

KINGDOM OF CAMBODIA
Nation Religion King

Royal Government of Cambodia
No.: 190

SUB-DECREE
ON
The Management of the Sending of Cambodian Workers Abroad
Through Private Recruitment Agencies

The Royal Government

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Decree No. NS/RD/0908/1055 dated September 25, 2008 on the Appointment of the Royal Government of the Kingdom of Cambodia;
- Having seen the Royal *Kram* No. 02/NS/94 dated July 20, 1994, which promulgated the Law on the Organization and Functioning of the Council of Ministers;
- Having seen the Royal *Kram* CS/RK/0397/01 dated March 13, 1997, which promulgated the Labor Law;
- Having seen the Royal *Kram* No. NS/RK/0105/003 dated January 17, 2005, which promulgated the Law on the Establishment of the Ministry of Labor and Vocational Training;
- Having seen the Royal *Kram* No. NS/RK/1206/030 dated December 22, 2006, which promulgated the Law on Mandatory Military Service;
- Having seen the Royal *Kram* No. NS/RK/0208/005 dated February 15, 2008, which promulgated the Law on the Suppression of Human Trafficking and Sexual Exploitation;
- Having seen the Royal *Kram* No. NS/RK/1109/022 dated November 30, 2009, which promulgated the Criminal Code;
- Having seen the Subdecree No. 52 dated April 01, 2005 on the Organization and Functioning of the Ministry of Labor and Vocational Training;
- Having seen the Subdecree No. 200 dated November 24, 2009 on the requirements and procedures of census, recruitment, invitation, delayed time for youth in school and people in special cases, and the implementation of the Law on Mandatory Military Service;
- Having received approval from the Council of Ministers during its plenary session on August 5, 2011;

Hereby decides
Chapter 1
General Provisions

Article 1:

This subdecree is intended to govern the sending of Cambodian workers abroad.

Article 2:

This subdecree has the following goals:

- Find the market and provide Cambodian workers with overseas jobs;
- Improve the living conditions of the Cambodian people;
- Ensure safety of Cambodian workers who work abroad;
- Contribute to the development of human resources;
- Contribute to the implementation of the Royal Government of Cambodia's policy on poverty reduction.

Article 3:

This subdecree covers all migrant worker candidates, Cambodian workers and recruitment agencies in the Kingdom of Cambodia.

Article 4:

Key terms used in this subdecree shall mean as follows:

- Migrant worker candidate refers to Cambodian workers of both sexes aged 18 or over, who have applied for overseas employment and are in the process of completing official forms and paperwork through recruitment agencies in accordance with the guidelines of competence institutions such as Ministry of Labor and Vocational Training, Ministry of Foreign Affairs and International Cooperation, and Ministry of Interior.
- Worker refers to Cambodian people of both sexes, who are at all phases of labor migration from the time when a job placement contract is entered into with the recruitment agency until the time when they return home. The term also includes Cambodian people of both sexes who undergo internship and work abroad and have proper contract recognized by the Ministry of Labor and Vocational Training.

- Job placement service refers to the finding of fulltime employment in any country other than the Kingdom of Cambodia in compliance with the Labor Law and other applicable laws of the Kingdom of Cambodia and those of the receiving country.
- Recruitment agency refers to any private legal entity duly established under applicable laws and regulations of the Kingdom of Cambodia and officially licensed by the Ministry of Labor and Vocational Training to be responsible for providing full job placement service abroad.

Chapter 2

Competence Institutions

Article 5:

The Ministry of Labor and Vocational Training shall be the competence ministry to manage the sending of Cambodian workers abroad in cooperation with the Ministry of Foreign Affairs and International Cooperation and the Ministry of Interior.

Chapter 3

Recruitment Agency

Article 6:

Any agency recruiting Cambodian workers to work abroad shall obtain an authorization for free according to the *PRAKAS* of the Ministry of Labor and Vocational Training except otherwise specified by other regulations.

Procedures to grant authorization shall be determined by a *Prakas* from the Minister of Labor and Vocational Training.

Recruitment agencies shall respect all applicable laws and regulations of the Kingdom of Cambodia.

Article 7:

To obtain authorization, the recruitment agencies shall fulfill the following requisite conditions:

- a) Have an office with clear address and sufficient staff, office materials, communication and transportation means;
- b) Have a training center with appropriate size, which consists of:

- a building equipped with materials and equipment for vocational and language training to meet the standard skills and demand of the job market and for pre-departure orientation training in accordance with the guideline;
 - proper accommodation and dining areas that ensure good health, sanitation and safety; and
 - internal rules to be recognized by the Ministry of Labor and Vocational Training.
- c) Have language teachers to provide language training that meets the standard skills and demand of the worker receivers;
 - d) Enter into a contract with the Ministry of Labor and Vocational Training on the duty and procedures of job placement service operation;
 - e) Deposit a guaranty money properly according to the guidelines as stipulated in Articles 8 and 10 of this subdecree;
 - f) Have a permanent representative in the receiving country.

Article 8:

Following the receipt of authorization according to the *Prakas* of the Ministry of Labor and Vocational Training, within 15 (fifteen) days at the latest, recruitment agencies shall deposit guaranty money in Riel currency in the amount equivalent to 100,000 (a hundred thousands) US dollars into the account of the Ministry of Labor and Vocational Training in any bank. The original documents of this guaranty deposit shall be kept at the Ministry of Labor and Vocational Training.

Article 9:

The Ministry of Labor and Vocational Training shall conduct ordinary inspections and special inspections of the recruitment agencies.

Chapter 4

Use of Guaranty Deposit

Article 10:

Guaranty deposit kept in the account of the Ministry of Labor and Vocational Training may be withdrawn for use by the Ministry of Labor and Vocational Training for settling some important cases as follows:

- a) In the events of force majeure, wars, unrest, epidemics in the receiving country or at the places where workers work, which require the movement of workers to safe places or repatriation of workers to ensure safety, the guaranty deposit withdrawn for use shall be replenished by the state budget or any relief fund.
- b) In the event that the recruitment agencies do not fulfill any conditions stipulated in the contract between the recruitment agencies and workers or between the recruitment agencies and the Ministry of Labor and Vocational Training, and fail to resolve the issue according to the conciliatory principle, thus harming the interests of the workers, the guaranty deposit withdrawn and used shall be replenished by the recruitment agencies within 15 (fifteen) days at the latest.

Article 11:

The recruitment agencies may request for the refund of the guaranty deposit in the following cases:

- The recruitment agencies completely cease to recruit and send Cambodian workers abroad;
- Workers sent abroad have all returned home;
- The recruitment agencies have fully resolved the issues with the workers.

Chapter 5

Job Market and Skills of Workers

Article 12:

The Ministry of Labor and Vocational Training shall seek and provide support and incentive for searching for good overseas job market to create employment opportunities for the Cambodia people.

Article 13:

The recruitment agencies shall cooperate with the Ministry of Labor and Vocational Training and the Ministry of Foreign Affairs and International Cooperation to explore and research on the demand of workforce and job skills in order to create employment opportunities for the Cambodian people.

Article 14:

In its appropriate capacity, the Ministry of Labor and Vocational Training shall cooperate with the Ministry of Foreign Affairs and International Cooperation to prepare agreements or

memoranda of understanding (MoUs) between the Royal Government of Cambodia and the receiving country on the use of workforce.

Chapter 6

Contract

Article 15:

In recruiting and sending Cambodian workers abroad, the recruitment agencies shall enter into some contracts and properly implement them.

Some necessary contracts include:

- Contract between the Ministry of Labor and Vocational Training and the recruitment agencies;
- Contract between the recruitment agencies and Cambodian workers, which shall be titled as Job Placement Service Contract;
- Contract between foreign employers and Cambodian workers, which shall be titled as employment contract.

The employment contract shall clearly specify, inter alia, working conditions, job status, and types of work, benefits and key addresses that can be contacted.

Article 16:

The contract between the Ministry of Labor and Vocational Training and the recruitment agencies and the job placement service contract shall be written in Khmer in accordance with the applicable laws and regulations of the Kingdom of Cambodia.

Article 17:

The employment contract shall be written in Khmer, English and in the language of the receiving country in compliance with the applicable laws and regulations of the receiving country.

These contracts shall be forwarded to the Cambodian embassy or representative mission to the receiving country through the Ministry of Foreign Affairs and International Cooperation.

Article 18:

The samples of the contracts stipulated in Article 15 of this subdecree shall be determined by a *Prakas* from the Minister of Labor and Vocational Training.

The contract shall be signed by the representative from the Ministry of Labor and Vocational Training.

Chapter 7

Recruitment of Workers and Pre-departure Orientations

Article 19:

The recruitment agencies shall be responsible for the application forms and health checkup for Cambodian workers to be sent abroad in accordance with the determination of the receiving country.

Cambodian workers to be sent abroad may not escape mandatory military service.

Article 20:

The recruitment agencies shall provide workers with information on communication means, address and telephone numbers for contacting the Cambodian embassy or representative mission to the receiving country and the Ministry of Labor and Vocational Training during the pre-departure orientation training.

Article 21:

The recruitment agencies shall be responsible for the working conditions and living conditions before recruiting workers for overseas work such as types of work, workplace, working hours, skills, salary, benefits, health insurance, accommodation, transport, security and safety within the working and accommodation areas.

Article 22:

All advertisements of the recruitment agencies shall be appropriate and comprehensive according to the facts regarding selection requirements, working conditions and benefits to be entitled during the employment without lying or cover-up.

Article 23:

In conducting all pre-departure training and orientation courses, the recruitment agencies shall cooperate with the Ministry of Labor and Vocational Training and other relevant institutions.

The Ministry of Labor and Vocational Training shall confer certificates on the workers who have successfully completed the courses.

Article 24:

The recruitment agencies shall be responsible for sending the workers to the workplace in the receiving country according to the contract.

Every time when sending the workers, the recruitment agencies shall prepare and submit a clear report to the embassy or representative mission of the Kingdom of Cambodia to the receiving country and to the Ministry of Labor and Vocational Training.

Article 25:

Every time when the workers are sent and placed at work, the recruitment agencies shall properly record all information and data pertaining to each individual worker in the record book as determined.

The record book shall be issued by the Ministry of Labor and Vocational Training for the recruitment agencies to record all information and data pertaining to the workers from various official documents.

Chapter 8**Repatriation of Workers****Article 26:**

When the employment contracts of the workers expire and are not to be renewed, the recruitment agencies shall make proper arrangements for the repatriation of workers by officially notifying the embassy or representative mission of the Kingdom of Cambodia to the receiving country and the Ministry of Labor and Vocational Training at least 30 (thirty) working days prior to each repatriation by clearly specifying the number and names of workers, time and border gates where the workers will cross.

Article 27:

The recruitment agencies shall provide appropriate services in order to ensure that workers return to the Kingdom of Cambodia safely.

Article 28:

Upon arrival in the Kingdom of Cambodia, the recruitment agencies shall send the workers to the Ministry of Labor and Vocational Training to receive a certificate for the employment they have worked abroad for possible future use.

Chapter 9

Dispute Resolution

Article 29:

Any dispute arising between the recruitment agencies and the workers prior to the departure for overseas work shall be resolved in accordance with the Labor Law and other applicable regulations of the Kingdom of Cambodia.

Article 30:

Regarding a dispute that arises between the foreign employers and the workers who are working abroad, the recruitment agencies and the embassy or representative mission of the Kingdom of Cambodia to the receiving country shall participate in the resolution process.

In necessary case which requires the participation of expert officials from the Ministry of Labor and Vocational Training or hiring of a lawyer, all costs shall be borne by the recruitment agencies.

Chapter 10

Disappearance of Workers

Article 31:

In case of disappearance of any worker during the fulfillment of the job placement service contract, the recruitment agencies shall immediately notify the competence authorities, the Ministry of Interior and the Ministry of Labor and Vocational Training.

Article 32:

Upon receiving information on the disappearance of any worker during the fulfillment of the employment contract, the recruitment agencies shall immediately notify the embassy or representative mission of the Kingdom of Cambodia to the receiving country, the Ministry of Interior and the Ministry of Labor and Vocational Training of the Kingdom of Cambodia.

Chapter 11

Social Security Regime

Article 33:

The recruitment agencies shall be responsible for making arrangements to ensure that workers who are sent abroad will receive appropriate social security regime in accordance with the applicable laws and regulations of the receiving country.

Article 34:

The Ministry of Labor and Vocational Training shall monitor the performance of the recruitment agencies in securing social security regimes for the workers as well as in cooperating with the receiving country.

Chapter 12**Workers' Remittance to Cambodia****Article 35:**

The recruitment agencies shall assist workers who are sent to work abroad in opening and using a personal account in any safe bank in order to make it easy for the workers to deposit money and remit to their families back in Cambodia through the banking system.

Article 36:

If necessary, the Ministry of Labor and Vocational Training shall help facilitate the opening of a bank account in any bank for the transfer of money from foreign countries.

Chapter 13**Commendation****Article 37:**

Any recruitment agency that performs well in recruiting and sending workers abroad in accordance with the provisions of this subdecree shall be commended according to each level of performance.

Article 38:

The Ministry of Labor and Vocational Training shall confer a certification of commendation on any recruitment agencies that perform the contract well.

Chapter 14**Penalty****Article 39:**

Any recruitment agencies violating any provisions of this subdecree shall be subject to the following penalties:

- Written warning;
- Temporary suspension of authorization;
- Revocation of authorization.

Article 40:

Any recruitment agencies or persons violating any provisions of this subdecree or applicable laws or using their functions and competence to create inappropriate obstacles for the recruitment activities, and illegally sending workers abroad shall be punished under the applicable laws.

Chapter 15

Final Provisions

Article 41:

The Ministry of Labor and Vocational Training shall issue a circular to provide guidelines for the effective implementation of this subdecree.

Article 42:

The subdecree No. 57 dated July 20, 1995 on the sending of Cambodian workers abroad and any provisions contrary to this subdecree shall be considered null and void.

Article 43:

The Minister in charge of the Council of Ministers, Minister of Economy and Finance, Minister of Labor and Vocational Training, Minister of Foreign Affairs and International Cooperation as well as Ministers and Secretaries of State of all relevant ministries and institutions shall be responsible for implementing this subdecree from the date of its signature henceforth.

Phnom Penh, August 17, 2011

Prime Minister

Samdech Akka Moha Sena Padei Techo HUN SEN

Recipients:

- *Ministry of Royal Palace;*
- *Secretariat-General of the Constitutional Council;*
- *Secretariat-General of the Senate;*
- *Secretariat-General of the National Assembly;*
- *Secretary-General of the Royal Government;*
- *Cabinet of the Prime Minister;*
- *Cabinets of Deputy Prime Ministers;*
- *As in Article 43;*
- *Royal Gazette;*
- *Documents-Archives*