

**Kingdom of Cambodia**  
**Nation Religion King**

**Ministry of Labour and Vocational Training**

**No: 058/19 K.B/S.N.N.Kh.L**

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

The Ministry of Labour and Vocational Training would like to inform owners or directors of enterprises/establishments, professional organizations and workers/employees covered by the Labour Law that to duly implement Prakas 443 K.B/Br.K.Kh.L dated 21 September 2018 on Payment of Seniority Indemnity, all owners or directors of enterprises/establishments, professional organizations and workers/employees shall implement it as instructed as follows:

**I- How to calculate seniority**

From 2019, the seniority of workers/employees for receiving seniority indemnity shall be calculated once per semester (6 months): the first semester is from January to June and the second semester is from July to December.

After-probation workers/employees who have worked in each semester from 1 month to 6 months and have worked until the end of each semester: June and December, the workers/employees can receive a seniority indemnity that is equal to average wage and benefits of 7.5 days in each semester.

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

**II- How to calculate seniority indemnity**

From 2019, for after-probation workers/employees who have worked and have seniority as stipulated in Point “I” above, the calculation of seniority indemnity shall be implemented as follows:

- ❖ First: must calculate monthly average wage and benefits

$$\text{Monthly average wage and benefits} = \frac{\text{Total wages and benefits per semester}}{6 \text{ months or actual months worked}}$$

- ❖ Second: must calculate daily average wage and benefits

$$\text{Daily average wage and benefits} = \frac{\text{Monthly average wage and benefits}}{22 \text{ days or } 24 \text{ days or } 26 \text{ days}}$$

(Depending on the working days of each enterprise/establishment)

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

$$\text{Seniority indemnity in each semester} = \text{Daily average wage and benefits} \times 7.5$$

### **III- How to pay seniority indemnity**

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

The employer shall separate monthly wage from seniority indemnity so that it is easy in implementing tax obligation.

### **IV- Termination of workers/employees**

A- In the event that the employer terminates a worker/employee without a valid reason, the worker/employee shall receive:

- 1- Wage that has not been paid.
- 2- Payment instead of notice in the event that the employer fails to give notice properly as stipulated in the law and regulations in force.
- 3- Payment instead of the remaining annual leave.
- 4- The seniority indemnity in any semester that the worker/employee is terminated, which is equal to 7 days of wage and benefits if the worker/employee still has seniority from 1 month to below 6 months.
- 5- Total back pay seniority indemnity before 2019 that the employer has not paid.

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

B. In the event that the employer terminates a worker/employee due to serious misconduct, the worker/employee can receive:

- 1- Wage that has not been paid.
- 2- Payment instead of the remaining annual leave

### **V- Common principle**

- 1- The seniority of workers/employees for paying seniority indemnity shall be counted from when signing an employment contract after probation, excluding probationary period.
- 2- After-probation workers/employees who have worked in the enterprise/establishment for at least 21 days shall be considered having worked for 1 full month which can receive seniority indemnity.
- 3- The wage and benefits taken as a basis for calculating seniority indemnity from 2019 are the wage and benefits before tax.
- 4- For workers/employees who are retired or dead from 2019, the employer shall provide the workers/employees or heirs of the workers/employees who are dead with the following:
  - The remaining back pay seniority indemnity before 2019

- The seniority indemnity in any semester the workers/employees are retired or dead, equal to 7 days of wage and benefits if the workers/employees still have seniority from 1 month to below 6 months.
- 5- The duration of maternity leave, work-related accident and sick leave shall be included in seniority for calculating seniority indemnity. In particular, the benefits such as occupational risk benefits and health care benefits received during the above leave will not be included in the calculation of seniority indemnity.
- 6- From 2019, at every second wage payment for June and December of each year, workers/employees shall receive:
  - The second wage for June and December
  - The new seniority indemnity of 7.5 days in the semester.
  - Back pay seniority indemnity before 2019, if any.
- 7- For every payment of seniority indemnity in each semester, the employer and workers/employees shall keep the documents as evidence which contain the signature or thumbprint of consent of both parties or equivalent documents.

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

Phnom Penh, 10 June 2019

**Minister**

*(Signed and stamped)*

**Ith Sam Heng**

**Recipients:**

- Office of the Council of Ministers
- Cabinet of Samdech Techo Prime Minister
- Cabinet of Samdech, Excellency, Lok Chumteav Deputy Prime Ministers
- Relevant ministries and institutions  
*“for information”*
- Municipal and Provincial Departments of Labour and Vocational Training
- Unions and employer associations at all levels  
*“for information and implementation”*
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