

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

Ministry of Labour and Vocational Training

No. 058/19 ក.ប.ស.វ.ក.ប.ស.វ.ក.ប.ស.វ.

**Instruction
On
Payment of New Seniority Indemnity Each Year from 2019**

The Ministry of Labour and Vocational Training would like to inform owners or directors of enterprises/establishments, professional organizations and workers/employees who are under the scope of Labour Law that, to effectively implement in accordance to the spirit of the Prakas 443 ក.ប.ស.វ.ក.ប.ស.វ.ក.ប.ស.វ., dated 21 September 2018 on Payment of Seniority Indemnity, all owners or directors of enterprises/establishments, professional organizations and workers/employees shall follow instructions below:

I. How to count Seniority

From 2019 onward, the seniority of workers/employees to be paid the payment of seniority indemnity shall be counted once per semester (6 months): the first semester starts from January to June and the second semester starts from July to December.

Passed-probation workers/employees who have worked from 1 month to 6 months in each semester and have worked until the end of each semester: June and December, the workers/employees can receive a payment of seniority indemnity equals to 7.5 days of average wages and other benefits each semester.

In the event that workers/employees resign before the end of June or December, they will not receive seniority indemnity in each semester.

II. How to calculate seniority indemnity

From 2019, for passed-probation workers/employees who have worked with seniority as stipulated in the conditions in Point "I" above, the calculation of payment of seniority indemnity shall be implemented as follows:

- ❖ First: must calculate average wage and other benefits per month

$$\text{Average wages and other benefits per month} = \frac{\text{Wages and benefits per semester}}{6 \text{ months or actual months worked}}$$

- ❖ Second: must calculate average wage and other benefits per day

$$\text{Average wages and other benefits per day} = \frac{\text{Monthly average wages and benefits}}{30}$$

22 days or 24 days or 26 days
(Base on the working days of each enterprise/establishment)

So, the payment of seniority indemnity to be paid each semester is:

Payment of seniority indemnity each semester = average wage and other benefits per day x 7.5
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III. How to settle payment of seniority indemnity

This payment of seniority indemnity shall be paid with the wages that the workers/employees receives in the second wages payment (two times payments per month) for June and December.

The employer shall separate the monthly wages and payment of seniority indemnity to conveniently implement tax obligation.

IV- Termination of workers/employees

- A.** In case, the employer terminates the worker/employee without valid reasons, the worker/employee shall entitle:
1. Wages that has not been paid.
 2. Payment in lieu of prior notice in case employer failed to give prior-notice in accordance to the applicable law and regulations.
 3. Payment in lieu of annual leave.
 4. The payment of seniority indemnity in any semester that the worker/employee is terminated, which equals to 7 days of wages and other benefits if the worker/employer still has seniority from 1 month to below 6 months.
 5. The total payment of pre-2019 seniority indemnity which the employer has not paid.

Beside the above 4 points, workers/employees can also claim for damages which equal to payment of seniority indemnity that the workers/employees are entitled to be received, but shall not exceed 6 months of wages and other benefits. In this case, the workers/employees are free from an obligation to provide evidence to prove their damages. By the way, the employer also has no obligation to pay as requested by the workers/employees. In case of no agreement, the workers/employees can file a complaint to the competent court.

- B.** In the event that the employer terminates a worker/employee due to serious misconduct, the worker/employee shall receive:
1. Wages that has not been paid.
 2. Payment in lieu of the remaining annual leave

V. Overall Principle

1. The seniority of worker/employee for calculating the payment of seniority indemnity shall be counted from the signing date of the employment contract by excluding probationary period.
2. Passed-probation worker/employee who has worked in the enterprise/establishment for at least 21 days shall be considered as having completed work for one month and will be entitled for payment of seniority indemnity.
3. Wages and other benefits taken as a basis for calculating seniority indemnity from 2019 are the wages and other benefits before tax.

4. For worker/employee who retired or death from 2019 onward, employer shall provide the worker/employee or his/her inheritor as follow:
 - The remaining payment of pre-2019 seniority indemnity.
 - The payment of seniority indemnity in any semester that the worker/employee has retired or death, equal to 7 days of wages and other benefits if the worker/employee has remaining seniority from 1 month to below 6 months.
5. The period of maternity leave, work-related accident and sick leave shall be included in seniority period for calculating payment of seniority indemnity. By the way, other benefits such as occupational risk and health care benefits which received during these leaves shall not include in payment of seniority indemnity calculation.
6. From 2019 onward, in every second wages payment in June and December of each year, worker/employee shall receive as below:
 - Second Wages payment for June and December
 - Payment of new seniority indemnity for that semester equals to 7.5 days
 - Seniority indemnity before 2019 if have
7. For payment of seniority indemnity in each semester, the employer and worker/employee shall keep the documents as evidence which contain the signature or thumbprint of consent of either parties or equivalent documents.

The Ministry of Labour and Vocational Training strongly hopes that the owners or directors of enterprises/establishments, employer associations, unions as well as workers/employees covered by the Labour Law will implement this instruction properly and ensure high effectiveness.

Phnom Penh, 10 June 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"
- Achieved

(Signed and Sealed)

Ith Sam Heng