



DECENT WORK CHECK

CAMBODIA 2023

Iftikhar Ahmad

WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
2. Prakas On Wage Payment for Workers/Employees (MoLVT No: 442 K. B/Br.K. Kh)
3. Prakas on Overtime Work of Normal Work Hours (80/1999)
4. Arbitration Council Awards 78/2004
5. Prakas No. 248 K.B/Br.K
6. Civil Code, 2007
7. Prakas on Special Leave (76/1998; 267/2001)
8. Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999)
9. Arbitration Council Awards (25/2008, 23/2008, 08/2007)
10. Organization and Functioning of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, 4 October 1999 (Anukret 87/ANKR-BK)
11. Prakas 243/2002
12. Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law, 2002
13. Criminal Code
14. Protection and Promotion of the Rights of Persons with Disabilities prohibits discrimination on the basis of disability, 2009
15. Prakas on the Prohibition of Hazardous Child Labour (106/2004)
16. Law on Education, 2007
17. Prakas on registration procedure, advertisement, and observation on the collective bargaining agreement (287/2001)
18. Law on Trade Unions, 2016

The text in this document was last updated in June 2023. For the most recent and updated text on Employment & Labour Legislation in Cambodia in Khmer, please refer to: <https://km.prake.org/>

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Cambodia has not ratified the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Prakas On Wage Payment for Workers/Employees (MoLVT No: 442 K. B/Br.K. Kh)

Minimum Wage

In accordance with the provisions of the Labour Code 1997, workers' salaries must at least be equal to the minimum wage, ensuring every worker a decent standard of living consistent with the human dignity.

Minimum wage rate is set by Ministry of Labour and Vocational training in consultation with Labour Advisory Committee through Prakas (Ministerial Orders). Minimum wage rates must be set without any distinction on the basis of professions or jobs. However, minimum wages may vary according to the region, depending on the economic conditions and cost of living. Same factors are considered while adjusting the minimum wage. Minimum wage is determined by considering the needs of workers and their families in relation to the cost of living, social security allowances, general level of wages in the country and the comparative standard of living of other social groups. Requirements of economic developments, productivity and achieving and maintaining high level of employment are also taken into consideration while determining minimum wage.

The minimum wage for piece-rate employees in the garment, textile and footwear industries is also the same as regular employees. In case, it is less than the above referred minimum wage,

employer has to add the remaining amount to make it equivalent to the minimum wage.

Workers are also entitled to seniority bonus after first year of service, ranging from USD2-11 per month, equal to the year of service except those who have seniority beyond 11 years, they receive seniority bonus of the 11th year, i.e., USD11 per month. The other bonuses include attendance bonus, health care allowance, and housing/transportation allowance.

The 2018 Law on Minimum Wage provides for a National Council on Minimum Wage (a tripartite body with equal representation from all partners) with the following responsibilities: conducting scientific study on minimum wages; recommend minimum wage rates to the Ministry; and disseminate and raise awareness and promote social dialogue on minimum wage.

The key factors in determining the minimum wage include inflation rates, living expenses, productivity, competition, job market status and profitability of a particular industry. The Council is required to discuss minimum wage levels every year. Once the Council recommends a minimum wage rate, the declaration is issued by the Ministry of Labour and Vocational Training through Prakas.

Failure to provide a minimum wage may subject an employer to a fine of up to KHR 40,000,000. In the case of payment lower than the specified minimum wage, employers are required to pay back the full amount to such workers as well as the interest at a rate applicable by law.

An employer who fails to pay wages at least equal to the guaranteed minimum wage is liable to a fine of 61-90 days of base daily

wage or to imprisonment for between six days and one month. The daily base wage is the minimum wage set by the government by ministerial order. Joint Prakas No. 659 specifies such daily base wage as 40,000 riels.

Sources: §104 & 107 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2007; Joint Prakas No. 659 Dated 06 June 2016; Law on Minimum Wage 2018

For more information on recent minimum wage rates, please refer to the section on minimum wage.

Regular Pay

Wage is the remuneration for the employment or service and is payable in cash as set by agreement or by the national legislation, and is given to a worker by an employer, by virtue of a written or verbal contract of employment or service, either for work already done or to be done or for services already rendered or to be rendered.

The term "wage" includes, in particular actual wage or remuneration; overtime payments; commissions; bonuses and indemnities; profit sharing; gratuities; the value of benefits in kind; family allowance in excess of the legally prescribed amount; holiday pay or compensatory holiday pay; and the amount of money paid by the employer to the workers during disability and maternity leave. The following items are however not included in wage calculation: health care expenses; legal family allowance; travel expenses; and benefits granted exclusively to help the worker perform his/her job.

Employers are required to inform the workers in a precise and easily comprehensible fashion the wage related terms before they are assigned to a job or at any times these terms change and the items that make up their wage for every pay-period when there is a change in the items.

For piecework or product work that is to be executed for longer than fifteen days, the dates of payment can be fixed by agreement however the labourer must receive partial payments every fifteen days and be paid in full in the week following the delivery of the work. In the event of contract termination, wage and indemnity of any kind must be paid within forty-eight hours following the date of termination of contract. In case of an unjustified delay in the payment of wages, the Labour Inspector shall serve notice on the employer to pay the wage of his workers by setting the deadline by which payment must be made. Employers are prohibited from restricting the worker's freedom to using wages at his/her own disposal.

In accordance with the Labour Code, an employer is obliged to pay wages at least twice a month, in sixteen (16) day intervals to the labourers (who are involved in manual labour); or at least once a month to the employees; or within a week on delivery of work for piecework. Commissions of sales representatives must be settled at least once every 3 months. Wages are paid in cash, directly to the workers (unless agreed otherwise) on working day at or near the workplace. The employer must pay in advance, if payment day falls on a holiday. In accordance with the Prakas On Wage Payment for Workers/Employees, all employers must pay the employee salaries twice every month. First payment, 50% of the monthly wage, is received during the second week of month. The second

payment, remainder of monthly wage, is paid at the end of fourth week of the month.

Generally, employer is not allowed to deduct wages except to pay for the actual cost for tools and equipment that the employee does not return; or the items and materials under the control and usage of the employee; or the amounts owed to the company store, provided that the amount deducted from an employee's wages must not cause the employee to take home less than the minimum wage. Employer can also make deductions for payment of union dues by the union members. Collective agreements authorizing any wage deductions other than these cases are null and void.

Deduction of wages is prohibited in exchange for job placement; or if worker refuse to eat at company's canteen; or to punish them for misconduct or refusing to work overtime; or charge employees more than the real cost of replacing lost ID cards; or charge employees any amount for the mandatory medical checks.

An employer should provide pay slips to all employees on each pay day. These pay slips should be in Khmer and show the calculation of wages along with items.

Sources: §102-133 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/ 01 of 13 March 1997 (amended in 2018); §1 of Prakas On Wage Payment for Workers/ Employees (MoLVT No: 442 K. B/Br.K. Kh)

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Cambodia has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Prakas on Overtime Work of Normal Work Hours (80/1999)
- Arbitration Council Awards 78/2004

Overtime Compensation

Normal working hours are 8 hours a day and 48 hours a week. Workers may be required to work overtime, provided that total working hours, inclusive of overtime, must not exceed ten (10) hours per day, except for a case of preventing a disaster or repairing damage caused by a disaster.

Employers may set the normal working hours in such a way that employees get Saturday afternoon, as well as Sunday, off. However, the normal working hours must not exceed 9 hours per day. Overtime is the work done in excess of normal working hours. Overtime is allowed only for exceptional and urgent work. Workers must be allowed to choose whether they want to work overtime or not. Employers cannot impose any penalty on workers who choose not to work overtime. Employers are required to get permission from the Ministry of Labour before giving overtime work to employees. The overtime authorization letters issued by the Ministry of Labour, limit overtime to 2 hours per day. To make up for the hours lost due to interruption in certain cases, overtime of one hour per day is also allowed for 30 days per year.

An employer is required to pay at least 150% of the wage if overtime work is performed during the day on normal working days and 200% of the wage if overtime work is

performed during the night hours (22:00 to 05:00).

The same higher rates are applicable to the piece-rate employees who work overtime. The piece-rate employees are entitled to an additional 50% payment for overtime work performed during normal overtime hours and an additional 100% for overtime performed during night hours, Sunday or a public holiday. Employees who work overtime must receive 2,000 riels per day for a meal or receive one free meal every day on which they work overtime.

Several articles of the 1997 Labour Law have been amended by the Royal Order No. NS/RKM/1021/011 dated 5 October 2021. Under the amended article 138 of the Labour Law, enterprises can now divide the work schedule into three shifts (morning, afternoon, and night) while limiting each shift to eight hours, i.e., the maximum daily work hours. Prior to the amendment, the Labour Law allowed the division of work into two shifts only (morning and afternoon).

Sources: §137-140 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Prakas on Overtime Work of Normal Work Hours (80/1999); Arbitration Council Awards 78/2004

Night Work Compensation

In accordance with the Labour Code, night work is a period of at least 11 consecutive hours including the period from 22:00 to 05:00 of the following day.

Night work is paid at the premium rate of 130% of the normal hourly salary paid during the day. If the night work is

performed as overtime, it is paid at 200% of the normal wage rate during the day. Employers are required to provide the night workers with sleeping place or otherwise provide them with the transportation when they finish work at night.

Sources: §137 & 144 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Prakas on Overtime Work of Normal Work Hours (80/1999)

Sources: §139 & 164 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Compensatory Holidays / Rest Days

In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. Instead of getting higher wages for working on weekly rest day, workers get a compensatory day off in lieu of the rest day during the following week. There is no provision for compensatory holiday for workers working on a public holiday.

Sources: §151 & 152 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances when employees have to work on official holidays, they are entitled to receive wages at a premium rate of 200% of the normal hourly wage rate. Workers working on weekly rest days are entitled to premium pay at the rate of 200% of the normal wage rate.

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.
In addition, for several industries, different Conventions apply.

Cambodia has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

Regulations on annual leave and holidays:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Prakas No. 248 K.B/Br.K

Paid Vacation / Annual Leave

The Labour Law provides for annual leave to all workers on completion of one year of service. The full-time workers, working 48 hours a week, are entitled to 1.5 days of annual leave for one month of service. This means 18 working days for 12 months of service. Employees working less than 48 hours per week get annual leave on a pro-rata basis. For example, workers working 40 hours per week are entitled to 1.25 working days of annual leave per month of service which equals 15 working days of annual leave. Similarly, those working 24 hours per week are entitled to 9 working days of annual leave (0.75 days of leave for one month of service).

Annual leave also increases with the length of service. The increase in annual leave is one day of extra leave for every 3 years of continuous service. A worker is entitled to his normal wages in the duration of his/her annual leave. The payment has to be made before leave is taken. The payment for annual leave is based either on employee's average actual earnings during the year prior to taking leave or daily wages the employee would have been paid if they went to work, whichever is higher.

In general, annual leave is given for Khmer New Year unless there is an agreement between the employer and worker. In the case of annual leave exceeding 15 days, employer may grant the remaining annual

leave at some other time during the year however splitting of leave is not allowed for children under 18 years and apprentices.

If the employment contract expires before a worker could acquire the right to annual leave, compensation for leave is made in proportion to the number of months and numbers of hours worked in a week. Apart from this provision, any agreement, collective agreement or other agreement, providing compensation in lieu of annual leave or renouncing or waiving the right to paid annual leave is null and void. A worker may however accept to defer all or part of his annual leave until the termination of contract. Nonetheless, such deferment cannot exceed three consecutive years and can apply only to the leave exceeding 12 working days per year.

Sources: §166-170 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Pay on Public Holidays

Workers are entitled to paid days-off during Festival (public and religious) holidays. These include memorial holidays and religious holidays (Buddhist origin).

Public Holidays are set by Prakas (decrees) every year. According to the Praka issued by the Ministry of Labour and Vocational Training, workers are entitled to following public holidays in 2018: International New Year Day (1 January), Victory Day over Genocide (7 January), Meakh Bochea Day (31 January), International Women's Day (8 March), Khmer New Year Days (14-16 April: 3 days), International Labour Day (1st May), Visak Bochea Day (29 April), Royal Plowing Ceremony (3 May), King Norodom Sihamoni's Birthday (13-15 May: 3 days),

International Children's Days (1st June), Queen Monineath's Birthday (18th June), Pchum Ben Days (08-10 September: 3 days), Constitutional Day (24th September), Respect the spirit of the late King Father (15th October), Paris Peace Agreement Day (23rd October), Coronation Day of King Sihamoni (29th October), Water Festival (21-23 November: 3 days), National Independence Day (9th November), and International Human Rights Day (10th December).

If a public holiday falls on a Sunday, workers are given a day-off on the following working day. Several articles of the 1997 Labour Law have been amended by the Royal Order No. NS/RKM/1021/011 dated 5 October 2021. Under the amended article 162 of the Labour Law, workers no longer get a substitute day off when a public holiday falls on a Sunday. Cambodia has one of the highest public holidays in the world. Depending on the number of public holidays falling on Sundays, the amendment has the potential to reduce the effective number of public holidays for workers.

The dates of Visak Bochea Day, Royal Plowing Ceremony Day, Pchum Ben Days, and Water Festival change every year.

Sources: §161-165 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Praka No. 248 K.B/Br.K; Praka No. 416 K.B/Br.K 2016; Praka No. 493 of 2018

Weekly Rest Days

Workers are entitled to 24 consecutive hours of rest per week. Labour Law requires that weekly rest day, in principle, should be

Sunday for all employees. In case, providing the same day-off for all staff is detrimental to the public or jeopardizes the normal operation of the enterprise, weekly rest may be provided on day other than Sunday or from Sunday noon to Monday noon or by providing it on rotation basis for all staff. However, permission must be sought from the Ministry of Labour.

Law permits many industries to rotate the weekly rest day which include, among others, the manufacturers of food stuffs intended for immediate consumption, hotels, restaurants and bars, industries using materials that rapidly deteriorate, hospitals, hospices, health clinics, utility suppliers, industries performing work for safety, sanitation or public utility.

In the event of urgency that the work must be carried out immediately for preventing imminent accidents or to repair damages to the materials or facility installations or building of the establishment, the weekly time-off may be suspended for the staff required to perform such urgent work. The suspension of weekly time-off under emergency measures is not applicable to women and young workers under 18 years of age.

Guards and caretakers in industrial and commercial establishments who cannot take day-off on Sunday must have a compensatory time off on another day of the week. In retail food stores, the weekly break can be given from Sunday afternoon to Monday afternoon or by rotating the shift for a one-day break per week. The weekly rest day may be cancelled upon authorization from the Labour Inspector if it coincides with a local public holiday. Each worker deprived of the weekly break must be given a compensatory time off in the following week. In enterprises where bad weather results in unplanned days-off,

these forced days-off can be deducted from weekly breaks up to a maximum of two days per month.

If the weekly rest day is provided collectively to all workers on one day, legible notice indicating the days and hours of the time-off must be posted in a conspicuous place at the workplace. If the weekly rest day is not provided collectively, there must be a special list indicating the names of workers subject to particular weekly rest schedule.

If the employer wants to suspend the weekly rest day, he must request authorization from the Labour Inspector and, except for force majeure, must do so before the work commences. The employer must explain to the Labour Inspector about the circumstances justifying the suspension of the weekly rest, indicate the date and duration of the suspension, specify the number of workers to which the suspension applies, and indicate the plan for providing compensatory time off. If the Labour Inspector refuses to authorize the suspension of the weekly rest, he must inform the employer in writing within four days upon receipt of the request. Lack of notification is considered valid authorization for suspension of the weekly rest.

Labour Law does not clearly specify rest breaks (during working hours) and daily rest periods (except for young workers where it specifies at least 11 hours of night rest for young workers). Relevant prakas could not be located.

Sources: §145-160 and 176 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Cambodia has not ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Civil Code, 2007

Written Employment Particulars

The employment contract establishes working relations between the worker and the employer. It is subject to common law and can be made in a form that is agreed upon by the contracting parties. Individual employment contract may be of definite or indefinite period and may be concluded in writing or orally. Employment contract can be written or oral, may be drawn up and signed between the two parties before commencement of employment. The contract must also be registered at no cost, if registration is required. The verbal contract is considered to be a tacit agreement between the employer and the worker under the conditions laid down by the labour regulations, even if it is not expressly defined.

An employment contract is an agreement in which one person (the employee) agrees to work for wages for another person or company (the employer). The Civil Code provides that a labour contract must contain a description of the following: wages, working hours, and other working conditions. The term “working conditions” includes wage, hours or work, night work, weekly rest, paid annual leave, public holidays, and special leave. Labour Law requires fixed term contracts to be in writing. Indefinite term contracts may be concluded verbally.

Contracts are further regulated through Decree on Contract and Other Liabilities (No. 38 of 28 October 1988)

Sources: §65 & 66 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); §664 & 665 of Civil Code, 2007

Fixed Term Contracts

Cambodian labour Law allows hiring of fixed term contract workers for tasks of permanent nature. A contract is a fixed term contract if it is written; its duration is no longer than 2 years; and has a precise starting and end date. A fixed term contract may be renewed many times however the total duration (including renewals) cannot exceed 02 years.

A fixed duration contract may have an unspecified end date if it is concluded for replacing a worker who is temporarily absent; for work carried out during a season; and occasional periods of extra work or non-customary activity of the enterprise. Such contract expires on the return of temporarily absent employee; end of the season; and end of the occasional periods of extra work or non-customary activity of the enterprise. Contracts of daily or hourly workers who are hired for a short-term jobs and are paid at the end of the day, the week or fortnight, are considered to be contracts of fixed duration with an unspecified date. The contracts without a precise end date can be renewed as many times as possible until the objective condition (for signing them at the first place) remains.

Employer is required to inform the worker of the sensitive issues and the approximate

duration of the employment contract. A fixed duration contract must be in writing otherwise it is considered a contract of indefinite duration. If a fixed term contract is signed for a period of less than two years however the worker continues to work after the end of that fixed period, employment contract is changed into a contract of indefinite duration.

Sources: §67 & 73 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Probation Period

At the beginning of an employment contract, the employer can set a probationary period of up to 3 months in order to evaluate the skills and aptitude of an employee.

The probationary period should be long enough to judge the professional worth of the worker and for worker to know completely about the working conditions at the workplace. The maximum duration of probationary period as specified by the law is:

- 3 months for regular employees;
- 2 months for specialized workers; and
- 1 month for non-specialized workers (unskilled workers).

During probation, employer must cover the travelling cost of the worker employed far from his/her residence. An employment contract can be terminated by either of the parties without giving any notice during the probationary period or an apprenticeship period specified in the contract.

Sources: §68 & 82 of the Labour Law,

promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Notice Requirement

A fixed term contract terminates at the end of its term or by cancellation by either of the parties. The cancellation by either of the parties is either by agreement or on account of serious misconduct. A fixed term contract can also be cancelled, without agreement of the parties, in the event of force majeure (acts of God). The cancellation of contract by agreement must be in writing and witnessed by a Labour Inspector. Either party may conclude a fixed term contract before its end date if the other party commits an act of serious misconduct. The acts of serious misconduct, on the part of employer include the use of fraudulent measures to entice a worker into signing a contract under conditions to which he would not otherwise have agreed on realization of such conditions; refusal to pay all or part of the wages; repeated late payment of wages; abusive language, threat, violence or assault; failure to provide sufficient work to a piece-worker; failure to implement the health and safety measures in the workplace as required by existing laws. The acts of serious misconduct on the part of worker include stealing, misappropriation, and embezzlement; fraudulent acts committed at the time of signing (misrepresentation of abilities) or during employment (sabotage, refusal to comply with the terms of the employment contract, divulging professional confidentiality); serious infractions of disciplinary, safety, and health regulations; use of threats, abusive language or assault against the employer or other workers; inciting other workers to commit serious offenses; use of political

propaganda, activities or demonstrations in the establishment.

If an employer wants a worker to stop working at the end of a fixed term contract, the employer must inform the employee in advance about the expiration or renewal of the contract. If the length of contract is less than or equal to 6 months, no notice is required. If the fixed term contract is concluded for a period longer than 6 months (but less than one year), the required notice period is 10 days. If the term of contract is more than 1 year, employer has to inform the worker of the renewal at least 15 days before the expiry of contract. If no prior notice is provided, the fixed term contract is automatically renewed for the same length of time.

An indefinite term contract may be terminated by either of the parties. An employee may cancel an indefinite term contract for any reason. On the other hand, an employer may cancel an indefinite term contract for a valid reason related to the worker's aptitude (skill), behaviour, or the requirements of the enterprise (economic reasons).

Either party may terminate the employment contract by serving a written notice or paying in lieu thereof. For terminating an indefinite term contract, the required notice period depends on the worker's length of service as follows: 7 days for less than or equal to six months of service; 15 days for 6 months to 24 months (2 years) of service; 1 month for two to five years of service; 2 months for five to ten years of service; and 3 months for more than 10 years of service.

During notice period, the worker continues working with same terms and condition except that the worker may take up to 2

days of paid leave per week to look for a new job and may stop working early if he/she finds a new job.

If an employer fails to give the termination notice, he/she must provide the wages and benefits that the employee would have earned during the notice period on the basis of average daily earnings over the past 12 months (provision of compensation in lieu of notice).

Notice period is not provided in case of serious misconduct or during probation or for acts of God (force majeure) due to which one of the parties is unable to meet his/her contractual obligations. Employers are, however, required to give prior notice when terminating an indefinite term contract when an employee becomes chronically sick, insane or has a permanent disability.

Sources: §73-86 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Severance Pay

The Labour Law provides for both severance pay and redundancy pay. Payments at the end of contract include payment of last month's wage, payment for unused leave and severance pay as applicable.

On the expiry or termination of a fixed term contract, the employee has the right to receive severance pay. Severance pay must be at least 5% of the total wages paid to the worker during the length of a fixed term contract.

On termination of the employment, severance pay is payable to retrenched

workers (terminated for economic reasons and other reasons except for serious misconduct), depending upon the length of service, at the following rates:

- 7 days wages for employment from 06 months to 12 months; and
- 15 days wages for every year of employment (up to a maximum of 6 months wages)

Workers are also entitled to severance pay on contract termination due to health reasons. No severance payment is granted if a worker's employment contract is terminated due to serious misconduct. The limit on severance pay to the maximum of 6 months' wages has been removed in 2018 amendment.

If a worker cancels the fixed term contract without any legal reason, he/she must pay the employer for any damages suffered by him/her as a result. On the other hand, if an employer cancels a fixed term contract without any legal reason, he must pay the worker the full amount (of wages) that the worker would have received if he/she had been allowed to work until the end of the contract.

The calculation of severance/redundancy payment is based on average earnings over the past 12 months. The Arbitration Council has however found that the overtime and bonuses received by the worker in the 12 months prior to dismissal should also be included in the calculation. The severance pay is not payable in the case of serious misconduct on the part of the worker or resignation by the employee. However, severance pay is payable if the employer pushed the worker to resign through serious misconduct (on the part of employer). An employer is required to pay damages (in addition to severance/redundancy pay) if they

terminate an indefinite term contract without a valid reason. Workers, unfairly dismissed, are entitled to the damages of at least the same amount which they received as severance compensation on contract termination. The normal remedy for unfair dismissal is damages however a court may award reinstatement. Employers are also eligible for such damages if workers terminate employment contract without valid reasons. These damages are not the same as compensation in lieu of notice. The worker, however, can request to be given a lump sum equal to the dismissal indemnity. In this case, he is relieved of the obligation to provide proof of damage incurred.

The damages for breach of the labour contract without valid reasons, as well as those owed by the employer as per provision of Article 90 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 other circumstances that justify the existence and extent of damage.

If a worker unfairly terminates an employment contract and takes a new job, the new employer is jointly liable for damages caused to the former employer if it is proven that he encouraged the worker to leave the earlier job.

Sources: §89-94 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

Cambodia has not ratified the Convention 156 and 165.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Prakas on Special Leave (76/1998; 267/2001)

Paternity Leave

No specific paternity leave entitlements are found in the Labour Law. However, a worker may request for up to 7 days special leave for personal reasons that affect his immediate family (marriage of an employee or his/her child, birth of a child, illness or death of an employee's husband, wife, children or parents). If an employee has not taken annual leave, this special leave may be deducted from the annual leave. If an employee has already exhausted his/her annual leave, the employer may require him to work longer hours in order to make up for that leave.

The making up for the time lost can be implemented on the ordinary work day provided that the total working hours should not exceed 10 hours a day and 45 hours per week. These increased working hours are paid at the normal hourly rate of pay.

Sources: §171 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Prakas on Special Leave (76/1998; 267/2001)

Parental Leave

No specific leave entitlements found in the law on parental leave.

Flexible Work Option for Parents / Work-Life Balance

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities. However, workers can work part-time. Employees who work less than 48 hours per week are considered part-time workers. They have the same rights as full-time employees under the Labour Law, with the exception of being paid wages in proportion to the number of hours worked. The part-time employees are entitled to leave, bonuses, and other benefits in proportion to their work time.

Source: Arbitration Council Awards 03/2003

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Cambodia has not ratified the Conventions 103 and 183.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

Regulations on maternity and work:

- Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999)
- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Arbitration Council Awards (25/2008, 23/2008, 08/2007)

Free Medical Care

No statutory pregnancy related medical benefits are identified.

No Harmful Work

There is no provision in the law which prohibits employers from giving such work to pregnant workers which is harmful to their health.

However, during the first two months of resumption of work (and after giving birth), new mothers should be given only light work.

Sources: §182 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Maternity Leave

Female employees are entitled to at 90 days paid maternity leave on the birth of a child. The Arbitration Council has ruled that 90 days of maternity leave refers to 90 calendar days, including Sundays and holidays. There are no clear provisions in the law providing for an extension of maternity leave. Employment contract of a female worker is suspended during

pregnancy, delivery and for absences due to any post-natal illness. The Labour Law implicitly provides extension in maternity leave in the event of post-natal illness.

Sources: §182 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Arbitration Council Awards (25/2008, 23/2008, 08/2007)

Income

Maternity leave is paid by the employer to the workers with at least one year of service. Workers are entitled to half their wages, i.e., 50% wages during the maternity leave, along with other benefits (if any).

Sources: §183 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Protection from Dismissals

According to the Constitution of Cambodia, a pregnant woman may not lose her job because of pregnancy and avail her maternity leave without loss of seniority.

Labour law states that a women worker can't be dismissed during the period of her pregnancy and maternity leave or at such time that contract termination notice would expire during such absence. Employment contract of a female worker is suspended during pregnancy, delivery and for any post-natal illness.

Sources: §46 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999); §71 & 182 of the Labour Law, promulgated by Royal Order

No. CS/RKM/0397/01 of 13 March 1997
(amended in 2021)

Right to Return to Same Position

According to the Cambodian Constitution, pregnant worker has the right to take maternity leave without losing her seniority.

There is no specific provision in the labour law regarding a worker's right to return to same position after availing her maternity leave. However, it is mentioned that a worker can't be demised during the term of her maternity leave which means that right to return to work is implicitly guaranteed under the law.

Sources: §46 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999); §182 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Breastfeeding

Female workers are entitled to two paid nursing breaks, each of 30-minute duration, for new mothers to breastfeed their child(ren) until a child is twelve (12) months old. The breast-feeding/nursing breaks are in addition to the normal breaks an employee receives during the working day. Exact timing of breast-feeding/nursing breaks is agreed between the mother and the employer.

Labour Law also requires the employer to establish a child care facility in an enterprise if the total number of female workers is more than 100. The conditions of establishment of day care facility are determined by a decision of the competent

Minister. If an establishment is not able to provide child care facility, female workers may place their child(ren) in any day care and employer has to pay the dues.

Sources: §184 & 185 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Cambodia has not ratified the Convention 81 and 155.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Civil Code, 2007
- Organization and Functioning of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, 4 October 1999 (Anukret 87/ANKR-BK)

Employer Cares

In accordance with the Labour Law, an employer is responsible to maintain health and safety of the workers at workplace. Employer is required to keep the workplace in a common state of cleanliness and presentation of hygiene & safety necessary for the health and safety of workers.

The establishment should be monitored to check the quality of the premises; cleanliness; hygienic arrangements for the needs of personnel; beverages and meals; lodging of the personnel (if applicable); work stations and the seating arrangements; ventilation and sanitation; individual protective instruments and work clothes; and lighting and noise levels in the workplace.

Safety of the worker must be ensured by installing and maintaining the machinery, mechanisms, transmission apparatus, tools, equipment and machines in best possible safety conditions. Tools, equipment, machines, or products used must be organized properly guaranteeing the safety of workers.

Safety conditions of an establishment should also be monitored regarding risks of falling; moving heavy objects; protection

from dangerous machines and apparatus; preventive measures to be taken for work in confined areas or for work done in an isolated environment; risks of liquids spilling and fire prevention.

Employer has a duty of care to the safety of workers under the Civil Code. When establishing and managing the place, facilities and equipment to be used for the employee's work, the employer is obliged to take care to protect the worker's life and health, etc. from danger.

Sources: §229 & 230 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); §666 of the Civil Code, 2007

Free Protection

Labour Law & Parkas require employers to provide protective equipment (PPE) to workers involved in hazardous work. The type of PPE needed varies depending on the nature of work being performed. The right use of PPE reduces risk of accident and illness, minimises future medical costs, and helps in creation of safer working environment. The maintenance of safer working environment is also the responsibility of employer under the Civil Code.

Sources: §229 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); §666 of the Civil Code, 2007

Training

Employers are required to ensure that the organization of work, the techniques used,

materials, tools, machinery or products used must be appropriate to ensure the safety of workers. Employers of garment and shoe factories are required to train workers and their representatives on hygiene, workplace safety and health issues relevant to the work. Such training should be provided at the start of work, on job transfer, change in the production technique or machines or when worker re-join after long time-off.

Sources: §230 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); §5 of the Prakas No. 307 on Conditions of Occupational Hygiene and Safety in Garment and Shoe Factories (December 2007)

Labour Inspection System

Labour Law provides for a vibrant labour inspection system (part VI).

The General Department of Labour is responsible for the implementation of labour law, for improving and ensuring health, safety, security and good working conditions at the enterprises, inspecting enterprises and ensuring the labour law enforcement.

Labour inspectors are authorized to enforce the labour law, provide information and advice to employers and workers on how to comply with the provisions of labour law as well as to bring to the attention of the competent authority any misconduct or abuses that are not specifically covered by the existing provisions. Labour inspectors also assume other responsibilities including dispute resolution.

The national legislation provides inspectors the power to enter the work premises; carry out investigations on accidents or dangerous occurrences; and issue improvement or prohibition notices until elimination of risk or its reduction to a suitable level. The Labour Medical Inspector works in collaboration with the Labour Inspectors and cooperates with them in enforcing regulations regarding the health of workers.

Several articles of the 1997 Labour Law have been amended by the Royal Order No. NS/RKM/1021/011 dated 5 October 2021. Under the amended article 343 of the Labour Law, a labour inspector acts as judicial officer to monitor and investigate employment at any enterprise. The formalities and the procedure are to be determined by a joint prakas to be issued by the Ministry of Justice and the Ministry of Labour and Vocational Training.

Sources: §343-350 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Organization and Functioning of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, 4 October 1999 (Anukret 87/ANKR-BK)

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Cambodia has not ratified the Conventions 102, 121 and 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Prakas 243/2002

Income

In accordance with the Labour Code, a worker is entitled to sick leave for up to 6 months if sickness is certified by a qualified doctor. An employer may dismiss an employee if the employee is on sick leave for more than 6 months. The Labour Law does not provide for paid sick leave however following the policy of the Ministry of Labour, employer may provide paid sick leave as follows:

- 100% of wages during the first month of sick leave;
- 60% of wages during the second & third months of sick leave; and
- unpaid leave from the fourth until sixth month.

Sources: §71 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Medical Care

In the event of occupational accidents, a worker is entitled to medical care services such as medical treatment, pharmaceutical products and transport to a medical treatment centre. The employer must pay the medication and health care cost of an employee who has a work-related accident.

Victims of work-related accidents are entitled to medical assistance (benefits in

kind, medical treatment and medication as well as hospitalization) and to all surgical assistance and prostheses deemed necessary after the accident. Victims of work-related accidents can benefit from more favorable conditions if there is such an agreement between the parties.

Sources: §254 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Job Security

Employment of a worker is secure during the period of sick leave, i.e., six months. An employer may dismiss the worker who is on sick leave for more than 6 months. The employment contract is suspended for absence due to illness when it is certified by a qualified doctor. This absence is limited to six months, but can, however, be extended until there is a replacement.

Sources: §71(3) of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

Accidents occurring to workers or paid or non-paid apprentices in whatever capacity at whatever location by whatever causes while performing their duty, whether or not they are the result of the workers' fault, are regarded as work-related accidents. In addition, accidents, which occur to workers

during their journey from home to work, or from work to receive their wages and their return, without detour to other places for personal interests or to places not required by the work, are also regarded as occupational accidents.

Vocational illnesses as specified in the law are regarded as occupational accidents. In the case of permanent incapacity/disability (over 20% disability), the worker with the degree of disability up to 50% is entitled to the half of the annual actual earnings x percentage of disability. The worker with more than 50% disability is entitled to the (annual actual earnings) x [(25%) + (1.5 x (% incapacity - 50%))]. If a disability requires constant care from another person, this compensation must be increased by 40%. In the case of temporary disability and permanent disability of less than 20% incapacity, worker is entitled to the daily wages from the fifth day of disability until the worker is certified fit for work by a doctor specified by the Ministry.

In the case of fatal injury, dependents (widow/ widower, children, parents) receive survivors' pension. 30% of average annual earnings paid as survivors' benefit to the spouse. Orphans (first and second child) receive 15% of the survivors' benefit however third child and any subsequent number of children receive only 10% of the survivors' benefit. The total benefit however cannot exceed 85% of the annual basic wage. Orphans receive annuity if they are sixteen years or younger and still unmarried. Survivors' pension can also be paid as lump-sum. Survivors' benefits also include funeral grant (3-month salary).

Sources: §252-253 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Prakas 243/2002

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Cambodia has not ratified the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law, 2002

Pension Rights

Law provides for both full pension and old age allowance. For full pension, a worker must have attained 55 years of age with at least 60 months contributions during the 10 years prior to the entitlement. The worker must have been a member of NSSF for at least 20 years. Workers who don't meet the requirements of old age pension are entitled to old age allowance, paid as lump sum amount.

Sources: §8 of the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law, 2002

Dependents' / Survivors' Benefit

Labour laws provide for survivor benefit for dependents including widow, widower, children and parents. If a worker dies (if he has met the requirements of entitlement to old age or invalidity pension or was already getting it), his dependents are entitled to survivors' benefit according to a formula devised by National Social Security Fund (NSSF).

If a member of NSSF dies but he/she is not entitled to invalidity pension and does not fulfil other requirements, the survivors are entitled to the survivor's allowance, provided as a lump sum in the amount of not less than monthly old age pension for the NSSF member.

Sources: §10-11 of the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law, 2002

Unemployment Benefits

No provision could be located in law regarding unemployment benefits.

Invalidity Benefits

The above laws provide for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. An NSSF member is entitled to invalidity benefit on becoming disabled before the age of 55 years and with payment of contribution for 6 of the last 12 months prior to disability. The worker must have been a member of NSSF for at least 05 years. Law provides for invalidity pension according to a formula devised by NSSF.

Sources: §9 of the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law, 2002

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

Cambodia has ratified the Conventions 100 and 111.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999)
- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Criminal Code
- Protection and Promotion of the Rights of Persons with Disabilities prohibits discrimination on the basis of disability, 2009

Equal Pay

The Constitution supports the principle of equal pay for equal work and prohibits all forms of discrimination against women. The work by housewives in the home has the same value as what they can receive when working outside the home.

Labour Code also prohibits discrimination in wages on the basis of sex, origin and age. Wage is equal for all the workers for work of equal conditions, professional skill and output. The 2018 Law on Minimum Wage clarifies that for any work with equal conditions, skill and profession and equal output, the wage shall be equal for all workers/employees covered by this law regardless of origin, sex or age.

Sources: §36 & 45 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999); §106 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Sexual Harassment

Sexual harassment is prohibited under the Labour Law. All employers and managers of establishments in which child labourers or apprentices under eighteen years or women work, must watch over their good behavior and maintain their decency before the public.

Sexual harassment is any unwanted attention of a sexual nature that takes place in the workplace. This is any kind of sexual behavior that makes the victim feel uncomfortable, including touching; unwelcome sexual jokes; unwanted questions about sex life; whistling; rude gestures; and requests for sexual favours.

The Criminal Code defines sexual harassment as an act when a person abuses the power which is vested to him/her in his/her functions in order to put pressure again and again on other persons for sexual favours.

The Criminal Code criminalizes sexual harassment, imposing penalties of six days' to three months' imprisonment and fines of KHR100,000 to 500,000 on offenders.

Sources: §172 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021), §250 of the Criminal Code

Non-Discrimination

In accordance with the Cambodian Constitution, all persons are equal before law without any discrimination on the basis of race, colour, sex, language, beliefs,

religions, political tendencies, birth origin, social status, wealth or other situations.

Labour Law requires that employers do not discriminate (in the employment related matters) on the basis of race, colour, sex, belief, religion, political opinion, national origin, social origin, and membership of a trade union or the exercise of trade union activity. The 2009 Law on the Protection and Promotion of the Rights of Persons with Disabilities prohibits discrimination on the basis of disability.

Sources: §31 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999); §12 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Protection and Promotion of the Rights of Persons with Disabilities prohibits discrimination on the basis of disability, 2009

Equal Choice of Profession

Women can work in the same industries as no restrictive provisions could be located in the law. Constitution grants the right to work in any profession to all the citizens. It says that the "Khmer citizens of either sex shall have the right to participate actively in the political, economic, social and cultural life of the nation. Any suggestions from the people shall be given full consideration by the grant of the State. Moreover, article 36 of the Constitution reads as follows: "Khmer citizens of either sex shall enjoy the right to choose any employment according to their ability and to the needs of the society".

Sources: §35 & 36 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended 1999)

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Cambodia has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Prakas on the Prohibition of Hazardous Child Labour (106/2004)
- Law on Education, 2007

Minimum Age for Employment

Minimum age for employment is 15 years. Minors (under 18 years) cannot sign an employment contract without the consent of their parents or a guardian. A minor cannot be employed to perform night work.

Minors aged 12 to 15 years may be hired to do light work provided that the work is not hazardous to their health or mental and physical development and that it will not affect their attendance at school or training programs. A Labour Inspector may request that employed minors be examined by a doctor. If the doctor opines that the job is too hard for the minor, the employer must change the job or terminate the minor's employment.

The Education Law provides for free public education through grade 9 however education is not compulsory.

Sources: §177-178 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); §31 of the Law on Education, 2007

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is 18 years. A 2004 Prakas on the Prohibition of Hazardous Child Labour lists 38 types of hazardous work, including working

underground; lifting, carrying, or moving heavy loads; deep-sea and off-shore fishing; working near furnaces or kilns used to manufacture glass ceramics or bricks; firefighting; construction and demolition work; work involving exposure to harmful chemical agents; work done in high temperatures; and handling and spraying pesticides and herbicides.

In addition to the hazardous list, regulations issued by the Ministry of Labour and Vocational Training also define unsafe working conditions in agriculture, including separate regulations for cassava and tobacco production, and freshwater fishing that are prohibited for children.

An employer may request permission from the Ministry of Labour to have employees who are at least 16 years old do hazardous work, provided that their health, safety and morality are guaranteed and the employee has the appropriate training. Night work (between 22.00 and 05.00) is prohibited for the young workers and they must be examined medically on regular basis to check if their assigned work is according to their physical strength.

The Labour Inspector can request a government physician to examine children under eighteen years of age employed in an enterprise in order to establish that their jobs are not beyond their physical capabilities. If the examination indicates that workers are engaged in work beyond their physical capabilities, the Labour Inspector is empowered to demand that their job be changed or that they be let out of the establishment upon the advice or examination of the physician, if their parents so protest.

Employers are required to maintain a register of employed children under

eighteen years indicating their date of birth. This register must be submitted to the Labour Inspector for observation.

The act of placing a minor to working conditions which are detrimental to his/her health or his/her physical development are punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

Sources: §173, 177-181 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Prakas on the Prohibition of Hazardous Child Labour (106/2004); §339 of the Penal Code

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Cambodia has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended in 1999)
- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Criminal Code

Prohibition on Forced and Compulsory Labour

Forced or compulsory is prohibited and outlawed under the Labour Law. Hiring of people for work to pay off debts is also forbidden.

The acts of submitting a person, by abusing his/her vulnerability, or his/her situation of dependence, to working conditions incompatible with the human dignity, is punishable by an imprisonment ranging from 01 month to one year and a fine of between KHR100,000 and KHR2,000,000 (two million).

The 2007 Law on Suppression of Human Trafficking and Sexual Exploitation prohibits “any form of exploitation” which includes the exploitation of the prostitution of others, pornography, commercial sex act, forced labour or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labour or the removal of organs.

Sources: §15-16 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); §274 of the Criminal Code; Law on Suppression of Human Trafficking and Sexual Exploitation, 2007

Freedom to Change Jobs and Right to Quit

According to the Cambodian constitution, every citizen has a right to choose any employment according to their abilities and the needs of the society.

Labour law states that workers have the right to change jobs after serving due notice to their employers. The duration of notice period depends on the length of service of the worker. For more information on this, please refer to the section on employment security.

Sources: §36 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended in 1999); §75 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)

Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty-eight hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed ten hours a day. Extension of one hour per day is also allowed for 30 days per year to make up for hours lost following mass interruptions in the work or a general slowdown from either accidental causes or acts of God (force majeure), notably bad weather or because of holidays, local festivals, or other local events. However, even in such case, the daily working hours cannot exceed 10 hours per day.

For more information on this, please refer to the section on compensation.

Sources: §137,140 & 197 of the Labour Law,

promulgated by Royal Order No.
CS/RKM/0397/01 of 13 March 1997
(amended in 2021)

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)
Right to Organize and Collective Bargaining: Convention 98 (1949)

Cambodia has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended in 1999)
- Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021)
- Prakas on registration procedure, advertisement, and observation on the collective bargaining agreement (287/2001)
- Law on Trade Unions, 2016

Freedom to Join and Form a Union

Constitution and labour law provide for freedom of association and allow workers and employers to join and form unions regardless of their gender, age and nationality. This right is regulated by the labour law.

Workers and employers have, without distinction whatsoever and prior authorization, the right to form professional organizations of their own choice for the exclusive purpose of studying, promoting the interests, and protecting the rights, as well as the moral and material interests, both collectively and individually, of the persons covered by the organization's statutes. The trade union freedom of individuals also implies freedom of not joining workers' union or employers' association and freedom of withdrawing at any time from the organizations joined earlier.

Article 36 of the Constitution provides that "Khmer citizens of either sex shall have the right to form and to be member of trade unions". The Labour Law regulates the formation of trade unions and provides that "all workers, regardless of sex, age,

nationality are free to be a member of the trade union of their choice".

Union members are free to elect their representatives and formulate their work program. They may draw up their own statutes and administrative regulations, as long as these are not contrary to laws in effect and public order.

The unions must get registered with the Ministry by filing their statutes and list of names of those responsible for management and administration. A trade union is considered registered if the Ministry of Labour does not reply within two months after receipt of the registration form. Filing of registration form has to be done again in case of any change in statutes and administration.

An employer is not allowed to interfere in a trade union's affair and to support a union that is under the control of the employer or an employer's organization. Employer may deduct union dues from the wages of the members only after their written consent. Discriminatory behaviour is prohibited for the employer on the basis of union affiliation or participation in union activities.

Under the 2016 Law on Trade Unions, workers and employers have the right to form a union or an employer association of their own choice. There cannot be any discrimination in trade union or employer association membership on the ground of race, colour, sex, creed, religion, political opinion, nationality, social origin or health status. Workers are also free not to join a union or withdraw from a union. At least 10 workers are required to form a union.

Employers are prohibited from discriminating against workers on the basis

of their involvement in holding the office and leadership in union or participation in union activities when making decisions concerning the recruitment, leadership, assignment, promotion, position, remuneration and benefits, disciplinary measures and contract termination, including for the dismissal and non-renewal of the employment contract that are subsequently [found to be] against the established procedures.

Sources: §36 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended in 1999); §266-278 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Law on Trade Unions, 2016

Freedom of Collective Bargaining

Right to collective bargaining is recognized and regulated by Labour Law. Collective bargaining is a written agreement between a group of employees and one or more employers about wages and working conditions. A CBA usually provides better benefits to the worker than those provided in the law. If a CBA has provisions which are less favourable than those provided under the law, it cannot be enforced.

A CBA may be concluded for definite or indefinite time period. The duration of a CBA signed for definite time period is at least 3 years. A CBA of indefinite term may be cancelled by giving a cancellation notice of one year.

While signing a CBA, employees are generally represented by a union when negotiating a CBA. The union must be representative of employees in that enterprise. The Ministry of Labour gives an

official decision as to whether a union is representative. In case there is no union in a workplace, shop stewards may negotiate a CBA with the employer however such CBA can't be signed for a term of more than one year.

Collective agreements also specify their scope of application. This can be an enterprise, a group of enterprises, an industry or branch of industry, or one or several sectors of economic activities.

In order to bargain collectively, employer must agree to the reasonable rules for bargaining and respond to proposals made by the union in a reasonable way. Employer must also provide reasonable resources and information to unions involved in collective bargaining.

A collective bargaining agreement, written in Khmer, must be registered with the Ministry of Labour and posted in the workplace. The CBA comes into effect 1 (one) day after it has been registered.

Labour Advisory Committee is the tripartite body with representation from government and social partners. LAC has to study problems related to labour, the employment of workers, wages, vocational training, the mobility of labour force in the country, migrations, the improvement of the material and moral conditions of workers and the matter of labour health and safety. It formulates recommendations on the guaranteed minimum wage; render advice beforehand in order to extend the scope of a collective agreement or, if there is no collective agreement, give advice eventually on any regulation concerning the conditions of employment in a given profession or in a certain sector of activity. The Labour Advisory Committee is chaired by the Minister of Labour, has a formal

composition of seven trade union representatives, seven employer representatives, and 14 government representatives.

The LAC must meet at least twice per year.

Sources: §96-101 and 351-358 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Prakas on registration procedure, advertisement, and observation on the collective bargaining agreement (287/2001); Law on Trade Unions, 2016

Right to Strike

Right to peaceful strike is recognized under the Constitution and is regulated under the Labour Law.

Labour law defines strike as a stoppage of work (by the group of workers) that takes place within an enterprise or establishment for the purpose of obtaining the satisfaction for their demand from the employer as a condition of their return to work. Peaceful strike is allowed only after all the methods of dispute resolution (negotiation, conciliation and arbitration) fail.

Members of union must approve strike by secret ballot and inform the employer and the Ministry of Labour at least 7 days prior to the proposed date of strike. Strikers are not allowed to force other workers to participate in strike and they have the right to return to work without any punishment once the strike is over.

Strikers must not threaten non-strikers. Strikers cannot stop other employees who want to go to work during a strike from doing so. Employers are not obliged to pay the workers on strike. Cambodian law

maintains a list of essential services where minimum service must be maintained if strike action is initiated. The Labour Law requires employers not to punish the striking workers and prohibits hiring of replacement workers.

Strike is considered illegal if it is not peaceful and does not comply with the provisions of labour law. It is illegal to start strike in order to force an employer to revise a CBA or arbitral award which is still in force. Only courts can declare a strike as illegal.

Employers also have the right to lockout workers. This right is subject to the same rules and restrictions as the right to strike. If an employer conducts an illegal lockout, he is required to pay the employees' salaries during the lockout along with penalties.

The employer is admonished in writing for stopping workers to participate in a lawful strike or by exerting threat against workers who have participated in a lawful strike. Failure to comply with the admonishment is subject to a transitional fine not exceeding 5,000,000 (five million) riel.

Sources: §37 of the Constitution of the Kingdom of Cambodia, of 21 September 1993 (as amended in 1999); §318-377 of the Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021); Law on Trade Unions, 2016

QUESTIONNAIRE



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

NR

Yes

No

1. I earn at least the minimum wage announced by the Government
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)

02/13 Compensation

3. Whenever I work overtime, I always get compensation
(Overtime rate is fixed at a higher rate)
4. Whenever I work at night, I get higher compensation for night work
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*
8. I get paid during public (national and religious) holidays
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week

1

3

2

4+

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature
Please tick "NO" if your employer hires contract workers for permanent tasks
12. My probation period is only 06 months
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)
14. My employer offers severance pay in case of termination of employment
Severance pay is provided under the law. It is dependent on wages of an employee and length of service

05/13 Family Responsibilities

15. My employer provides paid paternity leave
This leave is for new fathers/partners and is given at the time of child birth
16. My employer provides (paid or unpaid) parental leave
This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.
17. My work schedule is flexible enough to combine work with family responsibilities
Through part-time work or other flex time options

06/13 Maternity & Work

18. I get free ante and post natal medical care
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work
20. My maternity leave lasts at least 13 weeks

* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".

- 21. During my maternity leave, I get at least 2/3rd of my former salary
- 22. I am protected from dismissal during the period of pregnancy
Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity
- 23. I have the right to get same/similar job when I return from maternity leave
- 24. My employer allows nursing breaks, during working hours, to feed my child

07/13 Health & Safety

- 25. My employer makes sure my workplace is safe and healthy
- 26. My employer provides protective equipment, including protective clothing, free of cost
- 27. My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident
- 28. My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace

08/13 Sick Leave & Employment Injury Benefits

- 29. My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness
- 30. I have access to free medical care during my sickness and work injury
- 31. My employment is secure during the first 6 months of my illness
- 32. I get adequate compensation in the case of an occupational accident/work injury or occupational disease

09/13 Social Security

- 33. I am entitled to a pension when I turn 60
- 34. When I, as a worker, die, my next of kin/survivors get some benefit
- 35. I get unemployment benefit in case I lose my job
- 36. I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident

10/13 Fair Treatment

- 37. My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination
- 38. My employer take strict action against sexual harassment at workplace
- 39. I am treated equally in employment opportunities (appointment, promotion, training and transfer) without discrimination on the basis of:*

Sex/Gender

Race

Colour

Religion

Political Opinion

* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth

Social Origin/Caste

Family responsibilities/family status

Age

Disability/HIV-AIDS

Trade union membership and related activities

Language

Sexual Orientation (homosexual, bisexual or heterosexual orientation)

Marital Status

Physical Appearance

Pregnancy/Maternity

40. I, as a woman, can work in the same industries as men and have the freedom to choose my profession

11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden
42. In my workplace, children under 18 are forbidden for hazardous work

12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice
44. My employer keeps my workplace free of forced or bonded labour
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week

13/13 Trade Union Rights

46. I have a labour union at my workplace
47. I have the right to join a union at my workplace
48. My employer allows collective bargaining at my workplace
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination

Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:

is your amount of "YES" accumulated.

scored times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.