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KINGDOM OF CAMBODIA
Nation Religion King

Ministry of Social Affairs, Labor
Vocational Training and
Youth Rehabilitation
No: 243

Phnom Penh, 10 September 2002

PRAKAS
ON
NOTIFICATION FOR OCCUPATIONAL ACCIDENTS, FORMULA FOR
COMPENSATION AND RATIO OF LOSS OF WORKING CAPACITY

The Minister of Social Affairs, Labor And Vocational Training and Youth Rehabilitation

- Seen the Constitution of the Kingdom of Cambodia
- Seen the Royal Decree No. 1198/72, dated 30 November 1998 on the appointment of the Royal Government.
- Seen the Law on the Organization and Functioning of the Cabinet promulgated by the Royal Kram No. 02/ 94, dated 20 July 1994
- Seen the Labor Law promulgated by the Royal Kram No.0397/01, dated 13 March 1997
- Seen the Royal Decree No. 0699/06, dated 17 June 1999 on the establishment of the Ministry of Social Affairs, Labor And Vocational Training and Youth Rehabilitation.
- Seen Sub-Decree No. 87, Dated 04 October 1999 on the Organization and Functioning of the Ministry of Social Affairs, Labor And Vocational Training and Youth Rehabilitation.

HEREBY DECIDES

Article 1:

Owners or directors of enterprises and establishments of industry, mining, commerce, crafts, agriculture, services, land or water, transportation, be they public, semi-public or private, non-religious or religious, of professional education or charitable characteristics as well as the liberal profession of associations or groups of any kind shall notify in writing any work-related accident (occupational accident) to the Department of Social Security, Ministry of Social Affairs, Labor And Vocational Training and Youth Rehabilitation if the enterprise concerned is located in Phnom Penh. If the enterprise is located outside Phnom Penh, it shall

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report in writing to the Provincial or Municipal Inspectorate of Social Affairs, Labor And Vocational Training and Youth Rehabilitation, where the enterprise is located.

Article 2:

The notice of occupational accidents shall be sent either by registered mail or by personal delivery with acknowledged receipt "Received" within 48 hours the latest excluding days-off or holidays.

The model format of notice of occupational accidents is provided in ANNEX 1 of this Prakas.

Article 3:

Workers who incur occupational accidents shall also have the obligation to notify their employer or his/her legitimate representative within 24 hours after the occurrence of the accident. This obligation, however, may be exempted in case of God Act or complete inability to notify or other appropriate grounds.

The written notification sent by the workers' representative, team leader, and workers to the employer shall be copied for the Department of Social Security or Provincial Offices or Municipal Offices of Social Affairs, Labor And Vocational Training and Youth Rehabilitation.

The notification may be done by registered mail in case of inability to notify directly on the spot such as in accidents during journey, which is specified by law as occupational accidents, and accidents during local or overseas mission undertaking

Article 4:

Accidents occurring to workers or paid or non-paid apprentices in whatever capacity at whatever location by whatever causes while performing their duty, whether or not they are the result of the workers' fault, shall be regarded as work-related accidents.

In addition, accidents, which occur to workers during their journey from home to work, or from work to receive their wages and their return, without detour to other places for personal interests or to places not required by the work, shall also be regarded as occupational accidents.

Vocational illnesses as specified in the law shall be regarded as occupational accidents.

Article 5:

In the event of accident occurrence, employer or owner of enterprise, the Department of Social Security, Provincial and Municipal Inspectorate of Social

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Work, Labor, Vocational Training and Youth Rehabilitation shall have the following immediate responsibilities:

A. Employer or Owner of Enterprise

- Immediately provide first aid to victims by all means;
- Notify the competent Ministries;
- Keep the place intact “for serious accidents or fatal accidents”;
- Write a report for record provided there is a need to change the original place
- Provide sufficient relevant documents to investigation committee;
- Provide facilitation for the accident witness so that the witness can report to the investigation committee;
- Be responsible for all investigation costs on technical analysis;
- Properly exercise the measures recorded in the report;

B. Social Security Department

- Immediately notify the Department of Labor Medicine and the Department of Labor Inspection to request for their respective competent officials to take part in accident investigation;
- Conduct investigation on the spot as soon as possible;
- Request for technical assistance in case the accident has much technical complication;

C. Provincial and Municipal Inspectorates

- Conduct investigation on the spot as soon as possible;
- Request for technical assistance in case the accident has much technical complication;
- Upon receiving notification about serious or fatal accidents, immediately notify the Department of Social Security within 72 hours at the latest.

When conducting every investigation, the officials shall write a report, determining whether or not it is a occupational accident, the cause of accident and the strategies to prevent the accident from happening again. A model of report format is provided in Annex 2 of this Prakas. Models of semester and annual report on occupational accidents are provided in Annex 3 and 4 of this Prakas.

Article 6:

While the National Funds for Social Security is yet to be established, owners or directors of establishments specified in Article 1 of this Prakas shall have the obligations to provide occupational accident allowances in addition to the first aid expenses. The allowances include:

- medical care and hospitalization coverage
- daily allowances
- annuity

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- costs for funerals and annuity for the victim's dependents

For traffic accidents characterized as work-related accidents, the indemnity covered by the third party, i.e. the party that caused accidents shall also be considered as occupational accident allowances. The employer has the right to sue the third party for these allowances provided he/she has already paid the allowances to the victim. Despite this provision, the employer shall be responsible for these allowances, i.e. he/she shall first provide allowances to the victim before dealing with the third party.

The victim has the privilege to demand for his/her allowances in case the court declares the enterprise bankrupt.

Article 7:

Hospitalization coverage and medical care for the victim both during hospitalization or during his/her relapse period and other after-recovery allowances are the responsibility of the employer towards the victim of occupational accident which, after official certification by a physician and approved by MOSALVY, caused him/her, partially or wholly, temporary or permanent disability. The healthcare allowances are specified below:

- Allowances for medical, surgical, and dental care, X ray or echography analysis, laboratory analysis and other analysis required by physicians;
- Allowances for expenses on medication and treatment-related secondary utilization;
- Allowances for a caretaker at a clinic or anywhere considered as a health care clinic;
- Supplies, repair of artificial limb and prosthetic facilities such as walking stick, handicap cart;
- Costs for transporting the victim to hospital or to his/her residence;
- Costs for the victim's rehabilitation

Despite the above specifications, the victim shall have the right to receive better benefits.

Article 8:

In case of a occupational accident resulting in a temporary or permanent disability accounting for over 20%, and in inability to return to work, that is, the accident causes temporary absence at work, the victim shall be entitled to daily allowances beginning from the 5th day after the accident occurred as long as he/she has the certified letter of physician recognized by MOSLAVY, in addition to receiving the allowances provided in article 7.

The daily allowances shall be equivalent to the average daily wage of the victim.

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The average daily wage shall be equivalent to the quotient of the base wage by the number of working days of the victim.

The base wage shall be equivalent to the sum of the net wage and other fringe benefits such as overtime, duty allowances, and other allowances in such forms as transportation, vocation, and mission, except for family allowances.

The amount of base wage shall be determined in compliance with the following criteria

1. Equivalent to, if the wage is payable monthly, the wage for the last month, i.e. the month before month, when the accident occurred.
2. Equivalent to, if the wage is payable fortnight, the wage for the last two consecutive fortnights before the fortnight the accident occurred.
3. Equivalent to, if the wage is payable weekly, the wage for the last four consecutive weeks before the week the accident occurred.
4. Equivalent to, if the wage is payable daily or irregularly, the total amount of a month's daily wages of working days plus paid holidays, as of the day the accident occurred.
5. Equivalent to, if the wage is payable more than one months but can be drawn once every quarter, the total wage for three months as of the day the accident occurred.
6. Equivalent to, if the victim had seasonal or intermittent work, the total wages for twelve months as of day the accident occurred.

The calculation of base wage shall be based on the above criteria, if within 30 days as of the day the accident occurred, the victim has suspended work due to an illness, an ordinary accident, a birth delivery, paid leave, leave of absence, or illness or injury leading to a relapse.

Upon receiving certification from the Department of Labour Medicine on the recovery and ability to return to work:

- If the person fails to report to work within 6 working days since the reception of the above certification letter, he/she shall be considered as having abandoned the job.
- The employer shall reinstate him/her. In case of inability to reinstate him/her, however, the employer shall pay him/her the lump sum equivalent to the daily average wage for 12 months.

Article 9:

In case of a work-related accident resulting in a permanent loss of over twenty percent of working capacity, or death officially certified by a physician

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recognized by MOSALVY, the victim or his/her beneficiary shall have the right to receive annuity.

The annuity is a function of an annual base wage and the level of the loss of the work capacity of the victim. The annuity for occupational accidents shall be provided after the recovery from injuries. During treatment period, the victim shall have the right to receive the daily allowances provided in article 8.

The annual base wage of the victim shall be in compliance with the following criteria:

- Equivalent to, in normal condition, the base wage of the victim provided in Article 8 during the period of twelve months as of the day the accident occurred.
- Equivalent to, if the victim had been employed in whatever vocation for yet less than complete twelve months as of day the accident occurred, the wage he/she had been receiving as of the day the accident occurred. Despite this provision, the victim may have the right to receive the same or better benefits as stated in the preceding paragraph.
- Equivalent to, if the victim has not worked for twelve months as of the day he/she fails to report for work due to an illnesses, an ordinary accident, a birth delivery, paid leave, or leave of absence, the average wage for the period of twelve months as of the day he/she failed to report for work due to the occupational accident.

In case the ratio of the loss of the working capacity accounts for 50%, the victim shall have the right to receive an annuity calculated as follows:

$$R_1 = \frac{1}{2} S X_1 \text{ where}$$

R_1 – Annual Annuity
 S – Annual Base Wage
 X_1 – Ratio of loss of permanent working capacity from 20% to 50%

Where this ratio is more than 50% the annuity shall be calculated as follows:

$$R_2 = S [1/250\% + 1.5 (X_2 - 50\%)] \text{ where}$$

R_2 – Annual Annuity
 S – Annual Base Wage
 X_2 – Ratio of loss of permanent working capacity exceeds 50%

Where the accident results in total loss of working capacity and which requires constant care by another person, the employer shall increase the above annuity provided for by 40%.

Upon receiving the annuity, the victim has the right to perform duty that fits with his/her physical fitness. As such, the employer shall provide the victim with vocational re-training to enable him/her to perform his/her new duty.

The employer can pay a lump sum to the victim on condition that both parties agree upon such option.

Article 10:

The employer shall be responsible for having the victim's physical fitness re-checked at the Department of Labour Medicine after the victim's recovery. This obligation shall apply to only the victims who have not reported to work for five days and over.

The employer shall cover the cost for physical fitness re-examination.

Article 11:

Employers shall be legally liable for covering funeral costs and providing annuity to dependents of the victim of fatal accident. The dependents shall be characterized as follows:

- The victim's spouse, with a valid marriage certificate, who was not divorced or separated as of the day the accident took place;
- The victim's dependent children. A dependent child is a child who is not married and not older than 16 years of age. The age limit may be increased to 18 years of age for a child who is undertaking apprenticeship, and to 22 years of age for a child who is continuing education at a public high school or university, or at an authorized fee-paying private high school or university, as well as a disabled child or a child who has a chronic incurable illness.

The costs for funeral shall be determined to be equivalent to 90 times the average daily wage or to the trimester wage of the victim.

The annuity for the victim's dependents shall be determined by ratio of the annual base wage of the victim and the ratio shall be determined as follows:

- 30% for the victim's spouse;
- 15% for the first and the second child who lost one of their parents;
- 10% for the third child who lost one of their parents;

The total annuity, however, shall not exceed 85% of the annual base wage.

The entitlement to the spouse's annuity as specified above shall lose its legal force if the spouse re-marries.

The victim can claim annuity on a monthly basis or on a lump sum basis on condition that the employer and the victim's beneficiary agree upon such an option.

Article 12:

In conformity with the types of injury and other general conditions such as age, physical and mental aptitude, and occupational qualification of the victim, the

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level of the loss of permanent working capacity shall be determined in Annex 5 of this Prakas.

Article 13:

The Department of Labour Medicine of MOSALVY shall conduct research and suggest the types of vocational illnesses.

Article 14:

Violations on the provisions of this Prakas shall be fined or prosecuted as provided in Chapter 16 of the Labour Law.

Article 15:

The Prakas No. 58 MOLSAVY dated February 12, 1998 of the Ministry of Social Affairs, Labor and Veteran Affairs shall be declared null and void.

Article 16:

This Prakas shall take effect from the date of its signature.