

NUON Heap (Mr.)

Education

MBA in Human Resource Management

English Based, International Program

BA in Management

Bachelor of Law

Professional Training:

- ✓ **Refresher Course in Industrial Relation and HRM, Tokyo, Japan**
- ✓ **Industrial Relation and HRM, Tokyo, Japan**
- ✓ **Human Resource Management , Kuala Lumpur, Malaysia,**
- ✓ **Human Resources Management and Office Admin, Bangkok, Thailand**
- ✓ **Specialized knowledge in USAID Rules and Regulations, Jakarta, Indonesia**
- ✓ **Intensive Labor Law, NSSF and Labor Union Law**

Experiences:

Position Held: Director of HR Institutional Development, Director of HR and Admin, Advisor Assistant, Head of Admin

With more than 12 years experience in Management Positions and respective areas of human resource management, office management, and HR Department budget management, playing strategic role and taking leading in developing, amending, revising, and implementing Employee manuals and procedures, Admin and IT Manuals, and Guidelines.

Cambodia labor Law

- Cambodia labor Law Article 1:

“This law governs relations between employers and workers resulting from **employment contracts** to be performed within the territory of the Kingdom of Cambodia, regardless of where the contract was made and what the nationality and residences of the contracted parties are.”

“This law applies to every enterprise or establishment of industry, mining, commerce, crafts, agriculture, services, land or water transportation, whether public, semi-public or private, non-religious or religious; whether they are of professional education or charitable characteristic as well as the liberal profession of associations or groups of any nature whatsoever.”

Cambodia labor Law

“This law shall also apply to every personnel member who is not governed by the Common Statutes for Civil Servants or by the Diplomatic Statutes as well as officials in the public service who are temporarily appointed.

This law shall not apply to:

- a) Judges of the Judiciary.
- b) persons appointed to a permanent post in the public service.
- c) personnel of the Police, the Army, the Military Police, who are governed by a separate statute.
- d) personnel serving in the air and maritime transportation, who are governed by a special legislation. These workers are entitled to apply the provisions on freedom of union under this law.
- e) domestics or household servants, unless otherwise expressly specified under this law. These domestics or household servants are entitled to apply the provisions on freedom of union under this law.”

Cambodia labor Law

- “Article 2: All natural persons or legal entities, public or private, are considered to be employers who constitute an enterprise, in the sense of this law, provided that they employ one or more workers, even discontinuously.
- Every enterprise may consist of several establishments, each employing a group of people working together in a defined place such as in factory, workshop, work site, etc., under the supervision and direction of the employer.
- A given establishment shall be always under the auspices of an enterprise. The establishment may employ just one person. If this establishment is unique and independent, it is both considered as an enterprise and an establishment.”

Cambodia labor Law

- “Article 3: “Workers”, in the sense of this law, are every person of all sex and nationality, who has signed an employment contract in return for remuneration, under the direction and management of another person, whether that person is a natural person or legal entity, public or private. To clearly determine the characteristics of a worker, one shall not take into account of neither the jurisdictional status of the employer nor that of the worker, as well as the amount of remuneration.”

Cambodia labor Law

- **ENTERPRISES - ESTABLISHMENTS**
- ***“Section 1: Declaration of the opening and closing of the enterprise***

Article 17: All employers to whom this labor law is applied, shall make a declaration to the Ministry in Charge of Labor when opening an enterprise or establishment. This declaration is called a declaration of the opening of the enterprise or establishment, that must be made in writing and be submitted to the Ministry in Charge of Labor before the actual opening of the enterprise or establishment.

Employers who employ fewer than eight workers on a permanent basis and who do not use machinery, shall make and submit this declaration to the Ministry in Charge of Labor within thirty days following the actual opening of the enterprise or establishment.”

Cambodia labor Law

“Section 2: Declaration on movement of personnel

Article 21: Every employer must make the declaration to the Ministry in Charge of Labor each time when hiring or dismissing a worker.

This declaration must be made in writing within fifteen days at the latest after the date of hiring or dismissal.

This period is extended to thirty days for agricultural enterprises.

The declaration of hiring and dismissal is not applied to:

- Casual employment with a duration of less than thirty continuous days.
- Intermittent employment for which the actual length of employment does not exceed three months within twelve consecutive months.”

Section 3: Internal regulations of the enterprise

Article 22: Every employer of an enterprise or establishment, set out in [Article 17](#) above, who employs at least eight workers shall always establish an internal regulation of the enterprise.

Internal regulations

Article 23: Internal regulations adapt the general provisions of this law in accordance with **the type of enterprise or establishment and the collective agreements that are relevant to the sector of activity of the aforementioned enterprise or establishment**, such as *provisions relating to the condition of hiring, calculation and payment of wages and perquisites, benefits in kind, working hours, breaks and holidays, notice periods, health and safety measures for workers, obligations of workers and sanctions that can be imposed on workers.*

Internal regulations

Article 24: The internal regulations must be established by the manager of enterprise after consultation with workers' representatives, within three months following the opening of the enterprise, or within three months after the promulgation of this law if the enterprise already exists.

Before coming into effect, the internal regulations shall be [visaed] by the Labor Inspector. This visa shall be issued within a period of sixty days.

Section 4

Employment card

“Article 32: Every person of Cambodian nationality working as a worker for any employer is required to possess an employment card.”

Section 5

Payroll ledger

“Article 39: Every employer of an enterprise or establishment covered by [Article 17](#) above shall constantly keep a payroll ledger whose format shall be set by a Prakas (ministerial order) of the Ministry in Charge of Labor.

- Before being used, all the pages of the payroll ledger must be numbered and initialed by the Labor Inspector.
- The payroll ledger must be kept in the Bureau of Cashier or Head Office of each enterprise so that it is simply available immediately for inspections. The employer shall keep the payroll ledger for three years after it has been closed.
- The Labor Inspector may require to see the payroll ledger at any time.

THE LABOUR CONTRACT

- **Section 1**

- ***Signing and execution of a labor contract***

- Article 65:
- A labor contract establishes working relations between the worker and the employer. It is subject to common law and can be made in a form that is agreed upon by the contracting parties.
- It can be written or verbal. It can be drawn up and signed according to local custom. If it needs registering, this shall be done at no cost.
- The verbal contract is considered to be a tacit agreement between the employer and the worker under the conditions laid down by the labor regulations, even if it is not expressly defined.

Article 66:

- **Everyone can be hired for a specific work on the basis of time, either for a fixed duration or for an undetermined duration.**

Probationary period

- Article 68:
- **A contract for a probationary period cannot be for longer than the amount of time needed for the employer to judge the professional worth of the worker and for the worker to know concretely the working conditions provided.** However, the probationary period cannot last longer than three months for regular employees, two months for specialized workers and one month for non-specialized workers.
- The round travel costs incurred by a worker during the probationary period when working far from his habitual residence are to be covered by the employer.

FDC

A. Fixed Duration Contract (FDC)

The requirements are:

- must be in writing
- not longer than two years
- Must obtain a specified beginning and end date
- **FDC without specific end date**
- It has a fixed beginning and ending date—***day, month and year.***
*Article 67, recognizes that **four different ways:***
- Replacing an employee who is temporarily absent.
- The duration of a season (such harvesting rice crop)
- An occasional period of extra work
- An occasional period of non-customary activity by the enterprise (such construction)

FDC

- **The requirements to terminate the FDC**
- According to Article 73 (1), given that the FCD is terminated as follows:
- Normally expires (ends) on the **ending date** specified in the contract. The **requirements of terminating FDC**, the notice is given as shown table.

Length of Contract	Notice Period
Contract upto 6 months or Less	No notice required
More than 6 months	10 days notice
More than 1 year	15 days notice

- **Both parties agreed** to cancel before ending date.
- **Serious misconduct.** Either party decides to cancel the contract before ending date because of **legal reasons** or **with legal reasons** for cancelling the contract.
- **Force majeure) (article 85-86) such** Earthquake, flood, war, or unforeseen circumstance, death of employer, shutting down of establishment by government. According to article 73 (2).Employee is entitled to **severance pay** when terminated contract.

FDC Severance pay

- At the expiration of the contract, **the employer shall provide the worker with the severance pay proportional to both the wages and the length of the contract.** The exact amount of the severance pay is set by a collective agreement. If nothing set in such agreement, the **severance pay** is at least equal to **five percent of the wages paid** during the length of the contract.

UDC

B. Undetermined Contract

- Two ways to create a contract UDC:
- **Intentional Creation** at the time of contracting by entering into an oral or written employment contract that states explicitly that it is for an **undetermined duration** or that implies that *is not mentioned ending date of the employment*.
- **Unintentional creation** whereby a fixed duration contract is transformed into UDC, either at the time of contracting or at a later time.
- FDC is not in writing becomes UDC
- FDC has more than two years
- FDC of *two years or less* that tacitly **continues** after the fixed end date without a formal renewal of the contract becomes UDC.

UDC

Cancellation of UDC

- It can be made by either Employee (EE) or Employer (ER) as long as the party cancelling contact meets the requirements:
- EE has the right to cancel UDC for any reason
- ER must show **valid reason** to cancel the contract. The reason must be related to:
 - The employee's skills or qualification for the job.
 - The employee's behavior or character or
 - The requirements of the operation of the enterprise, factory or service and whether the employee's services are still needed.

UDC Termination Notice

Notice Period

Length of Contract	Notice Period
6 months or Less	7 days
More than 6 months up to 2 years	15 days notice
More than 2 years and up to 5 years	1 month notice
More than 5 years and up to 10 years	2 months notice
More than 10 years	3 months notice

UDC Indemnity for Dismissal

- Article 89: If the labor contract is **terminated by the employer alone**, except in the case of a serious offense by the worker, the employer is required to give the dismissed worker, in addition to the prior notice stipulated in the present Section, the indemnity for dismissal as explained below:

Length of Employment	
6-12 months	7 days of wage and fringe benefits
more than 12 months	equal to fifteen days of wage and fringe benefits for each year

The maximum of indemnity cannot exceed six months of wage and fringe benefits

length of service is longer than one year, time fractions of service of six months or more shall be counted as an entire year.

- The worker is also entitled to this indemnity if he is laid off for reasons of health.



- Questions and Discussion