
Labour

Cambodia Labour Law Developments: 4th Quarter 2019

This Update provides a summary of the key labour law developments in Cambodia in the fourth quarter of 2019.

Deadline of Application for Foreign Manpower Quota for 2020 Moved to End of 2019

Per Prakas 196 MLVT/Pr.K dated 20 August 2014, all enterprises and establishments are required to submit their applications for the use of foreign employee quota latest by November of each year. The Ministry of Labour and Vocational Training (“MLVT”) generally issues notifications on an annual basis to reemphasize this obligation.

Last year, the MLVT issued Notification No. 042/19 MLVT/NOTIF.DPM dated 22 November 2019 to extend the period for the application for use of foreign employee quota for 2020 until the end of 2019.

Law on Social Security Schemes

The Kingdom of Cambodia has promulgated the Law on Social Security Schemes (“LSSS”) via the Royal Kram No. NS/RKM/1119/018 dated 2 November 2019. The LSSS came into effect immediately.

The LSSS replaces the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour law (“Law on NSSF”) which was promulgated in 2002. Based on the scope of the LSSS, the beneficiaries are civil servants, persons defined by the Cambodian labour law which include aviation and maritime employees as well as household workers, and self-employees. The LSSS implements the following four schemes:

1. **Pension scheme** - consists of four benefits: old age pension, invalidity pension, survivor pension and funerary allowance
2. **Healthcare scheme** - consists of four benefits: medical treatment and medical care, daily severance during treatment, maternity severance and funerary allowance

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3. **Occupation risks scheme** - consists of seven benefits: medical treatment and medical care, severance for provisional working disability, permanent disability pension, permanent disability allowance, survivors' pension, funerary allowance and rehabilitation services
4. **Unemployment schemes**

Please note that the self-employees cannot avail of the occupational risks and unemployment schemes. Meanwhile, civil servants are excluded from the unemployment scheme.

Unlike the Law on NSSF, LSSS provides for compulsory contribution scheme ("**CCS**") and voluntary contribution scheme ("**VCS**"). The CCS requires the government, employers, and civil servants or employees to jointly contribute to the National Social Security Fund ("**NSSF**"). The maximum contribution to be paid by the civil servants or employees should not exceed 50% of the total amount to be contributed to the NSSF. The VCS provides an option to civil servants, employees or self-employees to join and participate in the NSSF by voluntarily contributing a prescribed amount to the NSSF.

The implementing regulations of the LSSS pertaining to the contribution scheme have yet to be issued. Pending the enactment of such implementing regulations, the occupational risks and healthcare schemes remain to be regulated by the Law on NSSF and its implementing regulations. The implementation of the pension schemes and unemployment schemes is still pending.

The penalties under the LSSS include transitional fines, fines and imprisonment. The imposition of the transitional fines falls under the authority of the director general of the NSSF. The payment of such fines results in the extinction of the criminal action.

Employers who fail to register their establishments and their employees with the NSSF and make the prescribed monthly contributions to the NSSF will be subject to transitional fines which range from 10 to 30 times of the daily referral wage. Moreover, employers who deduct from their workers'/employees' salaries the occupational risk, healthcare, pension and/or unemployment contributions made by such employers, shall be liable to a fine ranging from 120 to 360 times of the concerned worker's/employee's daily wage, and imprisonment which ranges from one month to one year. All pecuniary fines shall be proportional to the number of employees involved.

The condition, formality, validity and procedure of implementation of the schemes will be further defined by a Prakas and relevant regulations to be issued by the Ministry in charge of labour.

Paid Public Holidays in 2020

Following the issuance by the Royal Government of Cambodia of Sub-decree No. 112 SD.P dated 2 August 2019 on the paid public holiday for civil servants, employees and workers for 2020, MLVT issued

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Prakas No. 399/19 MLVT/Pr.K.DLI dated 4 October 2019 on paid public holidays for employees/workers for 2020. The paid public holidays are set out below:

| Date | Name of Paid Public Holidays |
|----------------------------|---|
| 1 January | International New Year Day |
| 7 January | Day of Victory over the Genocidal Regime |
| 8 March | International Women's Rights Day |
| 13-14-15-16 April | Khmer New Year's Day |
| 1 May | International Labor Day |
| 6 May | Visaka Bochea Day |
| 10 May | Royal Ploughing Ceremony |
| 14 May | Birthday of His Majesty Preah Bat Samdech Preah Boromneath NORODOM SIHAMONI, King of Cambodia |
| 18 June | Birthday of Her Majesty the Queen-Mother NORODOM MONINEATH SIHANOUK of Cambodia |
| 16-17-18 September | Pchum Ben Day |
| 24 September | Constitution Day |
| 15 October | Mourning Day of the Late King-Father NORODOM SIHANOUK of Cambodia |
| 29 October | Coronation Day of His Majesty Preah Bat Samdech Preah Boromneath NORODOM SIHAMONI, King of Cambodia |
| 30-31 October & 1 November | Water Festival |
| 9 November | National Independence Day |

Where a public holiday falls on a Sunday, the employees or workers are given a day off on the following working day.

Lift of Ban on Occupations Performed by Self-employed Foreign Nationals

On 28 August 2019, MLVT issued Prakas No. 360/19 on the determination of types of work and occupations prohibited to self-employed foreign nationals ("Prakas 360/19"). The jobs that foreign nationals are prohibited from taking on include the following:

1. driver of all types of vehicles as a business (two-wheeled drive, three-wheeled drive, motorcycle rickshaw (*tuk tuk*), all-terrain vehicle, passenger carrying vehicle, goods loading vehicle)
2. vendor selling goods in public area either on foot or using all types of vehicles,
3. massage service provider in public area;

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4. barber, hairdresser, and beautician;
5. sewing service provider or shoes polishing service provider;
6. tailor, dressmaker;
7. tyre repairer, mechanic,
8. producer of Khmer souvenirs;
9. producer of Khmer musical instruments, monk's alms bowls or Buddha statues; and
10. goldsmith and processor of precious stones.

Subsequently, MLVT issued Notification No. 035/19 MLVT/NOTIF.CBN dated 5 October 2019 to lift the ban on the performance of the above occupations by self-employed foreign nationals ("**Notification**").

Based on the Notification, the ban on prohibited occupations was lifted due to the demand of foreign skilled manpower in the relevant service sectors and to encourage investment in the Kingdom of Cambodia.

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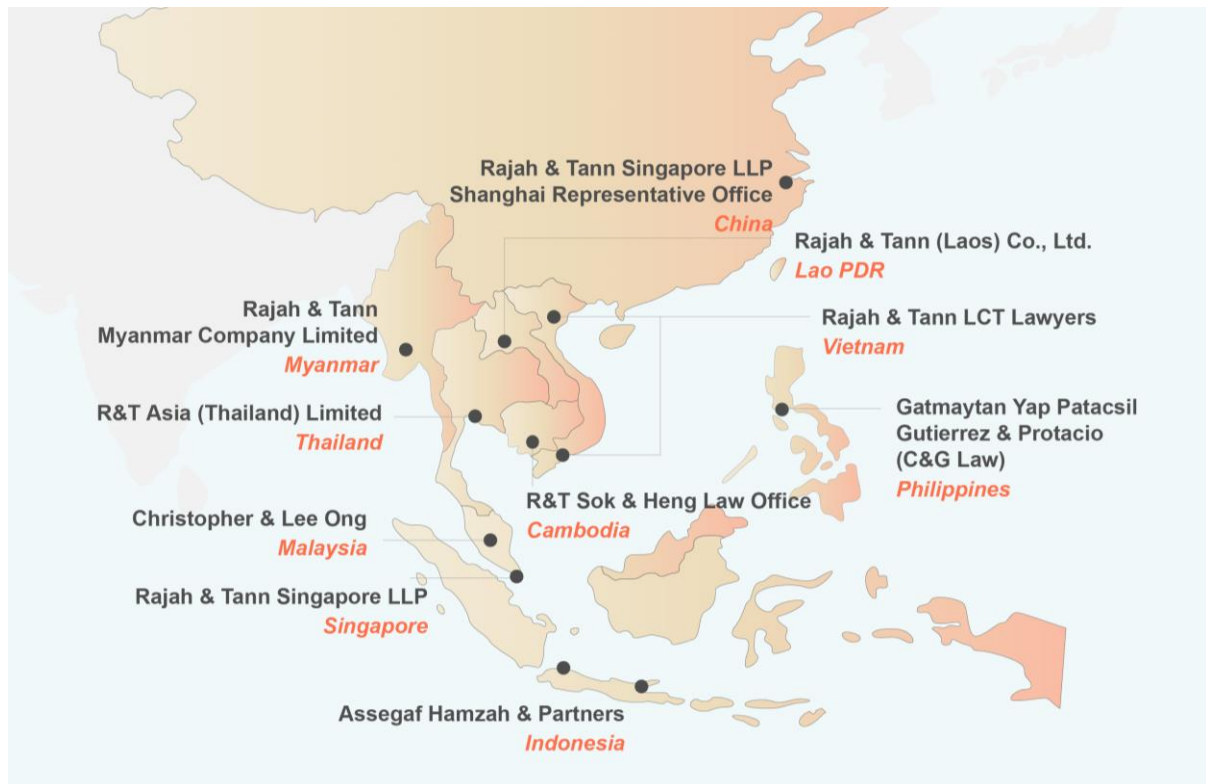
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