

Technical Update

April 2020

Ministry of Labor and Vocational Training (MLVT) – Notification No. 069 dated 21 February 2020 on how to calculate the seniority payment for permanent workers or employees who have performed work from one (1) to six (6) months in each semester

With reference to article 89 of the Cambodian Labor Law; MLVT Prakas No. 443 dated 21 September 2018 on the seniority payment; MLVT Instruction No. 057 dated 10 June 2019 on the back pay of seniority payment before the year 2019 for the textile, garment and footwear industry; and MLVT Instruction No. 058 dated 10 June 2019 on the new seniority payment from the year 2019, the Labor Inspection Department of the MLVT issued Notification No. 069 dated 21 February 2020 to the Cambodian Federation of Employers and Business Associations (CAMFEBA) to clarify on how to calculate the seniority payment for permanent workers or employees who have performed work from one (1) to six (6) months in each semester (half-year).

Under the relevant laws and regulations above, permanent workers or employees who have performed work from one (1) month up to six (6) months of each semester are entitled to 7.5 days of seniority payment for each semester.

Therefore, the employer is not allowed to calculate the seniority payment by using a proportion of the work duration of workers or employees because permanent workers or employees who have performed work for at least twenty-one (21) days shall be entitled to 7.5 days of seniority payment per semester in accordance with the Cambodian Labor Law and regulations in force.

Ministry of Labor and Vocational Training (MLVT) – Notification No. 070 dated 21 February 2020 on how to calculate employment seniority in order to determine the prior notice periods for the employment contract termination if employment contracts have been converted from Fixed Duration Contracts (“FDCs”) to Undetermined Duration Contracts (“UDCs”).

Following the Industrial Relations Technical Working Group meeting on 23 August 2019, the Labor Inspection Department of the MLVT issued Notification No. 070 dated 21 February 2020 to the President of the Cambodian Federation of Employers and Business Associations (CAMFEBA) on how to calculate employment seniority in order to determine the prior notice periods for the employment contract termination if the employment contracts have been converted from FDCs to UDCs.

According to the MLVT Instruction No. 023/19 dated 8 July 2019 on the back pay of the seniority payment before the year 2019 and the new seniority payment starting from the year 2019 for textile, garment and footwear industrial enterprises or establishments, for those FDCs exceeding the maximum duration allowed by the law, employers should have converted the employment contracts from FDCs to UDCs at the end of 2019.

Note that according to the MLVT Instruction No. 050/19 dated 17 May 2019 on the determination of different types of employment contracts, the FDC can be made for a specific duration not exceeding two (2) years. It can be renewed one or more times, if the renewal period does not exceed two (2) years. Therefore, the maximum period of a FDC can be up to four (4) years including the initial period and the renewal period.

In order to implement the obligations for the prior notice periods for the termination of UDCs which have been converted from the FDCs, the employers must calculate the employment seniority in order to determine prior notice periods as follows:

- If the employers have already settled the severance payment applicable for the FDCs to workers or employees, the employment seniority must be counted starting from when such FDCs have been converted to UDCs; or
- If the employers have not settled the severance payment applicable for the FDCs to workers or employees, the employers shall determine the prior notice periods in accordance with the spirit of article 73 of the Cambodian Labor Law, by including the duration of the initial contract.

Ministry of Labor and Vocational Training (MLVT) – Notification No. 071 dated 21 February 2020 on the calculation of proportional annual leave for employees or workers who perform work less than twenty-one (21) days per month

Under article 166 of the Cambodian Labor Law, unless there are more favorable provisions in the collective bargaining agreements or individual employment contracts, all workers or employees are entitled to one and a half days of paid annual leave per month of continuous service. For jobs that are not performed regularly throughout the year, workers or employees are considered to have met the conditions of continuous service if workers or employees performed work for an average of twenty-one (21) days per month. The length of paid annual leave as stated above is increased according to the seniority of workers or employees at the rate of one (1) day per three (3) years of service. Public holidays in Cambodia and sick leave are not counted as paid annual leave.

Following the Industrial Relations Working Group meeting on 14 March 2019, the Labor Inspection Department of the MLVT issued Notification No. 071 dated 21 February 2020 to the President of the Cambodian Federation of Employers and Business Associations (CAMFEBA) on the calculation of proportional annual leave for workers or employees who perform work less than twenty-one (21) days per month.

This notification provides clarification on the entitlement of proportional annual leave as follows:

- Permanent workers or employees who performed work from twenty-one (21) days per month are entitled to one day and a half (1.5) of annual leave.
- Permanent workers or employees who performed work from fifteen (15) days but less than twenty-one (21) days per month are entitled to one (1) day of annual leave.
- Permanent workers or employees who performed work less than fifteen (15) days are not entitled to annual leave.

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