



Code of Conduct

For Cambodian Private Recruitment Agencies



Foreword

The Royal Government of Cambodia, through the Ministry of Labour and Vocational Training is pleased to support the Association of Cambodian Recruitment Agencies (ACRA) and the Manpower Association of Cambodia (MAC) in their adoption of this Code of Conduct (COC). With technical support from the Ministry of Labour and Vocational Training (MoLVT) and the International Labour Organization (ILO), ACRA and MAC have published this COC. The principles contained in this document, reflect ACRA and MAC's commitment to implementing ethical and responsible recruitment practices, and sustainable business practices. This is critical to ensuring that labour migration is a positive experience for migrant workers, protecting their rights and enabling them to contribute to the inclusive economic growth of their communities and country

The COC is a practical tool for Cambodian Private Recruitment Agencies. It outlines the principles they must uphold to effectively and ethically manage recruitment, training and deployment for migrant workers being deployed overseas. As the COC reflects both domestic and international labour rights, it will play an important role in holding recruitment agencies accountable, thereby protecting and promoting the rights' and wellbeing of migrant workers. In addition, the COC will be a useful resource for migrant workers, as it helps to clarify what they can expect of recruitment agencies with regards to their migration experience.

I would like to express my gratitude to all the parties involved in the development of the COC, especially to the ILO for their invaluable cooperation and technical assistance, through the TRIANGLE in ASEAN programme. In addition, I congratulate ACRA and MAC for their collaborative approach in consulting with a breadth of relevant stakeholders during the development and finalization of the COC.

The MOLVT stands ready to support ACRA and MAC, ensuring the principles of the COC are upheld to promote and protect the rights of migrant workers thereby increasing access to justice for all Cambodian migrant workers.

Phnom Penh, 2nd January 2020



Ith Samheng
Minister for Labour and Vocational Training

1 Introduction

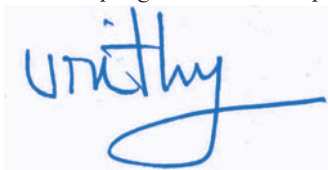
Increasing the number and positive experiences of Cambodian migrant workers overseas is a priority for the Royal Government of Cambodia. The Ministry of Labour and Vocational Training (MoLVT) recognizes that labour migration significantly contributes to Cambodia's inclusive and sustainable economic growth, as well as poverty alleviation and improving livelihoods. In this regard, labour migration can benefit workers and their families, and also their communities and the nation.

For many years, Cambodian private recruitment agencies have been recruiting and training workers for overseas employment. Private recruitment agencies have played an important role in contributing to economic development and improved livelihoods for migrant workers, their families and society.

To ensure more responsible and ethical recruitment practices, support sustainable business development, and to further develop the positive reputation and prestige of private recruitment agencies, the Association of Cambodian Recruitment Agencies (ACRA), and the Manpower Association of Cambodia (MAC), have developed and adopted this Code of Conduct (CoC), with the cooperation of and technical support from the MoLVT and ILO. The CoC is to be used by Cambodian Private Recruitment Agencies to effectively manage recruiting, training and sending workers for overseas employment. The CoC plays an important role in ensuring accountability, by requiring private recruitment agencies to comply to the national law and international labour standards. The application and implementation of the CoC will improve the experiences of Cambodian migrant workers overseas, by protecting and promoting their rights, and it will greatly benefit agencies' business development.

The MoLVT highly appreciates the establishment and implementation of an ethical and professional CoC and encourages agencies to fully apply the principles of the CoC. The Ministry considers that the application of the CoC is an important indicator in evaluating and ranking the performance of private recruitment agencies. It is also an opportunity for agencies to improve their practices, and in doing so, potentially expand their domestic and international presence.

ACRA and MAC are the professional associations of private recruitment agencies in Cambodia. The goals of these associations is to ensure recruitment agencies are able to contribute to skills and socio-economic development, and to seek and expand new markets for members by working with government, employers, and workers. In addition, they are committed to working with other professional organizations to ensure private recruitment agencies promote fair and ethical recruitment practices. This is critical to the protection and promotion of Cambodian migrant workers' rights and helps to build the reputation of recruitment agencies nationally, regionally and internationally. ACRA and MAC are grateful for the support of the MoLVT, members of private recruitment agencies, and the ILO TRIANGLE in ASEAN programme for cooperation and technical assistance to the development of the CoC.



UNG SEANGRITHY
President of ACRA



AN BUNHAK
Chairman of MAC

2 Some definitions and abbreviations for the purposes of this Code of Conduct:

- **Child labour** is work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It also refers to work that is mentally, physically, socially or morally dangerous and harmful to children; and interferes with their schooling.
- The **employer** is any person or entity that engages employees or workers, either directly or indirectly.
- **Forced labour** is a crime. It includes all work or service which a person has to perform under the threat of penalty or sanction, and which the person has not freely consented to do.
- **Migrant workers are** Cambodian workers aged 18 or over, who have applied for overseas employment and are in the process of completing official forms and paperwork, through recruitment agencies in accordance with the guidelines of competent institutions such as Ministry of Labour and Vocational Training, Ministry of Foreign Affairs and International Cooperation, and Ministry of Interior (Sub-decree No.190), including trainees under the relevant internship and trainee programs.
- **Private Recruitment Agency** refers to any private legal entity duly established under applicable laws and regulations of the Kingdom of Cambodia and officially licensed by the Ministry of Labour and Vocational Training to be responsible for providing full job placement service abroad (Sub-decree No.190).
- **Recruitment** includes the advertising, information dissemination, selection, and transport, placement into employment and – for migrant workers – return to the country of origin where applicable. This applies to both jobseekers and those in an employment relationship.
- **Recruitment fees or related costs** refer to any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection.
- **Trafficking in Persons** refers to the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.
- **Workers** are Cambodian people who are at all phases of labour migration from the time when a job placement contract is entered into with the recruitment agency until the time when they return home. The term also includes Cambodian people who undergo internship and work abroad and have proper contract recognized by the MoLVT (Sub-decree No.190).

Organisational Acronyms:

- ACRA: Association of Cambodian Recruitment Agencies
- CoC: Code of Conduct
- MAC: Manpower Association of Cambodia
- ILO: International Labour Organization
- MoLVT: Ministry of Labour and Vocational Training
- PRA: Private Recruitment Agency

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Operational Principle of the Code of Conduct

Consisting of 12 articles

- 1) Respect for, and implementation of, national laws, and fundamental principles and rights at work.
- 2) Respect for, and communication of, reality and transparency in advertising.
- 3) Respect for, and reduction of, costs and fees for migration.
- 4) Respect for, and enforcement of, recruitment and employment contracts.
- 5) Respect for, and protection of, confidentiality and data.
- 6) Respect for, and recognition of, skills and qualifications.
- 7) Respect for, and delivery of, migration information and pre-departure orientation requirements.
- 8) Respect for, and provision of, dispute settlement mechanisms.
- 9) Respect for, and operation within, the Memoranda of Understanding agreements endorsed by the relevant authorities.
- 10) Respect for, and protection of, workers' rights, while employed in destination countries.
- 11) Respect for, and support during, repatriation and reintegration.
- 12) Respect, and safeguard of, freedom of movement at all stages of migration.

1. Respect for, and implementation of, national laws, and fundamental principles and rights at work.

1.1 Private recruitment agencies must comply with all applicable legislation, regulations, multilateral and bilateral agreements on labour migration, and policies related to the recruitment of migrant workers in origin, transit and destination countries. This explicitly prohibits trafficking in persons, forced labour, and child labour, includes the right to freedom of association and collective bargaining and respect for equality of treatment and non-discrimination, in accordance with the ILO Declaration on Fundamental Principles and Rights at Work. This practice should also be in line with the law and requirement of destination country.

2. Respect for, and communication of, reality and transparency in advertising.

2.1 Private recruitment agencies must ensure that advertisements for their services realistically reflect the job opportunities, timeframes for deployment and costs related to migration.

2.2 Private recruitment agencies should cooperate with relevant authorized government departments in relation to the regulation of advertising of recruitment of migrant worker, as stipulated by law.

3. Respect for, and reduction of, costs and fees for migration.

3.1 Recruitment fees or related costs must be limited to those allowable by law, must not be excessive and charged only in the interests of the migrant workers, trainees or jobseekers. Recruitment agencies will take steps to reduce costs borne by migrant workers, and commit to moving towards a 'zero fee to migrant workers' model.

3.2 Terms and conditions of a migrant worker's recruitment – including any costs legally chargeable - should be specified and receipted in an appropriate and easily understandable manner.

3.3 Additional costs on arrival are prohibited, unless required by law in a country of destination.

4. Respect for, and enforcement of, recruitment and employment contracts.

4.1 Written contracts should be in a Khmer language that the migrant worker can understand, the language of the receiving country and English, or explained clearly to the worker, should be provided sufficiently in advance of departure from Cambodia, should be subject to measures to prevent contract substitution, and be enforceable in origin and destination countries.

4.2 Migrant workers' agreements to the terms and conditions of recruitment and employment should be voluntary and free from deception or coercion.

4.3 Recruitment and employment contracts must be clear and transparent, at a minimum include the type of work, address of the workplace and information about working conditions, rest and leave time, wages, social insurance, living conditions, complaint procedures and dispute settlement procedures.

4.4 Contracts must reflect conditions at the particular workplace and not be generic.

4.5 Liability for contract breach shall be held by both the recruitment agencies and the employer to ensure that both parties are committed to fulfilling the contract of employment, as agreed by the migrant workers.

5. Respect for, and protection of, confidentiality and data.

5.1 Private recruitment agencies must ensure that all personal data that they collect, receive, use, transfer or store is treated as strictly confidential and shall not be communicated to any third party, without the prior informed consent of the migrant worker or workers' representative, unless required by law.

5.2 Recruitment agencies must not record personal data, including photos or images, not required for judging the aptitude of migrant workers for jobs for which they are being considered, or required to facilitate their deployment, unless specifically required by law and recorded and dispersed in a manner that support non-discrimination.

6. Respect for, and recognition of, skills and qualifications.

6.1 Private recruitment agencies should take into account policies and practices that promote efficiency, transparency and protection for migrant workers in the process, such as mutual recognition of skills and qualifications.

6.2 Private recruitment agencies should take special care to ensure that women migrant workers' skills are recognised and valued and that women migrant workers' are able to access jobs in sectors of their choice.

7. Respect for, and delivery of, migration information and pre-departure orientation requirements.

7.1 Private recruitment agencies must deliver the pre-departure training curriculum developed by ILO or any other curriculum approved by the MoLVT, and it must be conducted in a gender responsive and participatory manner.

7.2 Private recruitment agencies must ensure that all prospective migrant workers – men and women - learn about their specific rights, obligations, the responsibilities borne by the recruitment agency, traditions, customs, and laws of the destination country, and contacts for seeking assistance in cases of any problem or emergencies.

7.3 Civil society, women's groups and/or trade unions will be invited to deliver parts of the pre-departure orientation training.

8. Respect for, and provision of, dispute settlement mechanisms.

8.1 Private recruitment agencies will ensure that migrant workers, irrespective of any individual identity, or their presence or legal status, will have access to free grievance and other dispute resolution mechanisms under the MoLVT in cases of alleged abuse of their rights in the recruitment process, and effective and appropriate resolution of their complaints.

8.2 Private recruitment agencies will endeavour to ensure that men and women migrant workers have access to justice and dispute resolution mechanisms in countries of destination.

9. Respect for, and operation within, the Memoranda of Understanding agreements endorsed by the relevant authorities.

9.1 Private recruitment agencies will only recruit migrant workers through the MOU/bilateral agreements/diplomatic notes or any other relevant formal migration channels, and only with licenses, permission and authorization from the MoLVT.

9.2 Private recruitment agencies will only use legal and appropriate documents, visas, work permits and procedures to enable migrant work, and will obtain these in a legal manner using the regular channels for approvals and issuance.

10. Respect for, and protection of, workers' rights, including trainees, while employed in destination country.

10.1 Private recruitment agencies will maintain regular contact with migrant workers and keep informed about the situation of workers in the country of employment, coordinate with all destination partners, including employers and placement agencies and Cambodian representatives of private recruitment agencies in destination, to protect the rights of migrant workers, and prevent discrimination, and ensure the benefits of migration flow to workers.

10.2 Private recruitment agencies are obliged to perform due diligence in assessing hazards, risks of abuse and exploitation or discrimination of all kinds in the workplaces.

10.3 Recruitment agencies are expected to develop standard operating procedures to respond when migrant workers' rights are abused.

11. Respect for, and support during, repatriation and reintegration.

11.1 Private recruitment agencies will collaborate with employers and relevant stakeholders in country of origin, the Cambodian Embassy or labour counsellor of the MoLVT in destination countries to facilitate workers' safe and timely return after the contract ends. Special attention shall be paid to the needs of women migrant workers.

11.2 Private recruitment agencies will assist migrant workers with the necessary procedures to regularize local residence and reintegration into their communities upon their return.

12. Respect, and safeguard of, freedom of movement at all stages of migration.

12.1 Private recruitment agencies and their partners in destination countries must not require migrant workers, or their family members to provide a monetary deposit or other collateral as a condition of employment, and must not withhold, destroy or confiscate documents, wages, or other personal belongings, or otherwise limit freedom of movement.

12.2 Private recruitment agencies will pay special attention to groups of workers who are vulnerable to restriction of movement, especially domestic workers, and those in isolated workplaces, and ensure they are regularly contacted and their freedom of movement maintained.