be applicable for the renewal of FDC which made for replacing a worker who is temporarily absent, work carried out during a season, occasional periods of extra work or a non-customary activity of the enterprise as stipulated in article 67 point 3 of Cambodia Labour Law.

2. Duration of Probationary Contract:

The duration of the probationary contract is refer to a period which employer can judge on capacity, skill, talent and commitment of employee as well as the duration for employee to understand the certain working condition which provided by employer. Therefore, in the event this contract is terminated anytime during or at the expiration of probation contract, this duration will be excluded from the severance pay calculation for Fixed Duration Contract (FDC) or payment of seniority indemnity for Unspecific Duration Contract (UDC).

Ministry would like to also confirm that based on the article 68, paragraph 1 of Cambodia Labour Law has clearly stated that the probationary period cannot be last longer than three months for regular employees, two months for specialized workers and one month for non-specialized workers. This contract must not subject to be continuing or renewal even though there is consent from both parties.

Ministry of Labour and Vocational Training strongly hope that the owners or director of factories, enterprises, establishments, employer associations, unions, employees who are under the scope of Cambodia Labour Law correctly and effectively implement in accordance to the spirit of this instruction.

Phnom Penh, 17 May 2019

Minister

CC:

- Office of Council of Ministers
- Cabinet of Sam Dech Akkeak Moha Sena Pakdey Techo
prime minister of Cambodia
- Cabinet of Sam Dech, His Excellency Deputy prime
minister
- Relevant institutions
"Be notify"
- Provincial department of labour and vocational training
- All unions and employers associations
"Be implementing"

(Signed and stamped)

Ith Sam Heng