

LAW
ON
MINIMUM WAGE



Royal Kram

NS/RKM/0718/015

**We,
Majesty Preah Bat Samdech Preah Boromneath
NORODOM SIHAMONI,
KING of CAMBODIA,**

- having considered the Constitution of the Kingdom of Cambodia;
- having considered Royal *Kret (Decree)* No. NS/RKT/0913/903 dated 24 September 2013 on the Appointment of the Royal Government of Cambodia;
- having considered Royal *Kram (Edict)* No. 02/NS/94 dated 20 July 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- having considered Royal *Kram* No. CS/RKM/0498/06 dated 8 April 1998 promulgating the Law on the Organisation and Functioning of the Council of Constitution;
- having considered Royal *Kram* No. NS/RKM/0107/005 dated 31 January 2007 promulgating the Amended Law on the Organisation and Functioning of the Council of Constitution;
- having considered Royal *Kram* No. NS/RKM/0318/005 dated 10 March 2018 promulgating the Amendments to Articles 26, 27 (new), 28, 31 and 32 of the Law on the Organisation and Functioning of the Council of Constitution;
- having considered Royal *Kram* No. NS/RKM/0105/003 dated 17 January 2005 promulgating the Law on the Creation of the Ministry of Labour and Vocational Training;
- having considered the proposition of *Samdech Akka Moha Sena Padei Techo Hun Sen*, Prime Minister of the Kingdom of Cambodia;

promulgate

The Law on Minimum Wage that was adopted on 7 June 2018 at the 10th Session of the Fifth Legislature of the National Assembly, was completely reviewed and approved by the Senate on 15 June 2018 at the 1st Session of the 4th Legislature of the Senate, and was declared constitutional by the Council of Constitution per Resolution No. 195/003/2018/CC dated 26 June 2018, in the full text as follows:

Chapter 1

General Provisions

Article 1.-

The purpose of this law is to:

- Enhance the decent living with dignity, job opportunities, and productivity of workers; and
- Promote more attractive business and investment environment.

Article 2.-

This law has the following objectives:

- To ensure the minimum wage fixing for all persons who fall under the provisions of Labour Law;
- To develop scientific minimum wage fixing procedures based on social and economic criteria; and
- To establish a National Minimum Wage Council as a tripartite mechanism for study, research and recommendation on minimum wage and other benefits of all persons who fall under the provisions of Labour Law.

Article 3.-

This law covers all enterprises or establishments and all persons who fall under the provisions of Labour Law.

Chapter 2

Minimum Wage

Article 4.-

A wage shall be at least equal to a minimum wage which is the statutory lowest wage and is determined by Prakas of the Minister of the Ministry in Charge of Labour.

Article 5.-

The elements to be considered in defining the minimum wage shall focus on the economic condition, cost of living and prevailing situation of the country.

Those elements are:

1. Social criteria including family status, inflation rate, and cost of living.
2. Economic criteria including productivity, competitiveness of the country, labour market situation and profitability of the sector.

In case of necessity the National Minimum Wage Council can adjust the minimum wage fixing criteria in accordance to economic activities, profession, jobs or regions based on economic and social conditions of the country.

Article 6.-

Any written or verbal agreement that falls within the scope of the minimum wage and would remunerate the worker at a rate less than the minimum wage shall be null and void.

Any written or verbal agreement that falls within the scope of the minimum wage and would remunerate the worker at a rate higher than the minimum wage shall be continued.

Article 7.-

For the contracted or piece-rated work, the wage shall be determined for workers with moderate skills who work during regular working hours to receive, for the same period of working hours, is at least equal to the guaranteed minimum wage and is applicable to workers of its kind.

Workers who receive a piece rate-based wage shall be paid based on the actual outputs produced. In the event that the output produced is higher than the minimum wage, the workers shall be paid based on that higher amount. However, in case it is lower than the minimum wage, the employers shall supplement to make it equal to the guaranteed minimum wage.

Article 8.-

For work of equal conditions, professional skills, and outputs, equal remuneration shall also be provided to all workers who are under the scope of this law regardless of origin, sex or age whatsoever.

Article 9.-

The minimum wage as determined by Prakas of the Minister of the Ministry in Charge of Labour shall be established without distinction among professions or jobs. This may vary according to region based on economic factors that determine the standard of living.

The Minister of the Ministry in Charge of Labour may prioritize the scope in which the minimum wage is applicable based on the economic activities, professions, occupations, and regions according to the economic and social conditions of the

country after having received a recommendation from the National Minimum Wage Council.

Chapter 3

Minimum Wage Discussion

Article 10.-

The discussion of minimum wage shall conform to the following principles:

1. The discussion of minimum wage shall take place per the schedule set by the Minister of the Ministry in Charge of Labour.
2. The minimum wage shall be the predictable figure or increment rate that grows gradually steady.
3. The win-win policy shall be observed.
4. The use of official and legal data of the national institutions or entities in charge of compiling statistics, and social and economic criteria as stated in Article 5 of this law shall serve as the basis of the discussion.

Article 11.-

The Minister of the Ministry in Charge of Labour shall issue Prakas on the schedule of minimum wage fixing after having received recommendation from the National Minimum Wage Council.

In the event of force majeure or a necessity, the Minister in Charge of Labour may issue Prakas to suspend or adjust the schedule for discussion of the minimum wage. In this case, the previous year's minimum wage shall remain valid until after a new minimum wage is set and supersedes.

Article 12.-

To participate in the discussion of minimum wage, each party to the National Minimum Wage Council shall seek its own official position using the criteria stated in Article 5 of this law.

In the event that its own official position cannot be unanimously reached, each party shall choose the majority voice through an internal vote to determine its official position and shall not violate the official position decided by its own for discussion.

The decision on the figures or rate of adjustment of minimum wage by the

National Minimum Wage Council shall be based on the rules unanimously approved by the members being present at the meeting. In the event that an agreement on any points cannot be unanimously reached two (2) times at two (2) different meetings, the decision shall be made based on the voting majority through secret vote at the 2nd (second) meeting. In the case of a tied vote, the voice of the chair shall take precedence.

Article 13.-

After the decision has been made on the figures or rate of adjustment of minimum wage in accordance with the procedure stated in Article 12 of this law, the National Minimum Wage Council shall use this result as the recommendation for the Minister of the Ministry in Charge of Labour. If necessary, the Minister may request for an agreement in principle from the Royal Government before issuing Prakas on the Minimum Wage for implementation in the subsequent year.

The new minimum wage shall come into effect from the 1st of January of the following year.

Article 14.-

The employer shall permanently post the Prakas on the Minimum Wage at the workplace, the payment office and recruitment places.

Chapter 4

National Minimum Wage Council

Article 15.-

The National Minimum Wage Council shall be established and attached to the Ministry in Charge of Labour.

Article 16.-

The National Minimum Wage Council shall perform the following duties:

- Conduct scientific studies on matters related to minimum wage;
- Facilitate and enable all relevant parties to study, meet and discuss the minimum wage;

- Provide recommendations on minimum wage, benefits and the scope of minimum wage implementation to the Minister in Charge of Labour;
- Disseminate and promote awareness and social dialogue on the minimum wage fixing; and
- Perform other tasks related to wage issues as requested by the Minister of the Ministry in Charge of Labour.

When required, the National Minimum Wage Council may establish a technical working group to assist in carrying out its tasks.

Any persons rather than the National Minimum Wage Council conducting a study on minimum wage have to submit the findings and sources of related data of the study to the National Minimum Wage Council within fifteen (15) days after the completion of the study.

Article 17.-

The National Minimum Wage Council is composed of at least forty-eight (48) regular members with of equal representation from the tripartite parties, as the following:

1. One-third are representatives from the Royal Government
2. One-third are representatives from workers
3. One-third are representatives from employers

The Minister of the Ministry in Charge of Labour or one (1) representative from the Ministry in Charge of Labour shall serve as the chairperson of the National Minimum Wage Council.

The National Minimum Wage Council shall comprise two (2) vice chairpersons, one (1) of whom is selected from the members of worker representatives and another one from the members of employer representatives through their respective internal elections.

The National Minimum Wage Council shall have alternate members equal to the number of the regular members to work in place of any regular members who are absent.

The Minister of the Ministry in Charge of Labour may request for adjustment of the number of the National Minimum Wage Council members to the Royal Government

as necessary, but there shall not be fewer than forty-eight (48) members.

The remuneration of the members of the National Minimum Wage Council is the burden of the individual institutions or organisations concerned.

Article 18.-

The composition, organization and functioning of the National Minimum Wage Council shall be determined by sub-decree.

The regular and alternate members of the National Minimum Wage Council shall be determined by Prakas of the Minister of the Ministry in Charge of Labour.

Article 19.-

An employer whose worker is a regular or alternate member of the National Minimum Wage Council shall give the person necessary time to attend official meetings pertinent to the work of the National Minimum Wage Council.

All meetings as stated in the preceding paragraph shall be paid as normal working time and considered as such for calculating seniority and leave entitlements.

Workers who are the members of the National Minimum Wage Council are subject to the same protection granted by law as that of shop stewards.

Article 20.-

Other than the scheduled meetings as defined by the Prakas of the Minister of the Ministry in Charge of Labour stated in Article 11 of this law, the chairperson of the National Minimum Wage Council may convene the council at any time as deemed necessary or as requested by any of the vice chairpersons. The request must specify a valid reason and necessity.

The members of the National Minimum Wage Council shall attend the meetings as per the set schedule and invitation by the chairperson of the National Minimum Wage Council.

The required quorum for all meetings of the National Minimum Wage Council shall be at least 50%+1 (fifty percent plus one) of all the members of the National Minimum Wage Council.

The General Secretariat of the National Minimum Wage Council shall prepare an invitation letter and attach it with relevant documents related to the meeting to be sent to the regular and alternate members at least fifteen (15) days prior to the meeting. In an emergency, the period for invitation is contingent upon the actual situation.

When requested by the chairperson or one of the vice chairpersons, the National Minimum Wage Council may invite any qualified individual other than the members to attend and provide advice on the issues to be discussed, but that individual shall not be entitled to voting at the meeting.

The meeting minutes need to be signed by the chairperson of the National Minimum Wage Council attached with the attendance list and sent to all the regular and alternate members within fifteen (15) days after the meeting.

Article 21.-

The National Minimum Wage Council comprises one general secretariat as the executive body under the Ministry in Charge of Labour.

The organization and functioning of the General Secretariat of the National Minimum Wage Council shall be determined by sub-decree.

The National Minimum Wage Council shall have its own budget package, which is part of the budget of the Ministry in Charge of Labour, for its operations.

The National Minimum Wage Council is entitled to receive and to arrange the use of funds obtained from various sources for its operations.

Chapter 5

Administrative Action and Penalty

Article 22.-

The punishment in this chapter includes written admonishments and transitional fines.

The written admonishments and transitional fines fall within the jurisdiction of the Minister of the Ministry in charge of Labour.

The payment of transitional fine leads to the extinguishment of criminal action.

In the event that the offender refuses to pay the transitional fine, the case shall be referred to the court for further action in accordance with the established procedures.

Rules and procedures with regard to the punishment shall be determined by Prakas by the Minister of the Ministry in charge of Labour.

Article 23.-

Any individual who violates the provisions of Article 5 of this law shall be admonished in writing.

In the event of failure to comply with the above admonishment, he/she shall be subject to a transitional fine of not more than 5,000,000 (five million) riel.

Article 24.-

The fine of not more than 40,000,000 (twenty million) riel shall be imposed to any employer who violates the provisions of articles 4, 6, 7 or 8 of this law.

In addition to the above punishment, the employer who pays the worker at a rate less than the minimum wage shall repay the violated amount to the worker taking into account inclusion of the interest earned at a rate set by laws.

Article 25.-

Any employer who violates the provisions of Article 14 of this law shall be admonished in writing.

In the event of failure to comply with the above admonishment, he/she shall be subject to a transitional fine of not more than 5,000,000 (five million) riel.

Article 26.-

Any individual who violates the provisions of paragraph 3 of Article 16 of this law shall be admonished in writing.

In the event of failure to comply with the above admonishment, he/she shall be subject to a transitional fine of not more than 10,000,000 (ten million) riel.

Article 27.-

Any employer who violates the provisions of Article 19 of this law shall be admonished in writing.

In the event of failure to comply with the above admonishment, he/she shall be subject to a transitional fine of not more than 10,000,000 (ten million) riel.

Article 28.-

The implementation of the provisions of Chapter 5 of this law shall not obstruct the implementation of the Law on Trade Union, the Labour Law, or other criminal laws. The violation of the provisions of this law may be an offense stated in the provisions of those laws.

Chapter 6

Final Provisions

Article 29.-

Articles 104, 105, 106, 107, 108 and 109 of the Labour Law that was promulgated by the Royal Kram (*edict*) No. CN/RKM/0397/01 dated 13 March 1997 and all provisions contrary to this law shall be abrogated.

Article 30.-

This law shall be declared as a matter of urgency.

The Royal Palace, 6 July 2018

(Royal signature and seal)

Norodom Sihamoni

PRL.1807.708

Highly, Reverently Submitted to His Majesty, the King
For Royal Signature

Prime Minister

(Signature)

Samdech Akka Moha Padei Techo Hun Sen

Respectfully Submitted to *Samdech Akka Moha
Sena Padei Techo Hun Sen*, Prime Minister

Minister of Labour and Vocational Training

(Signature)

Ith Samheng

No. 732 S.N

Text Copy for Dissemination

Phnom Penh, 9 July 2018

Secretary General

Royal Government of Cambodia

(Signature and seal)

Soy Sokha