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**Ministry of Social Affairs, Labour,**

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**Vocational Training, and Youth**

**Rehabilitation**

**No. 013 MOSALVY**

Phnom Penh, July 7, 2004

## **NOTIFICATION**

**On**

### **General Provision and Procedure of the Election for the Most Representative Status of the Professional Organizations of Workers at Enterprise or institution Level**

The Ministry of Social Affairs, Labour, Vocational Training, and Youth Rehabilitation would like to inform all workers, employees, unions, union federations of workers and employers of enterprises and institutions that :

- 1- Based on Article 277 of the Labour Law and Prakas No. 305 MOSALVY, dated November 22, 2001, on the representative status of a professional organization of workers at enterprise or institution level and rights to sign collective bargaining agreement at enterprise or institution level, the Ministry decides not to determine the most representative status of the union when there is objection from member of the Labour Advisory Committee or from enterprises, institutions, or from a concerned third party.
  - Any union federation that has no union in the enterprise, institution, or the union is yet to be registered in the enterprise and institution, cannot object to the request for the most representative status.
  - After receiving a notification issued by the Department of Labour Inspection on the objection to acknowledge the most representative status to a local union in an enterprise and institution, the concerned union or representative of union federation may request an election to determine the most representative status to the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation.
- 2- Within maximum period of two weeks after receiving the request for election to determine the most representative status, the Department of Labour Inspection will invite all parties concerned, representatives from unions in the enterprises and institutions, as well as representatives from union federations and employers to discuss the organization of this election.
  - In case the union who requests for an election is absent without notification and valid reasons, the union shall be considered as to have abandoned the request for an election and the request for the most representative status.

- In case the opposition party is absent and fails to attend the meeting invited by the Ministry without prior notification and valid reasons, it shall be considered that the decisions in the meeting are agreed upon.

### **3- The Election Organization and Inspection**

**A-** With reference to Prakas No. 305 MOSALVY, dated November 22, 2001, all unions who wish to join the elections in the enterprises and institutions as well as the employers are invited to discuss the procedure, time and venue of the election. The organization and inspection of the election shall be handed over to a third party or any public institution who volunteers to organize and inspect the election, if both parties agree. In case there is no one responsible for these tasks, the Ministry will take charge of organizing the election that requires a committee which includes:

- A representative from the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation as the President.
- A representative from each union federation and three representatives from each concerned union.

**B- Duties of the Committee for Organization and Inspection of Election are as follows:**

- Examine and verify voter list.
- Arrange venue and date of the election and ballots.
- Coordinate the election process.
- Explain the procedure of the election, inspect the election process, and announce the result of the election.

**C- Election Procedure:**

- The election can be conducted inside or outside the enterprises and institutions, according to the agreement of the discussion meeting, and various organizations may attend the event as observers.
- Ballots: enlisting all names of the unions in the enterprise or institution, and attach pictures of the union leaders beside the (Yes or No) tick boxes.
- The workers shall be notified of the date and venue of the election at least exactly seven days prior to the election, excluding holidays or weekends.
- The election shall be conducted during working hours, if it is agreed by the employers.
- The election shall be conducted before or after the working hours, if the election in working hours is not agreed by the employers.
- The election shall be held at the workplace, if it is agreed by the employers or at any other place nearby the workplace, if it is not agreed by the employers.
- Only workers, who have worked for the enterprise or institution for at least three months counting from date of the probation, are eligible to vote.

- All unions may disseminate and provide information of the election regarding the date, venue, ballot form and procedure of the election etc. to their members outside of working hours.
- Workers who have the rights to vote shall mark on the ballot with “√” or “+” in the square beside the (Yes or No) tick box in front of only one name of the union they like, then fold the ballot properly and cast the ballot in the ballot box in their individual turn.
- Any ballot that is not marked or is marked differently from the above specification or is written or signed, or marked in other forms, shall be considered as invalid.
- Representatives of union federations, local and international organizations concerned may attend the event as observers.

**D- Ballot Counting and Result Announcement:**

- Ballots shall be counted in public after the election is complete. In case the ballot counting cannot be done due to the time constraint or other causes, the Election Committee shall keep the ballot boxes in a secured place, locked and sealed with signatures affixed by the Election Organizing Committee.
- The ballot boxes shall be gathered in one place as defined by the Election Committee.
- The ballot boxes shall be opened and ballots shall be taken out for counting by verifying the ballots that have distributed to the voters.
- The names of the unions who competed in the election shall be written on the board and then count the votes from the valid ballots.
- The result shall be announced by the President of the Election Committee immediately after the ballot counting is done.
- The Ministry will issue a certificate certifying the most representative status not later than 15 days counting from the date the election result is announced.
- All the recourse concerning the accuracy of the election or result of the election shall be submitted to the competent court within eight days counting from the date the result is announced. The complaint lodged to the court shall be copied for the Department of Inspection and the winner for their information.
- When the court has yet to decide, the elected union still has the most representative status to negotiate the collective bargaining agreement.

The Ministry hopes and believes that the cooperation from all parties concerned to ensure fair election process will ensure the fairness in determining the most representative status for the union in enterprises or institution so that the union enjoys the benefits and legal rights in their employment.

**Minister**  
**Ministry of Social Affairs, Labour, Vocational Training and Youth**  
**Rehabilitation**  
**Signature and stamp**

**ITH SAM HENG**