

# Labour Overview and Recent Developments

**DFDL**

18 July 2019  
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# SPEAKER



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# LABOUR OVERVIEW

## KEY AUTHORITIES

**MLVT**

- Initial Enterprise Declarations (valid for three years)
- Initial Employee Declarations
- Issuance of Establishment Book and Payroll Ledger
- Approval of Foreign Employee Quota (10% cap) & issuance of Work Permits
- Registration of employee reps & IWRs (if  $\geq 8$  employees) and other significant employer obligations

**NSSF**

- Monthly contribution rates: (1) occupational risk insurance: 0.8% of average monthly wages of employees, ranging from USD 0.40 to USD 2.40 per employee/month, paid by the employer to the NSSF; (2) health care insurance: 2.6% of average monthly wages of employees, ranging from USD 1.30 to USD 7.80 per employee/month, paid by the employer to the NSSF
- Pension scheme not yet operational but expected to start in 2019. Unemployment scheme to follow.



# FOREIGN EMPLOYEE OBLIGATIONS

## Foreign Employee Quota

- Initially submitted after the employer declaration and thereafter by 30 November each year.
- Maximum 10% of the employer's local workforce: office employees 3%, skilled employees 6% and unskilled employees 1%.
- Being more strictly enforced.
- The current practice of the MLVT/DLVT: Visa B or C holders are not factored into the foreign employee quota.

## Visas & Work Permits

- **Immigration Visa:** initial validity of 30 days, Visa EB extendable for successive periods of 3-12 months, subject to securing a work permit.
- **Work Permit:** valid for 1 year, expiring every 31 December and renewable before 31 March each year. Based on current practices, Visa B or C holders are not required to obtain a work permit.



# NSSF SCHEME

## NSSF Scheme

Occupational risk  
insurance  
(2008)

Health care  
insurance  
(2016)

Pensions  
(expected 2019)



# LARGE EMPLOYER OBLIGATIONS

## Medical Clinics

- An enterprise with 50+ employees must establish an in-house infirmary or medical clinic.
- An enterprise with 100+ female employees must set up a nursing room and day-care centre.

## Disable Persons

- An enterprise with 100+ employees must have 1% of its total workforce as qualified disabled persons.
- Alternatively, 40% of all employees' minimum monthly salary for each disabled person for that year can be paid to the MOSAVYR.

## Apprentices

- 10% for enterprises that employ 61 to 200 employees.
- 8% for enterprises that employ 201 to 500 employees.
- Additional 4% for every 500 employees (capped at 110 apprentices per year).
- Alternatively, tax in lieu of training apprentices equal to 1% of the total annual salary of all employees per year can be paid to the MLVT/DLVT.



# PERIODIC FILING CALENDAR

January	February	March	April
<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contributions (by the 15th) and report (by the 20th) to the NSSF</li> <li>Health certificate for foreign employees (before applying for a work permit)</li> <li>Report on the employment of disabled persons to the MLVT and MOSAVYR (if there are 100+ employees) (by the 31st)</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contribution (by the 15th) and report (by the 20th) to the NSSF</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contribution (by the 15th) and report (by the 20th) to the NSSF</li> <li>Foreign Work Permits (by the 31st)</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contribution (by the 15th) and report (by the 20th) to the NSSF</li> </ul>
May	June	July	August
<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contribution (by the 15th) and report (by the 20th) to the NSSF</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contribution (by the 15th) and report (by the 20th) to the NSSF</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contribution (by the 15th) and report (by the 20th) to the NSSF</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contributions (by the 15th) and report (by the 20th) to the NSSF</li> </ul>
September	October	November	December
<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contributions (by the 15th) and report (by the 20th) to the NSSF</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contributions (by the 15th) and report (by the 20th) to the NSSF</li> <li>Deadline of training of apprentices (if there are 61+ employees) (by the 31st)</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contributions (by the 15th) and report (by 20th) to the NSSF</li> <li>Foreign Employee Quota (by the 30th)</li> </ul>	<ul style="list-style-type: none"> <li>Monthly tax returns (by the 20th)</li> <li>Monthly contributions (by the 15th) and report (by the 20th) to the NSSF</li> </ul>



**Note:** In addition to the above, the election of shop stewards (15 days before expiration of the current term and on a biannual basis).



## MINIMUM WAGES FOR THE GTF SECTOR



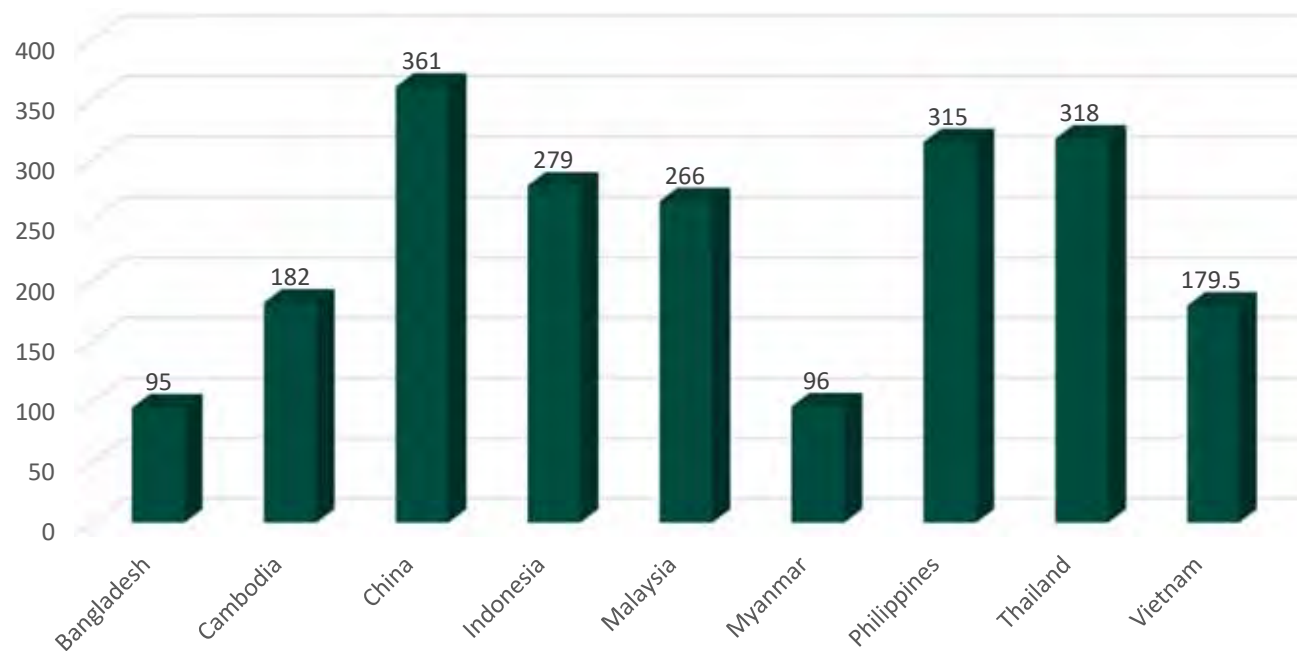
Source: <https://tradingeconomics.com/cambodia/minimum-wages>

(Date visited: 05 July 2019)



# MINIMUM WAGES WITHIN THE REGION

Minimum Wage Comparative Analysis (USD)



Source: <https://tradingeconomics.com/country-list/minimum-wages?continent=asia>

(Date visited: 05 July 2019)





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## RECENT DEVELOPMENTS

# GUIDELINES - FIXED DURATION CONTRACTS (FDCs)

## Key provisions of FDCs:

- initial duration of an FDC must be for a maximum of 2 years;
- can be renewed, provided that the renewal period stays within the 2 year cap and that the total period does not exceed 4 years; and
- after the 4 year term, there must, at the least, be a 1 month 'cooling off' period between the expiration of the last FDC and the commencement of the new FDC (where the parties are the same and the job is the same or similar).



# SENIORITY PAYMENT

Seniority Payment (from 2019 onwards)	Amount and Timing of Payment (twice per year)	Note	Timing of Payment
New seniority payment from 2019 onwards ("New Seniority Pay")	15 days of wages and benefits per year, divided as follows:  7.5 days – paid in June 7.5 days – paid in December	No capped amount.	From 2019
Back pay of seniority payment prior to 2019 ("Back Pay")	Installment of back pay for garment, textile and footwear sectors: 30 days of total seniority payment per year, divided as follows:  15 days – paid in June 15 days – paid in December	Capped at 6 months of average base wages for each of the relevant years.	From 2019
	Installment of back pay for other sectors: 6 days of total seniority payment per year, divided as follows:  3 days – paid in June 3 days – paid in December	Capped at 6 months of average base wages for each of the relevant years.	Timing of payment is postponed until December 2021



# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay	Back Pay	Note
1.	<b>On-going employment for an employee with 11+ years' seniority before 2019</b>	15 days per year  (to be implemented from June 2019)	Capped at 156 days  (to be implemented from December 2021 - 3 days in June and 3 days in December annually)	Back Pay entitlements are based on Guidelines 058/19 by using 26 days per month for calculating Back Pay.  New Seniority Pay entitlements are based on Guidelines 057/19 by using actual working days in the company's internal policies.



# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay	Back Pay	Note
2.	On-going employment for an employee with less than 11 years' seniority before 2019	15 days per year (to be implemented from June 2019)	<p>1<sup>st</sup> year of employment:</p> <ul style="list-style-type: none"> <li>▪ &lt; 1 month = 0 day</li> <li>▪ <math>\geq 1</math> month to <math>\leq 6</math> months = 7.5 days</li> <li>▪ &gt; 6 months to 1 year = 15 days</li> </ul> <p>2<sup>nd</sup> year of employment to 31 December 2018</p> <ul style="list-style-type: none"> <li>▪ 15 days per year</li> </ul> <p>Total Back Pay = 1<sup>st</sup> year + 2<sup>nd</sup> year of employment to 31 December 2018 (Capped at 156 days)</p> <p>(Installments to be implemented from December 2021 - 3 days in June and 3 days in December annually)</p>	<p>1<sup>st</sup> year entitlements of Back Pay are based on Clause 3 of Prakas 443.</p> <p>Based on verbal clarification of some MLVT officials: Probationary periods in independent probationary contracts are not factored in the calculation.</p>



# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay	Back Pay	Note
3.	On-going employment for an employee starting from 1 January 2019	<p>1<sup>st</sup> year of employment:</p> <ul style="list-style-type: none"> <li>▪ &lt; 1 month = 0 day</li> <li>▪ <math>\geq 1</math> month to <math>\leq 6</math> months = 7.5 days</li> <li>▪ &gt; 6 months to 1 year = 15 days</li> </ul> <p>2<sup>nd</sup> year of employment:</p> <ul style="list-style-type: none"> <li>▪ 15 days per year</li> </ul> <p>(implemented from June 2019)</p>	N/A	New Seniority Pay entitlements are based on Clause 2 of Prakas 443.





# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay (A)	Remaining Back Pay (B)	Note
4.	<b>Resignation</b>  (also applicable during the delayed period of Back Pay implementation)	No	No	Based on Guidelines 057/19 and 058/19



# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay (A)	Remaining Back Pay (B)	Note
5.	<p><b>Termination with cause</b></p> <ul style="list-style-type: none"> <li>including valid reasons related to (1) employee's aptitude or behaviour, (2) operational requirements, (3) employee's illness, (4) retirement and (5) death of employee</li> <li>excluding serious misconduct</li> </ul> <p>(also applicable during the delayed period of Back Pay implementation)</p>	<p>Yes</p> <p>Remaining seniority:</p> <ul style="list-style-type: none"> <li>&lt; 1 month = 0 day</li> <li>≥ 1 month to &lt; 6 months = 7 days</li> </ul>	Yes	<p>(A) Based on Article 89 (New) of the Labour Law.</p> <p>(B) Based on Guidelines 042/19 and reasonable analysis of the Labour Law.</p> <p>(C) Based on Guidelines 057/19 and 058/19.</p>



# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay (A)	Remaining Back Pay (B)	Note
6.	<b>Termination due to serious misconduct</b>  (also applicable during the delayed period of Back Pay implementation)	No	No	(A) Based on Article 89 of the (New) Labour Law. (B) Based on Guidelines 042/19. (C) Based on Guidelines 057/19 and 058/19.



# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay (A)	Remaining Back Pay (B)	Note
7.	<b>Termination without cause</b>  (also applicable during the delayed period of Back Pay implementation)	Yes  Remaining seniority: <ul style="list-style-type: none"><li>▪ &lt; 1 month = 0 day</li><li>▪ <math>\geq</math> 1 month to &lt; 6 months = 7 days</li></ul>	Yes	(A) Based on Article 89 (New) of the Labour Law. (B) Based on Guidelines 057/19 and 058/19.



# SUMMARY – EMPLOYEE ENTITLEMENTS

(Employees outside of garment, textile and footwear manufacturing sectors)

Scenarios		New Seniority Pay (A)	Remaining Back Pay (B)	Note
8.	Mutual	Subject to agreement between the parties	Subject to agreement between the parties	



## AN OVERVIEW OF CLARIFIED POINTS

- The delay on the implementation of Back Pay only affects the **timing of payments**, but not the number of days of Back Pay that the employees are entitled to.
- The calculation of Back Pay includes only **base wages**.
- The calculation of New Seniority Pay includes **base wages and fringe benefits**.
- Seniority payments will not be provided for an employee who **resigns** or is terminated due to **serious misconduct**.
- Probationary periods which are **part of Unfixed Duration Contracts** are factored into the calculation of Seniority Pay (Back Pay + New Seniority Pay).
- Probationary periods in **independent probation contracts** are not factored into the calculation of Seniority Pay (Back Pay + New Seniority Pay).



## AN OVERVIEW OF CLARIFIED POINTS

- Definition of one “continuous” month of employment: an employee working **at least 21 days** per month is considered as working one full month.
- Seniority Payments for **Cambodian employees** are exempt from tax.
- Separate the salary from the New Seniority Pay for **ease of tax treatment**.
- To pay New Seniority Pay at the time of the **second installment of salary** in June and December from 2019.



## DETAILS TO BE FURTHER MONITORED

**Note:** No clear definitions in relation to “benefits” as of yet.





# KEY MESSAGES



- Quota applications are due by 30 November 2019 (and work permit applications by 31 March 2020), currently not applicable to B or C visa holders.
- Quota limits are being more strictly adhered to and work permit requirements are being more strictly enforced by labour inspections and immigration checks.
- New obligation to renew MLVT enterprise registration every 3 years.
- While the minimum wage (USD 182/month) is only applicable to workers in the textile, garment and footwear manufacturing sectors, the MLVT is considering a national minimum wage for specific sectors.
- New obligation to issue seniority payments to UDC employees every 6 months to be implemented from 2019 onward.
- Installments of back pay for enterprises outside of the Garment, Textile and Footwear Sectors is delayed until December 2021.
- Proposed reforms concerning the NSSF pension scheme to be monitored.

# KEY MESSAGES



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