



VINAYA Law Firm

Cambodia's National Social Security Fund (NSSF)

ABOUT VINAYA

VINAYA is a professional law firm established by Cambodian qualified lawyers with international experiences. In addition, our lawyers are known for their enthusiastic attitude and their strong dedication to serving the interests of our clients.

We offer advice on a full range of legal issues, including corporate and commercial, litigation and dispute resolution, intellectual property, and immigration and naturalization.....

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EXECUTIVE SUMMARY

This article studies on current regime of **Cambodia's National Security Fund (NSSF)**. Key points that have been addressing here are: What is the National Social Security Fund? What are compulsory contributions to NSSF? Who can receive benefits from NSSF? And what are the benefits provided by NSSF?

RELATED LEGAL TEXTS

- Cambodia Labor Law, dated on March 13th, 1997.
- The Law on Social Security Schemes for Persons Defined by the Provisions of the Labor Law, dated on September 25th, 2002.
- Sub-Decree No. 16 on the Establishment of National Social Security Fund, dated on March 02nd, 2016.
- Sub-Decree No. 01 on Establishment of Social Security Scheme "Health Care Scheme" for Persons Defined by the Provisions of the Labor Law, dated January 06th, 2016.
- Sub-Decree No. 134 on Conditions, Formalities, and Procedures of Benefit Provision of Social Security Schemes on Occupational Risk for Public Employees and on Health Care for Public Employees, Former Civil Servants, and Veterans, dated on September 23rd, 2017.
- Sub-Decree 140 on Revision of Article 7 of Sub-Decree No. 01 SD.E., dated January 06, 2016, Concerning the Establishment of Social Security Scheme on Health Care for Persons Defined by the Provisions of the Labor Law, dated on September 26th, 2017.
- Prakas 449 on Determination of Contribution Rate and Formalities and Procedures of Contribution Payment for Social Security Schemes on Occupational Risk and Health Care for Persons Defined by the Provisions of the Labor Law, dated on November 10th, 2017.
- Prakas 109 on Employment Injury Benefits, dated on June 16th, 2008.

INTRODUCTION

For more than two decades on track to strong economic growth, Cambodia has transformed to the lower middle income country, with gross domestic product (GDP) per capita reaching \$1,225 in 2015. The strong economic performance is driven by manufacturing export, agriculture, construction and tourism sectors. As part of the country's economic contribution, legal frameworks have been imposed on enterprises and establishments to hold accountability for sustainable development. Among those legal frameworks, social security insurance is extremely significant to ensure income security and medical treatment for Cambodian workers and employees.

The main sources of labor and employment law in Cambodia are the Labor Law 1997 and its first amendment in 2007, and the 2002 Law on Social Security Schemes for Persons Defined by the Provisions of the Labor Law. The Laws govern relationship between employers and workers and employees resulting from employment contracts of enterprise or establishment of industry, mining, commerce, crafts, agriculture, services, land or water transportation, etc. The enterprises and establishments under Cambodia Labor Law have obligations to provide primary health care to their workers. In an economy mainly informal (85 per cent of the population), the application of this obligation can be difficult to control. With the creation of the NSSF, employees of companies, registered to the fund, can be partially supported by the national social security system. This new mechanism aims to provide, through solidarity, medical treatment for every worker in the formal area. As a result, the number of registered companies to the fund

is increasing since its creation.

WHAT IS THE NATIONAL SOCIAL SECURITY FUND?

No one shall fall into the poverty forever. To eradicate poverty in general, and to improve conditions of workers and employees in particular, the Social Security Schemes has been adopted to ensure pension benefit for old age, survivors, and invalidity, and occupational risk in case of employment injury and occupational disease.

The National Social Security Fund (NSSF) has been fully functional to enforce social security scheme since 2008. NSSF is an independent and financially autonomous public institution administering and managing social security scheme protections. It is an approach to assist low-paid workers' and employees' health care, miscellaneous accidents, and ageing persons. NSSF shall perform the following functions:

- Managing the social security scheme as defined by the provisions of the labor law;
- Ensuring the equal benefits are provided to all NSSF's members to alleviate their difficulties with old age, disability, death, occupational risk, or any other contingencies such as maternal illness;
- Collecting contributions from its members and employers;
- Facilitating and making available health care and social services beneficial to its members by raising awareness on how to prevent employment injury and occupational disease, and taking any technical action on working security and hygiene;

- Cooperating with relevant agencies to study and monitor the occupational risk; and
- Organizing and managing social security fund investment.

WHAT ARE COMPULSORY CONTRIBUTIONS TO THE NATIONAL SOCIAL SECURITY FUND?

NSSF presently establishes a general health care scheme obligatory for workers and employees. Under the scheme, workers and employees may receive preventative health service and benefits of treatment and medical care, and daily allowance during the work suspension resulting from disease treatment or other accidents not limiting to occupational risk and maternity leave.

From January 01, 2018 onward, employers shall compulsory pay contribution of health care scheme and occupational risk to the National Social Security Fund. Prakas on Determination of Contribution Rate and Formalities and Procedures of Contribution Payment for Social Security Schemes on Occupational Risk and Health Care for Persons Defined by the Provisions of the Labor Law, the "**Prakas No. 449**," required all enterprises and establishment hiring one or more employees to contribute 3.4 percent of assumed wage of worker's and employee's gross salary to NSSF. The term contribution refers to amount of money that employer shall pay legally as fund for benefit provision. The contribution divided into occupational risk scheme and health care scheme by 0.8 percent and 2.6 percent of assumed wage of workers' and employees' gross wage respectively.

Contribution Rate of Employment Injury:

Order	Monthly Wage (Riel)	Assumed Wage (Riel)	Contribution Rate per Worker/Employee (0.8%)
1	Below 200,000	200,000	1,600
2	200,001-250,000	225,000	1,800
3	250,001-300,000	275,000	2,200
4	300,001-350,000	325,000	2,600
5	350,001-400,000	375,000	3,000
6	400,001-450,000	425,000	3,400
7	459,001-500,000	475,000	3,800
8	500,001-550,000	525,000	4,200
9	550,001-600,000	575,000	4,600
10	600,001-650,000	625,000	5,000
11	650,001-700,000	675,000	5,400
12	700,001-750,000	725,000	5,800
13	750,001-800,000	775,000	6,200
14	800,001-850,000	825,000	6,600
15	850,001-900,000	875,000	7,000
16	900,001-950,000	925,000	7,400
17	950,001-1,000,000	975,000	7,800
18	1,000,001 up	1,000,000	8,000

Contribution Rate of Health Care Schemes:

Order	Monthly Wage (Riels)	Assumed Wage (Riels)	Contribution Rate per Worker/Employees (2.6%)
1	Below 200,00	200,000	5,200
2	200,001 – 250,000	225,000	5,850
3	250,001 – 300,000	275,000	7,150
4	300,001 – 350,000	325,000	8,450
5	350,001 – 400,000	375,000	9,750
6	400,001 – 450,000	425,000	11,050
7	450,001 – 500,000	475,000	12,350
8	500,000 – 550,000	525,000	13,650
9	550,001 – 600,000	575,000	14,950
10	600,001 – 650,000	625,000	16,250
11	650,001 – 700,000	675,000	17,550

12	700,001 – 750,000	725,000	18,850
13	750,001 – 800,000	775,000	20,150
14	800,001 – 850,000	825,000	21,450
15	850,001 – 900,000	875,000	22,750
16	900,001 – 950,000	925,000	24,050
17	950,001 – 1,000,000	975,000	25,350
18	1,000,000 Up	1,000,000	26,000

Any failure to pay the contribution to NSSF may be subject to a fine. The employer or owner of an enterprise or establishment will have to pay additional interest at 1.5 percent, actual monthly based, and liable to either fine of between ten to thirty days of the base daily wage, or of thirty to ninety day for subsequent offenses.

A recent trend is appearing whereby employers cancel their private health coverage to avoid the double charge adding with the NSSF.

WHO CAN RECEIVE BENEFITS FROM THE NATIONAL SOCIAL SECURITY FUND?

The **Prakas No. 449** required all enterprises and establishment under the scope of the Law on Social Security Schemes for Persons Defined by the Provisions of the Labor Law. Workers in these enterprises and establishments include:

- All workers defined by the provisions of the labor law, if those persons perform work in Cambodia in an enterprise or establishment of nature, form and validity of the contract or kind and amount of the wage received by the person thereof;
- Trainees, apprentices and persons who are attending rehabilitation center;

- Seasonal or occasional workers;
- NSSF also applied to state workers, public workers and every personnel who are not governed by common statute for civil servants or by the Diplomatic statute as well as officials who are temporarily appointed in the public service.

WHAT ARE THE BENEFITS PROVIDE BY THE NATIONAL SOCIAL SECURITY FUND?

Through the National Social Security Fund's mechanism, workers and employees will receive pension benefits, health care scheme and occupation risk protection. Consequently, the employers or owners of enterprise and establishment most likely experience increase of working productivity.

PENSION BENEFITS

Workers and employees in private sector are ensured social insurance when they reached old age without solely depending on their children. The benefits of the pension scheme include old age pension and allowance, invalidity pension, survivor's pension and allowance.

Each NSSF member who is 55 years of age is entitled to old age pension if s/he has fulfilled the following conditions: (a) to be registered in NSSF for at least 20 years; and (b) to pay in contribution for at least 60 qualifying months for social security schemes during the period of at least 10 years to the date of eligibility of the pension. In addition, if NSSF member has fulfilled those conditions, but s/he losses earning capacity before the age of 55, the person may request to have an early pension. However, employees and workers may be eligible for lump sum in case they has contributed less than 60

qualifying months for social security schemes, but finished all wage-related works and not fulfilled other conditions.

Each NSSF member who becomes disabling before the age of 55 is entitled to have invalidity benefits if the concerned person has fulfilled the following conditions: (a) being registered with the NSSF for at least 05 years; and (b) to pay 06 qualifying months for social security scheme within the last 12 months to the date of incapacity.

If any holder of old age or invalidity or early pension, who has fulfilled required conditions for enjoying old age, or invalidity pension or has already proved for 180 months for social security scheme respectively, is dead, survivors may become the beneficiary. However, survivors' of employees and workers may be eligible for lump sum in case they have not entitled to both an invalidity pensions and paid less than 180 months for social security schemes.

HEALTH CARE SCHEME

Workers and employees have strong desire to get medical care for free of charge for themselves and their family members in case of accident or serious illnesses. Employment Injury Insurance is a fundamental social insurance covering all employees defined by the provisions of the Labor Law.

Medical Care and Treatment: Any employees suffer from the employment injury are entitled to get Medical care and treatment in the health facility or poly clinic recognized by NSSF.

Ensuring Access to Health Care: NSSF ensures that its member will enjoy health care scheme. For instance, there are health fund provided to the members of the scheme, which also include various maternity and children

assistance provided to member.

Emergency Service: It refers to any interventions performed in an unexpected occasion and with the purpose of resuscitation or prevention of limb or any organs loss of victim or patient. In case, the employee caused any accident while performing their work, employer shall provide the nearest emergency services and then send the victim to the health facility or poly clinic recognized by NSSF. All expenses of emergency service will be borne by NSSF. In case of commuting accident, the victim or employer can claim the reimbursement for the expense of emergency service from NSSF.

OCCUPATIONAL RISK

Employment injury is the accident inflicted on body of worker, employee, and apprentice - both with or without wage; regardless of the cause or the worker was fault, working in whatever capacity or place for an employer or manager of an enterprise. The employment injury expands its definition to cover on accident happening to the worker during the direct commute from the residence to the work place and home. In addition, occupational disease is also considered as occupational risk. Consequently, NSSF will identify benefits for employees and workers resulting from occupational risk such as: medical care services, daily allowance, disable pension or allowance for employment injury, or provide funeral benefits and survivors' pension.

Specifically, NSSF will be responsible for medical care services regarding workers and employees. Those medical care services are follows:

- Medical treatment, surgery, and dentistry as well as X-ray photograph, laboratory examinations and

- other analysis.
- Supplying pharmaceutical and incidental products for treatment.
- Providing allowance for victim caring in hospital or other places.
- Supplying, maintaining and repairing of prostheses limbs or orthopedic.
- Working rehabilitation, vocational retraining, job reclassifying.
- Transporting the victim from accident site to the treatment places.

Survivor is entitled to benefits of the victim of employment injury. The term survivor refers to spouse and children who are dependent of a victim, the NSSF member, after s/he dies due to occupational risk. Sub-Decree on the Establishment of the National Social Security Fund determined the survivor's benefits as follows:

- Husband or wife, with the certificate of marriage, before employment injury or before death of the victim caused by employment injury, who is the NSSF's member.
- Children who reach the age of 18 years, but not yet married and have the following status:
 - o The child of spouse who got married with legal certificate or marriage. In case of divorce or the death of one spouse, the child of the next marriage has the same right as the child of the first marriage.
 - o The adopted child of the NSSF's members.

However, the age of child to receive benefit can go as high as 21 years old, but with conditions of participating in professional training or studying at private or public

educational institution, disable child or the child with chronic disease who is not able to do any work with wage.

Parents or elder people who are under the direct supply of the members of the NSSF.

WORKING PRODUCTIVITY FOR ENTERPRISE AND ESTABLISHMENT

The benefit to the employer comprise as following:

Lower cost: By registering their employees as NSSF's members, if there is any employee accident while performing their work, employer is able to save up their time. Because employer are not going to deal with the matter or any expense of the injury since NSSF will be bearing all cost. Plus, the expenses of letting the employee in the health facility or poly clinic recognized by NSSF injury may cost lower than the private hospital.

Productivity tasks / Better Job Performance: Once employer offers such benefits of health insurance as well as insurance, it may enhance employees' effort and productivity because most of workers recognize that good health coverage is necessary to ensure access to medical care and a good protection at work place. As a result, they should be willing to work harder, which can lead to greater productivity and higher quality.

NSSF'S CHALLENGES:

The National Social Security funds encounters several issues. For instance, the cooperation between the fund and the companies can be failing. Indeed, worker's data are sometimes incomplete in such aspects as the number of the workers, wages and company's branches. Moreover, NSSF encounters lateness in monthly worker declaration, contribution payment and injury report notification. At last, NSSF can be hardly understood by some workers and these results in a difficult application of the Employment Injury Insurance.

RESERVE CLAUSE

This article has a purpose to provide general knowledge on Cambodia's Business legal framework. It is unnecessary to be comprehensive. It does not constitute and must not be considered as legal advice for any particular reader. Thus, reader should seek advice tailored to his/her specific circumstance. VINAYA Law Firm exclusively owns the copyright of this article. In case, you desire to reproduce or otherwise use of this article or any part of it, it is your sole responsibility, and unnecessarily reflects our law firm's opinion.



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