

**SUB-DECREE CONCERNING THE ESTABLISHMENT
OF NATIONAL SOCIAL SECURITY FUND**

CHAPTER 1

GENERAL PROVISIONS

Article 1:

Shall be set up a public establishment called "the National Social Security Fund", hereafter referred to the NSSF. The NSSF shall be guided respectively, in technique and finance, by the Ministry of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation and the Ministry of Economy and Finance.

NSSF has its headquarter in Phnom Penh City.

Article 2:

NSSF is a legal entity with self-financing administration.

NSSF shall be governed by the provisions of the Sub-decree and of the law concerning social security schemes for persons defined by the provisions of the labor law.

Article 3:

NSSF has its objectives as follows:

1. To manage and administer the social security schemes according to the provisions of the law concerning social security schemes for persons defined by the provisions of the labor law.

2. To ensure in duly providing all benefits for the member of NSSF (insured person) for the purpose of supporting security income in case of any contingencies such as old age, invalidity, death, occupational risks, and others .

3. To collect contributions from its members and employers concerned.

4. To facilitate and organize to provide health and social services for the member.

5. To cooperate with organizations concerned to:

- Educate and promote about methods of occupational risk prevention; and
- Take measures on health and safety at work places.

6. To cooperate with organizations concerned to study and investigate occupational diseases.

7. To manage the investment of social security funds.

CHAPTER 2

SOCIAL SECURITY ADMINISTRATION

SECTION 1

GOVERNING BODY

Article 4:

The NSSF shall be administered by a Governing Body. Members of the Governing Body shall be:

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|---|----------|
| -A representative of the Ministry of Social Affairs, Labor,
Vocational Training and Youth Rehabilitation | Chairman |
| - A representative of the Council of Ministers | Member |
| - A representative of the Ministry of Economic and Finance | Member |
| - A representative of the Ministry of Health | Member |
| - Two representatives of employers | Member |

- Two representatives of workers
- The Director of the NSSF

Member
Permanent Member

Article 5:

The Governing Body has its mission to direct and inspect the managerial process of the NSSF. With regard to this mission, the Governing Body has the following duties:

- 1-To approve the annual budget of the NSSF, and especially of expenditures of administration, and health and social services;
- 2-To approve annual reports on management and financial statement of the NSSF;
- 3-To approve internal rules, personal regulations and organizational chart of the NSSF;
- 4-To identify organizational charts and tasks of the subordinates;
- 5-To identify procedures of recruitment, dismiss, compliment, promotion, punishment or provision of remuneration for the NSSF personnel according to the proposal of the Director of the NSSF;
- 6-To approve number of personnel required by the NSSF;
- 7-To approve acquisition contracts of the NSSF;
- 8-To identify investment plan of the NSSF exceeded funds;
- 9-To assess periodically working results achieving by the NSSF and take action in improving its performance to be more effectively;
- 10-To study, in cooperation with the Technical Council of the NSSF, in order to develop and extend the social security system in due the socio-economic circumstances of the country.

Article 6:

The Chairman and members of the Governing Body shall be selected from the state officials and the active persons who may have at least 5 years in work of Cambodian high rank officials who shall not be convicted either misdemeanor or crime, and have worked experiences and skills concerning social or economics or law.

Representatives of Employers and Workers shall be selected by their respectively organizations. These shall be experienced and full capacity in social, economics or law.

The Chairman and members of the Governing Body shall be appointed by a sub-decree for the term of 3 years. This term shall be terminated or continued according to the proposal of the ministry or institution, to which the member represented.

Article 7:

The Governing Body shall meet at least once for every three months. However, it may meet at any time, if necessary, by the proposal of the Chairman or of the NSSF Director or of at least 5 members of the Governing Body.

The Governing Body shall discuss only on the relevant issues specified in the agenda of the meeting. Each agenda of the meeting as well as documents concerned shall be provided to each member of the Governing Body and the financial inspector in the period at least ten days before the meeting. The NSSF Director shall nominate a secretary of the session of the Governing Body meeting.

The financial inspector shall attend the meeting of the Governing Body but has no right to vote.

The meeting of the Governing Body shall be going on if there are attending more than fifty per cent of its members. The absent members shall not be replaced. In the case of lack of quorum the meeting shall be delayed in fifteen days forward and it shall be discussed the

same agenda. The decision of the Governing Body shall be valid if it is voted by a majority of the member attendance of the meeting. In the case of split-ballot, the Chairman side shall be dominating.

Article 8:

The decision of the Governing Body shall be recorded in a minute and dispatched to the parent ministries, each member of the Governing Body, and the financial inspector in the period of no longer than ten days after the closing date of the meeting.

The minute of the meeting shall be reflected the realistic discussion and shall be copied to the chronicle book with properly sequential number of pages and identified code. The Chairman and the secretary of the meeting shall sign this minute. In case of any complaint raised by any member of the Governing Body at the next meeting, this complaint shall be recorded into the minute of this latest meeting.

Article 9:

The Ministry of Labor and Vocational Training and the Ministry of Economy and Finance, upon the proposal of the Governing Body, shall issue a Joint Prakas concerning the determination of remuneration for members of the Governing Body.

Article 10:

A person shall be disqualified from being a member of the Governing Body

- if he/she resigned or died;
- if he/she is declared to be of unsound mind by the Ministry of Health; or
- if he/she is an un-discharged bankrupt; or
- if he/she has directly or indirectly any interest in a subsisting contract with or any work being done for the Organization;
- if he/she has been found guilty, either misdemeanor or felony, by a court of law ; or
- if after demand, a member fails to remit to the Organization previous contributions which have become due; or
- if a member has become a member of any legislative bodies.

A member to whom the court suspect shall be temporarily suspend his/her office.

The replacement of any disqualified member shall be provided by the same process of the nomination.

SECTION 2 EXECUTIVE BODY OF THE NSSF

Article 11:

The Director of the NSSF shall be appointed by a sub-decree upon the proposal of the Ministry of Labor and Vocational Training.

The Director of the NSSF shall have tasks to manage routine operations of the NSSF.

Article 12:

The Director of the NSSF shall be delegated rights and power for routine works of the NSSF in order to have full capability to manage the establishment according to the law, to represent of the NSSF and to take responsibility before the laws. The powers shall be delegated through the internal rules of the NSSF and upon the approval of the Governing Body.

According to these powers, the Director shall have following tasks:

- To organize the Governing Body meeting;
- To submit documents to the Governing Body for approving;
- To enforce the decision approving by Governing Body; and periodically report on the NSSF activities to the Governing Body;
- To be in charge of administrative, technical, and financial matters of the NSSF;
- To prepare the NSSF annual budget and submit to the Governing Body to be approved;
- To manage and govern agencies or personnel of the NSSF following the NSSF statutes or the existing laws and the approval of the Governing Body;
- To propose to the Governing Body to approve on recruitment, nomination, promotion, punishment or compliment to the NSSF personnel;
- To represent to the NSSF and be responsible before the laws regarding complaints in order to protect the NSSF interests.

The Director of the NSSF may delegate some or all powers including right to sign to subordinate officers according to the conditions, which fixed by the Governing Body.

Article 13:

The NSSF Accountant shall be appointed by Prakas of the Ministry of Economy and Finance upon the consultation with the Ministry of Labour and Vocational Training. The Accountant shall be under the supervision of the Director of the NSSF.

Article 14:

The inspection of the compliance with the provisions of the law on social security schemes for persons defined by the provisions of the Labour Law shall be carried out by social security inspectors and, if necessary, shall cooperate with labour inspectors and other relevant organizations.

The appointment, assignment of role and duties of the social security inspector shall be issued by a Prakas of the Ministry of Labour and Vocational Training upon the proposal of the Governing Body.

Article 15:

Personnel of the NSSF shall be the civil servants of the Ministry of Labor and Vocational Training or others or staff recruited upon the proposal of the Director. Each staff shall obtain salary and other benefits provided by his/her original organizations .

The NSSF may recruit outsourcing staff or workers. Those shall be under the internal rule of the NSSF and the decision of the Governing Body according to the existing labour law.

All staffs of the NSSF shall be under the personal regulation that approved by the Governing Body. The Governing Body shall determine remuneration for the NSSF staff as well as procedure of payment provided by the internal rule.

Article 16:

The Ministry of Labor and Vocational Training shall determine the organizational chart of the NSSF upon the proposal of the Governing Body.

CHAPTER 3

FINANCIAL MANAGEMENT AND RESOURCES

SECTION 1

ACCOUNTING AFFAIRS

Article 17:

The NSSF hold its account in conformity with Cambodian Accounting Regulations and Accounting Rules that defined by the Ministry of Economy and Finance.

The fiscal year begins at on 01 January and ends off on 31 December of the same year.

The Governing Body shall approve the financial statement by 31 of March of the next fiscal year.

The financial statement shall be submitted to the Minister of Economy and Finance to be approved in the duration of 15 days following the Governing Body meeting. This document shall be notified to the Minister of Labor and Vocational Training.

Article 18:

18.1 The Director of the NSSF is the principal manager who has duties to:

- Supervise account and income;
- Allow liquidation and payment.

The principal manager may delegate power to the subordinate, with an agreement with the accountant, or set up the exercise administration in respect of income or advance.

18.2 The financial and accounting operations shall be complied with the internal regulation of the NSSF under a direct liability of the accountant. The accountant shall swear an oath of allegiance before going into office. The accountant shall participate in the Governing Body meeting in the capacity of a consultant and have no right to vote.

18.3 The accountant has duties to:

- Collect all income of the NSSF
- Provide payment
- Keep and use resources of the NSSF
- Keep legal documents and accounting books.

18.4 The accountant may delegate power to his/her mandatory.

Article 19:

The Governing Body shall approve, by 30 September of each fiscal year, on the NSSF future expansion program and annual budget plan upon the proposal of the Director of the organization. These approved documents shall be submitted to the Ministry of Labor and Vocational Training, and the Ministry of Economy and Finance in order to request their approval.

SECTION 2:

RESOURCES

Article 20:

Financial resources of the NSSF shall be:

1. Starting assets providing by the Government for the establishment of the NSSF;

2. Any transfers as public subsidies, which provided by state budget such as grants for business running and provision capital;
3. Contributions from insured persons and employers concerned, which allocated for financing each social security scheme;
4. Increments resulting from lateness of contributory payment or providing payroll to the NSSF; and their interests;
5. Profits resulting from investments;
6. Grants and legacies;
7. Other resources that can be granted by laws.

SECTION 3:

EXPENDITURES

Article 21:

Expenditures of the NSSF include:

1. Benefit payments for each social security scheme;
2. Administrative payments;
3. Health and social activity payments;
4. Investment payment.

The formalities of expenditures shall be detailed in Prakas of the Ministry of Labour and Vocational Training with an agreement from the Ministry of Economy and Finance upon the proposal of the Governing Body.

SECTION 4:

RESERVES

Article 22:

The minimum limit of reserves for the employment injury scheme shall be in equivalent to the payment for the granted pensions and a half of payments for the short-term benefits of employment injury for the period of the last two years (2 years).

The minimum limit of reserves for pension scheme and other schemes shall be determined by Prakas of the Ministry of Labour and Vocational Training upon the proposal of the Governing Body.

The contribution rate that provided by Article 25 of this Sub-decree shall be reviewed if the reserves of each scheme decreases lower than the minimum limits upon the proposal of the Governing Body.

The reserves for each scheme, their investments, and profits resulting from the investments shall be deposited in different bank accounts.

SECTION 5:

Replacement Fund

Article 23:

Shall be established a common replacement fund for all branches of the social security schemes. This cash shall not be less than twice of the average expenditures for two months of the last year.

SECTION 6:

ACTUARIAL ASSESSMENT

Article 24:

The NSSF shall take actuarial measures for no longer than three years. In case of the actuary reveals any risk caused by financial recession in any branch the NSSF shall propose to modify either the rate of contributions or retirement ages so that to ensure than it can operate constantly and in sustainable.

The State shall subsidize to the NSSF so that it has been stable and sustainable in case of deficits.

CHAPTER 4

CONTRIBUTION AND BENEFITS

SECTION 1:

CONTRIBUTION

Article 25:

Contribution rate of each social security scheme defined by the Law on Social Security Schemes for Persons defined by the Labour Law shall determine by Prakas of the Ministry of Labour and Vocational Training with an agreement of the Ministry of Economy and Finance upon the proposal of the Governing Body of the NSSF.

SECTION 2:

BENEFITS

Article 26:

The benefits rates for each social security scheme stipulated in the Law shall be fixed by a Prakas of the Ministry of Labor and Vocational Training with an agreement of the Ministry of Economy and Finance upon the proposal of the NSSF Governing Body.

Formalities of benefit claims shall determine by Prakas of the Ministry of Labour and Vocational Training with an agreement of the Ministry of Economy and Finance upon the proposal of the Governing Body of the NSSF.

CHAPTER 5

PARENT MINISTRIES

SECTION 1

TECHNICAL PARENT MINISTRY

Article 27:

27.1 Within 15 days after a meeting of the NSSF Governing Body the the Director of NSSF shall dispatch the development program and draft of budget the Minister of Labour and

Vocational Training and the Ministry of Economy and Finance to be accepted. The Minister of Economy and Finance has one month of time from the date of receipt of those documents to prepare his/her comments to the Minister of Labour and Vocational Training. The Minister of Labour and Vocational Training has two months of time from the date of receipt of those documents that dispatched by the Director to approve those documents.

27.2 The acceptance of the Ministry of Labour and Vocational Training shall be sent to the Director and be copied to the Minister of Economy and Finance. The Director shall immediately inform the acceptance to the Governing Body.

In case of the Minister of Labour and Vocational Training does not reply within the period prescribed the development program and the draft of budget shall be deemed to be accepted.

In case of the Minister of Labour and Vocational Training refuses the development program and the budget the President of the Governing Body shall convene members to meet immediately to reckon such a manner to settle this non-acceptance.

The program of development and the budget in respect of capital expenditures may not be enforced unless the disagreement rose by the head of the technical parent ministry.

The annual budget of expenditures may be implemented only in such a manner to comply with the system of division into twelve parts when the disagreement still exists. However, the expenses for benefits of insured persons shall be implemented.

Article 28:

The Minister of Labour and Vocational Training may also make refusal with documents dispatched including the program of development, annual budget project and the minute of the Governing Body. The Minister of Labour and Vocational Training has one month of the time to make such a refusal.

The Director shall notify to the Governing Body about the refusal of the Minister of Labour and Vocational Training. The Governing Body shall discuss this refusal immediately and look for in such a manner to deal with. If the Governing Body decides that such a refusal is non-reliable this decision shall be specified the reasons and notified immediately, in writing, to the head of the Minister of Labour and Vocational Training.

Article 29:

29.1 The Minister of Labour and Vocational Training may cancel or suspend the decision of the Governing Body or of the Director in the case of that decision:

- is in contrary to the objectives of the NSSF;
- is in contrary to laws and regulations;
- is in contrary to the meeting procedures provided by the article 7.

29.2 Such a cancellation or suspension shall be made by a Prakas of the Minister of Labour and Vocational Training with the specification in respect of the reason due to his/her own concept or due to complaints of parties concerned. The cancellation or suspension shall be notified, in writing, to the Director and the Director shall inform to the Governing Body as soon as possible.

Article 30:

The Minister of Labour and Vocational Training may take action in respect of the verification, inspection or the control of the NSSF works if considering that it is necessary to do subject to the terms and procedures prescribed by existing laws and regulations.

SECTION 2

THE FINANCIAL PARENT MINISTRY

Article 31:

31.1 Within 15 days after the meeting of the Governing Body t the Director of NSSF shall send the annual financial statement the Minister of Economy and Finance, and the Minister of Labour and Vocational Training. The Minister of Labour and Vocational Training has one month of the time from the date, on which the documents received, to provide comments to the Minister of Economy and Finance. The Minister of Economy and Finance has two months of the time from the date of reception of the documents, from the Director of the NSSF to accept them.

31.2-The acceptance that duly signed by the Minister of Economy and Finance or his/her delegate shall be sent to the Director of NSSF along with the certified copies the Minister of Labour and Vocational Training. The Director of NSSF shall notify immediately the acceptance to the Governing Body.

In case of the Minister of Economy and Finance does not reply within the period prescribed the annual financial statement shall be considered to be accepted.

In the event of the Minister of Economy and Finance refuses with the annual financial statement the President of the Governing Body shall immediately organize a meeting to discuss and look for a manner how to deal with that refusal.

The annual financial statement cannot be approved unless the refusal of the Minister of Economy and Finance is settled.

Article 32:

The decisions of the Governing Body or the Director of the NSSF that must be authorized in prior by the Minister of Economy and Finance and the Minister of Labour and Vocational Training after a notice of the financial inspector are as follows:

- The decision in respect of the sale or transfer of fixed assets;
- The decision in respect of the release of debt with the amount of no more than what prescribed by the Prakas of the Minister of Economy and Finance;
- The decision in respect of loans, securities or other similar agreements.

Article 33:

The Minister of Economy and Finance nominated a financial inspector placed in the NSSF. This inspector has duties to control, both in prior and afterward, the establishment referred to Sub-Decree No. 81 concerning the Financial Control on Expenditures of ministries, provincial and municipal units, and other administrative public organizations.

The management of the principal manager of the NSSF shall be under the control of the Financial Inspection of the Ministry of Economy and Finance. The management of the accountant shall be under the control of the Central Accountant of the National Treasury and the General Financial Inspection. The Minister of Economy and Finance may take action in respect of the verification, inspection or the control of the NSSF works if considering that it is necessary to do subject to the terms and procedures prescribed by existing laws and regulations.

CHAPTER 6

COMMON PROVISIONS

Article 34:

34.1 Shall be considered as survivor of the deceased member who suffered by employment injury of the NSSF the following:

- a. Spouse who shall be married with legal certificate in the period of at least one (1) year preceding the date of decease of the insured person and has no any salaried work.
- b. Children who shall be less than 18 years of age still no married and fulfill the following criteria:
 - A child of a couple with legal married certificate. In case of divorce or death of spouse, a child of the next marriage shall be also entitled to dependent benefits as same as a child of the first marriage;
 - Adopted child of the insured person. The adopted children shall be followed the existing provisions;
The dependent child age may be fixed to 21 years of age for any child who is, with duly certificate, in training or studying in a public or private school recognized by the competent authorities, or disabled children or children with chronic diseases and lost of earning capacity.
 - Parents of elderly who is directly in charge of the victim.

34.2 The beneficiary of deceased pensioner shall be determined by Prakas of Ministry of Labour and Vocational Training.

34.3 Pension for spouse of the victim shall be terminated in case of his/her remariage.

Article 35:

The NSSF has its prerogative of recovery of its debt and keeping its resources. In case of bankrupt or judicial liquidation by the court the prerogative must be performed following the date of the decision of court. The procedure of debt recovery shall be determined by Prakas of the Ministry of Labour and Vocational Training.

The competent authority shall prohibit to leave the Kingdom of Cambodia all persons who still do not pay off the debt of the NSSF following the debt notification provided by the court of law.

Article 36:

The money of the NSSF shall be put in the account in the Treasure or the National Bank or other commercial banks by a Prakas of the Ministry of Economy and Finance.

The Governing Body of the NSSF may approve to investment extra money after an acceptance issued by the Ministry of Labor and Vocational Training and the Ministry of Economy and Finance.

Article 37:

The State shall be liable only debts that have been accepted in advance by the Ministry of Economy and Finance.

Article 38:

The stage, coverage, procedure and a specified date of implementation of each social security scheme shall be determined by Prakas of Ministry of Labour and Vocational Training.

CHAPTER 7

FINAL PROVISIONS

Article 39:

After the Sub-decree coming into force the Department of Social Security of the Ministry of Labour and Vocational Training will be changed into the National Social Security Fund. The Director of the Department of Social Security of the Ministry of Labour and Vocational Training has the role as the Director of the National Social Security Fund until the nomination of a new Director of the NSSF.

Article 32:

Provisions contrary to this Sub-decree shall be null and void.

Article 33:

The Minister in charge of the Council Ministers, the Minister of Labor and Vocational Training, the Minister of Economy and Finance, other relevant Ministers and Secretaries of State shall have tasks to comply with the Sub-decree from the date of its being signed.

Phnom Penh, 02 March 2007

Prime Minister

Signature and Stamp

Hun Sen

cc:

- *The Ministry in charge of Royal Palace*
- *The Secretariat General of the Senate*
- *The Secretariat General of the National Assembly*
- *The Secretariat General of the Constitutional Council*
- *The Cabinet of the Prime Minister*
- *As stated in article 36*
- *File and chronicle*