

Amendment of Cambodian Labour Law in 2021

On 5 October 2021, Cambodia issued Royal Kram No. NS/RKM/1021/011 on the amendment of several articles of the Cambodian Labour Law (the “Amended Labour Law”).

The table below sets out the changes introduced in relation to the old version of the Labour Law.

New Articles	Amendment Description
<p>Article 123</p>	<ul style="list-style-type: none"> – According to the new Article 123, prioritised claims outlined in Article 122 New of the Cambodian Labour Law (CLL), are opposable to all other general and special priorities, including the priority of the National Treasury. Amounts deducted by the National Treasury from the employer after the date when payment of debt was stopped, shall be returned to debtors. <p><i>The new Article 123 slightly amends the old Article 123 by changing from the reference to Article 122 of the CLL to the New Article 122 of the CLL. There is no other change to the content of the New Article.</i></p>
<p>Article 138</p>	<ul style="list-style-type: none"> – The new Article 138 provides more clarifications on the working shifts which can be more than one (1) shift per day based on the type of business and work arrangements. – In case the <i>enterprise/company</i> operates 3 shifts, the enterprise can divide the working day into morning, afternoon, and night shifts in which the total working hours of each shift shall not exceed the maximum working hours per day (i.e. 8 hours per day or 48 hours per week) as stated in Article 137 of the CLL of each employee/worker. – The <i>enterprise/company</i> can also divide the working schedule of each shift into 2 sessions separately. <p><i>The old Article 138 only allows each enterprise/company to divide the working day into two working shifts, including morning and afternoon shifts.</i></p>
<p>Article 162</p>	<ul style="list-style-type: none"> – Working on paid public holidays shall be under the control of the Labour Inspector. The formality and the procedure of working on paid public holidays shall be determined under the Prakas (implementing regulation) of the Ministry of Labour and Vocational Training (MLVT). – Time off for public holidays cannot be used as a reason for reducing monthly, bi-monthly, or weekly wages. <p><i>It should be noted that the old Article 162 allowed the workers/employees to have</i></p>

the following day off if the public holiday coincides with a Sunday. We note that under the new Article 162, the substitution day off when a public holiday falls on a Sunday is no longer applied.

There is currently no specific regulatory requirement for enterprises/companies to apply for approval from the MLVT for employees/workers to work on public holidays. However, as per the current requirement in the new online system of the MLVT, there is a function for enterprises/companies to apply for approval for working on a public holiday which is the same as the requirement to apply for approval for working overtime on normal working days. We expect that the MLVT will release a Prakas on the formality and procedure of working on paid public holidays in due course, in order to give more clarification on the application process.

Article 300

- An individual dispute is one that arises between the employer and one or more employees or one or more apprentices individually and relates to the interpretation or enforcement of the terms of a labour contract or apprenticeship contract, or the provisions of a collective agreement as well as regulations or laws in effect.
- In the case of all individual disputes, any party can take the matter to the Labour Inspector to find a solution first. In case this dispute cannot be solved, each party can take legal action at the Labour Court or Arbitration Council in accordance with Prakas No. 314 on the Procedure to Resolve the Individual Disputes dated 29 November 2001 issued by the MLVT.

The old Article 300 provided that prior to any judicial action, an individual dispute can be referred for a preliminary conciliation, at the initiative of one of the parties, to the Labour Inspector of his province or municipality, whereas the new Article 300 expands the jurisdiction to the Arbitration Council or Labor Court in case the dispute cannot be solved by the Labour Inspector.

Article 343

- The tasks of the Labour Inspection are handled by the Labour Inspectors and Labour Controllers.
- Before their appointment, Labour Inspectors and Controllers must solemnly swear allegiance to fulfilling their duties and to not revealing, even after having left their post, any manufacturing, commerce, or commercial operating methods that they learned of during the course of their work.
- As per the Code of Criminal Procedure, a Labour Inspector is qualified and acts as the Judicial Police to investigate offences as stated in the CLL. The formalities and procedure for the accreditation of the Labour Inspector as a Judicial Police shall be determined by an inter-ministerial Prakas established between the Ministry of Justice and the Ministry of Labour.

This new Article 343 gives power to the Labour Inspector as the Judicial Police to investigate offences as stated in the CLL in accordance with the provisions of the Code of Criminal Procedure. However, currently we understand that the inter-ministerial Prakas between the Ministry of Justice and the Ministry of Labour on the formalities and procedure for the accreditation of the Labour Inspector as a Judicial Police has not yet been issued.

Article 350

- Within the framework of their mission, the provisions relating to the powers and obligations of Labour Inspectors provided in Paragraph 2 of Article 343 New, Article 346, and point 1,2,3, 4 of Article 347 of CLL, are also handed over to the Labour Medical Inspectors.

<p>Article 363</p>	<p>– A fine of thirty-one to sixty days of the base daily wage shall be made to any person violating the provisions of Articles 21, 28, 44, 45, 49, 50, 57, 59, 106, 139 New, 144 New, 162 New, 163, 164, 166, 167, 168, 169, 170, 179, 180 paragraph 1 and 2, 182 paragraph 2 and 3, 184, 194, 198, 200, 204, 205, 206, 210, 249, 296, and 306 of the CLL.</p> <p><i>The new Article 363 slightly amends the old Article 363 by specifying that Article 139, 144 and 162 are the new/amended Articles from the CLL. There is no change in substance compared to the content of the old Article.</i></p>
<p>Article 367</p>	<p>– A fine of thirty-one to sixty days of the base daily wage shall be made to any employer who employs employees in conditions which are contrary to the provisions of Article 137, 138 New paragraph 2, Article 140 and 141 of the CLL.</p>

Commentary:

The Amended Labour Law introduces several changes and provides improved clarity relating to working shifts, paid public holidays, individual disputes, and the power of the Labour Inspector, etc.

It should be noted that this is the third amendment to the CLL, following its first promulgation in 1997 and two subsequent amendments in 2007 and 2018.

As part of the Government's ongoing efforts to improve working conditions and productivity, changes to the CLL aim to significantly promote competitiveness and increase Cambodia's ability to attract modern industries.

The Royal Government of Cambodia will continue to update and be flexible to the current situation of how enterprises/companies operate in Cambodia.

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