



**Report to the Government on Employment  
Injury Insurance in Cambodia:  
Legislation, Financing and Administration**

**March 2005**



International Labour Organization  
Sub-regional Office for East Asia  
Bangkok

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## ABBREVIATIONS

CL&JR:	Council for Legal and Judicial Reform
CSST	Commission for Health and Safety at Work, Quebec, Canada (Commission de la santé et de la sécurité du travail)
EII:	Employment Injury Insurance
GDP:	Gross Domestic Product
GMAC:	Garment Manufacturers Association in Cambodia
GPCC 1998:	General Population Census of Cambodia 1998
ILO:	International Labour Organization
KHR:	Cambodian Riel
LFS 2001:	Labour Force Survey 2001
MOLVT:	Ministry of Labour and Vocational Training
MOSALVY:	Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation
MOSVY:	Ministry of Social Affairs, Veterans and Youth Rehabilitation
NPAR:	National Programme for Administrative Reform
NSSF:	National Social Security Fund
NSSO:	National Social Security Organization
PAYG:	Pay-as-you-go financing method
PDB:	Permanent invalidity (disability) benefit
PMG:	Priority Mission Groups
SRO-BKK:	Sub-Regional Office for East Asia (Bangkok), ILO
SSO:	Social Security Office
TDB:	Temporary invalidity (disability) benefit
TUWFPD:	Trade Union Workers Federation of Progress Democracy
USD:	US Dollars
WCF:	Workmen's Compensation Fund

Phnom Penh District Abbreviations:

CM: Chamkarmon, DP: Daun Penh, PM: Prampi Makara, TK: Tuol Kork, DK: Dangkor,  
MC: Meanchey, RK: Russey Keo

## INTRODUCTION

The introduction of social security in Cambodia has been lagging behind similar developments in other countries of the region. In September 2002, Cambodia adopted its first Social Security Law, which stipulates mainly the guiding principles with respect to mandatory social security provisions for old-age, invalidity, and survivors' pensions and employment injury benefits. The law also states that other social security benefits are to be added through sub-decrees. Cambodia plans to gradually implement the law starting with the provision of employment injury insurance (EII) to private-sector workers. However, a range of preparatory work is necessary for the implementation of the EII scheme, including the drafting of the Sub-Decree concerning the Establishment of National Social Security Fund (NSSF), a financial assessment of the estimation of the premium, and a study on administration. The sub-decree will specify the detailed structure of the benefits, financing, and administrative system and procedures.

In July 2003, the Minister for Social Affairs, Labour, Vocational Training and Youth Rehabilitation (MOSALVY), currently reorganized into the Ministry of Labour and Vocational Training (MOLVT), submitted to the ILO a request for technical assistance on the implementation of social security in Cambodia. An exploratory mission of the ILO social security specialists in the Sub-Regional Office for East Asia (SRO-BKK) was fielded in October 2003 to discuss possible methods of collaboration. The social security team in the SRO-BKK subsequently developed a project proposal that included a series of preparatory research activities and a national seminar on the development of the EII scheme. The Ministry of Labour of the Republic of Korea agreed to fund the project through the ILO/Korea Programme. In 2004, the ILO experts, Mr. Paguman Singh and Dr. Ho-Kyung Kim, fielded a mission in Cambodia. Mr. Samvithyea, Director of the Department of Social Security in the MOLVT, and his colleagues provided valuable support to the mission during their stay in Cambodia.

This report was drafted by Mr. Singh (Parts I and III) and Dr. Kim (Part II) and finalized by Mr. Suguru Mizunoya, Associate Expert on the Social Protection for the Informal Economy in the SRO-BKK under the guidance and support of Mr. Hiroshi Yamabana, Social Security Specialist in the SRO-BKK. The report consists of three parts: Legislation (Part I), Financial Assessment (Part II), and Administration (Part III). Part I provides the principles of employment injury insurance, reviews of the current legislative framework, and a review of the draft Sub-decree concerning the Establishment of NSSF. Part II presents the financial principles and methodologies for assessing the contribution rate and provides the estimated contribution rate. Part III provides reviews of the existing administration structure, a proposed structure for NSSF and various administrative procedures that are to be computerized, and health care provision.

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# EXECUTIVE SUMMARY

## 1. Background

The Government of Cambodia intends to introduce social security protection for workers and the population in general. The government requested the technical assistance of the International Labour Organisation in the designing of the employment injury scheme, e.g., drafting the sub-decrees, carrying out a financial assessment, and developing the administrative structure for the implementation of the scheme.

The assistance has been provided in accordance with the existing labour laws of Cambodia and the existing Social Security Law passed in September 2002. A mission of ILO experts, Mr. Paguman Singh and Dr. Ho-Kyung Kim, was undertaken from 9 to 23 May 2004 to study the feasibility of establishing the employment injury scheme and the appropriate administrative design for the scheme. The experts held discussions with all of the departments under the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (MOSALVY), as well as employers' associations, trade unions, banks, insurance companies, and other governmental departments.

The government is supporting the introduction of a social security protection system in line with the restructuring of the civil service. Employers have expressed their support for the introduction of employment injury scheme, as it contributes to the improvement of industrial relations. Trade unions also support the introduction of the scheme, as it provides protection to injured employees as well as their families through an established system. The banking structure in Cambodia will support the collection of contributions and the investment of the funds. Also, the present economic and social conditions and administrative structure in Cambodia will support the successful introduction of an employment injury scheme.

## 2. Strategy: Gradual introduction of social security benefits and gradual extension of social security coverage

Social security protection should be introduced in phases, as this method will allow for gradual improvement in administrative capacity, especially with regard to human resources essential for the implementation of the various benefit schemes. It is recommended to first introduce the employment injury scheme, which covers the contingencies of employment-related injuries and occupational diseases. Based on the experience gained from the introduction of this scheme and its acceptance by workers and employers, the health insurance scheme and/or old age, invalidity, and survivors' pension scheme can be introduced after a feasibility study. The introduction of a comprehensive social insurance programme will depend on the success of the above-mentioned schemes.

It is also recommended that the employment injury insurance scheme initially cover only enterprises with ten (10) or more employees in Phnom Penh. The coverage can be gradually extended both geographically and in terms of the size of enterprise after sufficient experience with the scheme has been obtained.

### **3. Proposed employment injury scheme**

#### **3.1 Coverage and contribution base**

The employment injury scheme will cover all industries and provide protection to all employees in establishments with ten (10) or more employees. Employers will pay a uniform rate of contribution based on the employee's monthly wage, the categories for which will have a floor of 50,000 Riel and a ceiling of 700,000 Riel.

#### **3.2 Benefits**

Injured employees will be provided with medical benefits, which will include medical transport costs as well as the costs of rehabilitation. A temporary cash benefit will be paid for the period of temporary disablement at a daily rate of 70% of the average wage of the six months immediately preceding the accident. In the event that the accident results in partial or total permanent disablement, the employee will receive a lifetime pension based on the loss of earnings capacity caused by the disablement, as assessed by a medical board. If the loss of earnings capacity is assessed to be less than 20%, the employee may apply for a lump-sum payment in place of a pension. All cases of permanent disablement greater than 20% will be paid a lifetime pension that will be supplemented by a lump sum. This lump sum will be equal to 90 days of assumed wages for the case of total permanent disablement and apportioned according to the loss of earnings capacity for all other cases above 20%. The dependants of an employee include the legal spouse; natural, adopted, or step-children; and parents. A survivors' benefit will be apportioned among the various recipients. The parents will receive the benefit for life, while the benefit is payable to the spouse until death or remarriage and to the children until the age of 18 or until marriage, whichever occurs earlier. A funeral benefit of 700,000 Riel will be paid to the dependants as a lump sum to cover the expenses of the transport and funeral of the deceased employee.

### **4. Financing Method**

The contribution is born by employers based on the principle that occupational injuries and diseases are sole employer's liability.

#### **4.1 Short-term benefits**

It is recommended that short-term benefits (temporary disability cash benefits, medical treatment for occupational injuries and diseases, and funeral benefit) be financed based on the pay-as-you-go (PAYG) financing method (or annual assessment system) so that annual expenditure is financed from annual contribution income. Taking into account the unknown cost experience and possible fluctuations of benefit expenditure, it is recommended that the contribution rate should be set so as to provide margins for the accumulation of contingency reserves for one year.

#### **4.2 Long-term benefits**

It is recommended that the terminal funding method should be applied in the long-term benefit branch (permanent disability and survivors' pensions). The contribution rate should

be set so that the annual contribution income is equal to the present value of future benefit payments for that year.

The major reasons for adopting the terminal funding method are (1) the principle of employers' liability, i.e., the principle that the cost of current employment injuries should be borne by current employers, and (2) as a result of advance financing, to avoid the need for future employers to bear an undue increase in contribution burden, which would be especially large in the case of Cambodia where the insured persons are concentrated in the younger generation.

### 4.3 Single contribution rate

In order to avoid administrative complications, a single contribution rate that applies to all industries and enterprises is recommended at the initial stage of EII implementation. Contribution rates reflecting the differences among industries and enterprises could be considered in the future after administration capacities have been built and sufficient detailed data has been collected.

## 5. Preliminary financial assessment

### 5.1 Limitation of data

The estimation of the income and expenditure of a social insurance scheme before its inception presents extreme difficulties. The main difficulties arise from the fact that there is no experience data, such as probabilities or cost for compensation, on which to base the estimation. Therefore, for this report, various assumptions were made based on limited data collected during the mission to Cambodia and international data from Thailand, Malaysia, and the Republic of Korea. It should be noted that the contribution rate should be assessed again in future actuarial valuations, taking into account the experience data obtained after the implementation of the scheme.

### 5.2 Estimated contribution rate

The estimated uniform contribution rate for the EII scheme in Cambodia using the terminal funding methodology is 1.76% of the salary of employees, including administration cost. Under the partial funding method, the premium would be 1.61% for 90% partial funding, 1.32% for 70% partial funding, and 1.02% for 50% partial funding, as shown below.

Premium	Terminal funding	Partial funding		
		90%	70%	50%
Level of funding	100%	90%	70%	50%
Short term	0.26%	0.26%	0.26%	0.26%
Long term	1.34%	1.21%	0.94%	0.67%
Administration	0.16%	0.15%	0.12%	0.09%
<b>Total</b>	<b>1.76%</b>	<b>1.61%</b>	<b>1.32%</b>	<b>1.02%</b>

### 5.3 Periodical actuarial valuation

It is recommended to carry out an actuarial valuation of the scheme within five years after its launch, as stipulated in the legislation, since the current contribution rate must be adjusted

according to experienced incident rates and cost following the inception of the scheme. The option of adopting differentiated contribution rates according to the type of industry and individual enterprise would be considered in future actuarial valuations.

All efforts should be made to set up proper mechanisms of collecting necessary data for actuarial valuations, including the computerization of the administration and a coordination mechanism between actuaries, statisticians, and administration planners.

During the first several years of the scheme before the next valuation, it may be the case that the adopted contribution rate will be lower than the contribution rate actually necessary to maintain long-term financial sustainability. However, it should be well noted that the scheme will have no problem with cash flow, since the contribution rate will be set to finance the long-term financial liabilities of the long-term benefit branch. Any resulting unfunded liabilities will be relatively small and could be easily recovered by a small increase in contribution rates in future actuarial valuations. Therefore, this kind of uncertainty should not prevent the Cambodian government from implementing the EII scheme.

In the case that the adopted contribution rate is higher than the contribution rate actually necessary to keep long-term financial sustainability, the contribution rate could be lowered in future actuarial valuations. It should be kept in mind that the required contribution rate could be adjusted lower at any point in the future if the rate of industrial accidents or diseases decreases due to prevention efforts and/or changes in the country's industries. Such decreases have been frequently observed in many developed countries.

## **6. Investment**

It should be well noted that the efficient and risk-averse investment of the scheme's accumulated reserves is crucial for its future financial sustainability. All policies for maintaining a stable and positive real-term return over the long run should be explored, including the partial investment of the fund in foreign currency and markets.

## **PART I: LEGISLATION**

### **Chapter 1: Social and Economic Context**

Cambodia's economy is developing at a fast pace, with a 5% annual increase in GDP (Gross Domestic Product). This increase is mainly being driven by the growth of industry, which has been significant since 1999 when it recorded a growth rate of 16.5% at constant 1993 price<sup>1</sup>.

The manufacturing sector accounts for a major portion of this growth as a sub-sector of the industrial sector. Garment manufacturing stands out in this sector, providing employment to 14.9% of the total work force in 2000<sup>2</sup>. In addition, the service sector provides employment to 19.5% of the labour force. The growth rate in both sectors has been fuelled by international demand and is expected to accelerate.

The economic growth of Cambodia has led to the shift of employees from the agricultural sector to the manufacturing and service sectors and consequently from rural to urban areas. Employees who migrate from rural to urban areas, especially those engaged in manufacturing, often lack vocational skills and must adjust to the changes in their work environments. These employees face various employment-related risks in their new work environment. The Government of Cambodia has taken steps to ensure that the welfare and rights of these employees are safeguarded through the introduction of the Labour Law and the provision of compensation in the event of an employment injury.

The government is also taking action to strengthen the legal processes in the country in line with the Development Plan for Cambodia 2001-2005, which calls for the strengthening of the Supreme Council of the Magistracy "to reinforce due process, behaviour and discipline and to build capacity." This plan provides the framework for the implementation of all laws in the country including social security legislation. The plan's objective is also to complete the remaining work relating to the Civil Code and Penal Code, which would ensure equitable justice to all.

### **Chapter 2: Principles and Practices of Employment Injury Insurance**

#### **2.1 ILO Conventions and Recommendations**

The ILO's policy in the field of employment injury benefits is based on three up-to-date social security standards:

- 1) The Social Security (Minimum Standards) Convention, 1952 No. 102<sup>3</sup>, which defines basic social security principles and sets internationally agreed minimum standards for all nine branches of social security, including employment injury benefits;
- 2) The Employment Injury Benefits Convention, 1964 No. 121, which sets higher standards than Convention No. 102 regarding the number of persons protected and the level of benefits; and

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<sup>1</sup> Cambodia's annual economics review 2003

<sup>2</sup> Labour Force Survey 2000

<sup>3</sup> Convention No. 102 is attached as Annex 2.

- 3) The Employment Injury Benefits Recommendation, 1964 No. 121, which accompanies Convention No. 121 and lays down guidelines for the implementation of this Convention.

## **2.2 Principles of employment injury insurance**

Employment injury insurance, also referred to as work injury insurance, is the oldest form of social security that exists in most countries. The underlying principle of the insurance is that the employer is responsible for employees' work-related accidents and occupational diseases and hence for the compensation of injured employees for their loss of income and health in the case of either temporary or permanent disablement. In the event of an employee's death due to an accident, the dependants of the deceased employees are entitled to compensation.

## **2.3 Contingencies**

The scope of coverage for employment injury insurance has been extended beyond the traditional range of work injuries to include occupational diseases and, most recently, commuting accidents. Both Conventions No. 102 and No. 121 require that occupational diseases, in addition to employment-related accidents, are compensated under the employment injury benefits scheme. Moreover, paragraph 6(2) of Convention No. 121 recommends that "unless proof to the contrary is brought, there should be a presumption of the occupational origin of such disease where the employee was exposed for at least a specific period, and has developed symptoms of the disease within a specified period following the termination of the last employment involving exposure."

The insurance covers a general list of occupational diseases, which is expanded with the discovery of new diseases. Coverage is also extended beyond the period of actual work, as initial exposure could result in the appearance of the disease after the employees have left the job or retired.

With regard to a national list of occupational diseases, paragraph 6(3) of Recommendation No. 121 proposes that "when prescribing and bringing up to date national lists of occupational diseases, Members should give special consideration to any list of occupational diseases which may from time to time be approved by the Governing Body of the International Labour Office." Also, paragraph 7 of Recommendation No. 121 recommends that "where national legislation contains a list establishing a presumption of occupational origin in respect of certain diseases, proof should be permitted of the occupational origin of diseases not so listed and of diseases listed when they manifest themselves under conditions different from those establishing a presumption of their occupational origin."

Commuting accident coverage is relatively new, and the scope of coverage varies with different schemes. Injuries that occur while taking the direct route to and from the place of work are covered as employment injuries. Excluded from coverage are accidents that occur during recreational games and social activities that are not part of the employee's job and are generally not associated with work.

## **2.4 Financing**

Employment injury is, in principle, regarded as an employer's responsibility, and all contributions to this programme are borne by the employer. Employers make contributions to

the insurance fund to cover the risk of employee injuries. The method of determining the rate of contribution differs among countries. The uniform rate of contribution is often adopted at the initial stage of the scheme because of its administrative simplicity: the uniform rate system is easily understood by employers and employees, and the administration is relatively simple and can be managed at low cost. The uniform rate system also encourages social solidarity among employers. Despite some drawbacks that affect the promotion of occupational health and safety, this system has stood the test of time to prove its applicability.

## 2.5 Coverage

Employment injury coverage is compulsory, as the aim is to ensure that the entire working population is insured. However, in the initial stages of the scheme, coverage may be restricted to establishments with a relatively large number of employees. The government may also exclude certain categories of workers or industries in the scheme's developmental stage. There are no contribution qualifying conditions for receiving benefits.

According to Article 33 of Convention No. 102, at least 50% of all employees shall be covered by the employment injury benefits scheme in case of the need for medical care or in case of temporary incapacity or permanent total or partial loss of earnings capacity due to an employment injury. In case of death due to an employment injury, the wives and children of the insured persons also shall be covered. The Convention also provides for a temporary exception that authorizes certain members to instead cover at least 50% of employees in industrial workplaces employing 20 persons or more, as well as their wives and children.

Article 4 of Convention No. 121 requires the coverage of all employees and their dependants, but certain exceptions are allowed with regard to such employees as casual workers or home workers.

Since the employment injury insurance scheme in Cambodia will be implemented in Phnom Penh and then gradually extended to other cities and smaller enterprises, it is not feasible to meet the requirements of the two conventions. However, it is recommended that the Cambodian government make efforts to meet these requirements in the future.

## 2.6 Benefits

The employment injury programme provides cash compensation as well as medical and rehabilitation benefits. The cash benefits can be divided into the categories of temporary disablement, permanent partial/total disablement, and dependants' benefit.

**Temporary disablement benefit:** The temporary disablement benefit involves a waiting period of three days. The waiting period prevents fraudulent claims from being made for minor accidents and reduces the administrative cost of handling minor claims. The temporary disablement benefit is payable for the duration of the disablement, provided that a competent medical authority acceptable to the social insurance organization certifies the disablement. The maximum benefit duration is 52 weeks for each accident. If the disablement lasts longer than 52 weeks, the benefit is replaced by the permanent disablement benefit. The payment rate for temporary disablement is usually lower than the employee's wage. This encourages the injured employee to return to active employment as soon as possible and thus discourages interruptions in the employer's operations.

**Permanent disablement benefit:** A claim for permanent disablement is payable starting from the end of the temporary disablement benefit term. The extent of the loss of earnings capacity is usually assessed by a medical board of doctors who specialize in the disability in question. For example, a medical board diagnosing the loss of sight would comprise doctors from eye clinics, while amputations would be assessed by those from orthopaedic clinics. The medical boards are also guided by a list of losses accepted internationally by the medical profession. Historically, certain medical conditions have been accepted to cause loss of work income, and over the years, the medical profession has developed guidelines for the assessment of the loss of earnings capacity. By outlining the details of the assessment process, these guidelines have helped to establish a uniform system that is acceptable to all parties.

An appeal may be made against the decision of a medical board within a stipulated period in the event that an employee or organization is dissatisfied with it. The decision of the appellate medical board consisting of senior medical staff, including specialists in the relevant fields, is final.

The payment rate for permanent total disablement is usually higher than the rate for temporary disablement, as the injuries involved are more severe. The total permanent disablement benefit is paid monthly for life to the injured employee. However, in the case of partial permanent disablement, where the loss of earnings capacity is assessed to be below 20%, the employee is given the option of receiving the payments as a lump sum. This measure is generally accepted by employees who otherwise would be unsatisfied with receiving a small monthly payment. On an administrative level, this method is more convenient and cost effective.

The permanent total disability pension is also supplemented by a constant attendance allowance if the recipient requires the attendance of another person to manage daily life. The rate of the supplementary pension is 40% of the permanent disablement benefit and could be limited to a maximum monthly amount.

**Funeral benefit:** A lump-sum funeral benefit is paid to the family of an employee who dies as a result of an employment injury or who dies while in receipt of the temporary or permanent disablement benefit. The amount of this lump-sum payment is equivalent to the average cost of a funeral in Cambodia.

**Dependants' benefit:** A dependants' benefit is payable to the dependants of the deceased employee. The benefit is payable to the widow or widower for life or until remarriage and to children until the age of maturity, while disabled children receive the benefits for life or as long as they remain mentally or physically disabled. Secondary beneficiaries, including parents and siblings, are awarded dependants benefits under certain conditions. In Asia, where extended families are the cultural norm, the provision of a dependants' benefit to secondary beneficiaries is sometimes required.

**Medical care:** Medical care for all employment injury cases is provided through a panel system for outpatient treatment and in government hospitals for inpatient treatment. Clinics are appointed to the panel, which accept negotiated rates for the complete treatment of the injured employees. In principle, the medical benefits in government hospitals include all treatments. If the employee seeks treatment in private facilities, the organization reimburses the medical costs up to the amount that would have been incurred in a government hospital. This is a cost-control measure.

**Vocational rehabilitation:** Employment injury programmes also provide vocational rehabilitation programmes for the injured employee. This programme includes the provision and replacement of artificial limbs and other orthopaedic devices.

## **2.7 Experience of other countries**

The experiences of advanced countries are not relevant to the case of Cambodia, which is a developing country and does not possess the advanced economic and social systems of the OECD countries. The experiences summarized in Annex 1 indicate that countries tailor their employment injury insurance schemes to their specific stage of economic development. Also, the benefits provided are set in accordance with the social and cultural circumstances of the country, and the definition of dependants is established according to the family traditions and relationships prevalent in that society. The recommendations for Cambodia are based on the principles established in the ILO Convention on Employment Injury Benefits, taking into account the specific environment and needs of Cambodian society.

## **Chapter 3: Current Legislative Framework**

### **3.1 Labour Law**

The Labour Law was passed in 1997, replacing the labour code of 1992. This law is implemented by the Labour Department. The Labour Law provides a framework for enhancing the relationship between employers and employees, labour standards, and related matters of labour protection. The law covers matters regarding labour contracts, wages, labour unions, collective agreements, social insurance, occupational health and safety, and vocational training. The law also provides for the establishment of labour courts to adjudicate whenever problems occur. This law covers all employers in Cambodia irrespective of the nature of their business.

### **3.2 Social Security Law**

The Social Security Law was passed by Parliament in 2002 to provide protection for old age, invalidity, survivorship, and employment injury. Amendments are necessary before the implementation of old age protection. The KRAM or law that is passed by the King is the principle legislation empowering all other sub-decrees and PRAKAS, which is the instrument used to implement sub-decrees. The Social Security Law of Cambodia passed in 2002 has some major shortcomings which could affect its implementation. It is important that these issues are addressed by changing certain provisions in the law before proceeding to the sub-decree on employment injury. The suggested changes to the law are as follows:

- a) The definition of “employer” must be included in the law alongside the definition of “worker.” The definition of “employer” used in the Labour Law could be adopted.
- b) Article 5, which allows the worker to voluntarily continue contributions under the pension scheme, could result in adverse selection and hence should be abolished.
- c) Article 9 provides for very generous provisions for invalidity pension; this could adversely affect the long-term viability of the fund and should be amended.
- d) Article 11 should provide the method of calculating the benefit.

The sub-decree or PRAKAS on employment injury will be prepared in line with this law to prevent any omissions or contradictions.

### **3.3 Legislation on investment**

These laws are being developed by the government, including the judicial and legal system. The laws relating to investment are under the jurisdiction of the Ministry of Economy and Finance, which controls foreign investments in the country.

### **3.4 Legislation on compulsory vehicle insurance**

Injuries due to commuting accidents will be covered under the employment injury insurance scheme. Thus, it will be necessary to coordinate the sub-decree on employment injury and the laws related to compulsory vehicle insurance in order to prevent misuse of the scheme by victims of traffic accidents unrelated to the workplace.

The law requiring the registration of all vehicles in Cambodia has been in place since 1992. However, in practise, only heavy vehicles such as trucks, buses, and cars are being registered with the Road Transport Department. The Department is making an effort to uniformly enforce the law, but the level of compliance is still very low. According to information received from the department, many motorcycles are not registered with the department despite the fact that these vehicles are the main form of transport in Cambodia. In rural areas, compliance is virtually non-existent.

Motor vehicle insurance is not yet compulsory for all vehicles. This is problematic, as victims of accidents are often not being compensated. The Department informed the consultant for this report that the laws are being amended to cover registration and compulsory annual license renewal. All drivers must have a license, especially for heavy commercial vehicles and cars. Driving licenses are issued for motorcycle drivers above the age of 16 and car drivers above the age of 18.

### **3.5 Others**

The government of Cambodia is in the process of reforming the Supreme Council of the Magistracy. The objectives of these reforms are as follows:

- Accelerate the reform of justice;
- Modernize the legal framework to support development and poverty alleviation;
- Provide better access to legal and judicial information and facilitate understanding;
- Enhance the quality and accessibility of legal and judicial services;
- Introduce alternative dispute resolution mechanisms; and
- Provide perquisite conditions for an effective justice sector.

The approach is comprehensive, and the action plan to implement these changes is focusing on the three years from 2003 to 2005.

The government is also taking action to reform the country's administrative structures and civil service through the National Programme for Administrative Reform (NPAR). This programme is being carried out in three phases: (1) setting the foundation for sustaining the course of reform; (2) reorganizing and redeploying resources; and (3) strengthening capacity and developing human resources. The objectives of these reforms are to strengthen institutions and their legal framework, promote good governance and service delivery, enhance human resource management, and build management capacity.

### 3.6 Summary

The existing legal framework for protection of employees needs to be strengthened. The labour law provides the general framework to cover employee rights in terms of their conditions of work, dispute management, and health and safety issues. The need to develop social security coverage is evident, and developments in all other relevant areas are demanding that it be realized.

## Chapter 4: Review of the Draft of the Sub-Decree on the Establishment of the Employment Injury Insurance

### 4.1 Scope of protection

The draft legislation is aimed at providing employment injury coverage to all employees in establishments with ten (10) or more employees. The definition of “employer” has been adopted from the Labour Law and hence covers all private-sector employees as well as all government employees. There is no wage ceiling for the coverage of the employee nor are there exclusions, as the objective is to cover all employees. As a transitional provision, however, the Minister in charge of social security is empowered to make any exclusion during the early implementation stages. The Minister is also empowered to determine the geographical area to be covered; this is for the purpose of ensuring a smooth transition toward full coverage of the country in stages. The covered contingencies of employment include commuting accidents that occur along the direct route between the employee’s residence and workplace, accidents at the workplace, and occupational diseases.

### 4.2 Contribution rate(s)

Three different systems are available for setting the rates of contribution under employment injury schemes, namely:

- a) Uniform rates, where the rate is independent of risk class or industry;
- b) Differential rates, where the rate differs by risk class or industry but is independent of the actual experience of the individual establishment; and
- c) Merit of experience rating, where the rate is fixed or adjusted individually for each establishment on the basis of the accident experience of that establishment.

Regardless of the rate method used, the contribution rate(s) are subject to periodic reviews, e.g., every three or five years.

#### 4.2.1 Uniform rates

Under this system, a uniform contribution rate is applied regardless of the risks or hazards in the establishment or in the industry to which the establishment belongs. This system is simple to apply in practice. Once the contribution rate is fixed, the contributions are calculated in the same way as for other social security branches. The advantage of this method is that the collection of contributions can be coordinated with the collection of contributions for other social security branches, which could reduce the administrative

burden on the staff in the National Social Security Fund (NSSF) and lower the administrative cost.

This system also allows for a substantial simplification of the employer's administrative workload as well. For example, if the collection of contributions is coordinated among all of the social security branches, the employer would only need to fill out one form and make one combined payment for all of the different types of social security contributions.

Furthermore, under the uniform rate system, there is scope for the improvement of employer-employee relations, since the employer should actually be willing to process his claim for employment injury benefit. This might not be the case under the merit rating system, where the interest of the employer is to show a lower incidence of claims in order to reduce his contributions to the scheme.

It could be argued that a uniform contribution rate does not provide for an equitable distribution of charges among the various establishments. This raises a question of principle regarding the extent of solidarity in social security. It should be noted that in other branches of social security (e.g., sickness and unemployment), the uniform rate of contribution is applied, irrespective of difference in risk, following the principle of solidarity and risk pooling in spite of some variation in the incidence of employment interruption among different industries.

It could also be argued that the system of uniform rates does not contain an incentive for accident prevention. Under this system, however, the legislation may contain provisions under which the insurance institution can impose an increase in contributions or demand the reimbursement of benefit payments from establishments that have violated safety rules or failed to introduce safety measures.

Furthermore, it may be argued that the introduction of uniform rates may impose a slightly higher burden on establishments in less-risky industries or enterprises which have comparatively fewer accidents in the industry.

#### **4.2.2 Differential rates**

Under this system, contribution rates are fixed for each risk class or industry class. Establishments are assigned to the various classes according to the type of their activity or their industry branch. No account is taken of the accident experience of the individual establishment or of any measures taken for accident prevention. Each class is usually considered as an autonomous financial unit. The statistics and accounting data is compiled separately for each class, allowing a different contribution rate to be fixed for each class.

The application of this system requires more complicated administrative machinery compared to the case of uniform rates. Firstly, statistical and accounting data must be available for each risk class in order to be able to review the assigned contribution rates. Secondly, this system requires qualified and experienced staff for the classification of the establishments. Drawing a clear-cut line between the different classes can prove to be more difficult under this system. The question of classification itself becomes more difficult with a larger number of classes. It requires several years to construct contribution rates applicable to different classes of risk based on a country's own experience.

#### **4.2.3 Merit or experience rating**

Under this system, the rates are fixed or adjusted according to the accident experience of the individual establishment or on the basis of the accident prevention measures taken by the establishment.

This system is usually based on a schedule or classification of industries by risk, which specifies a “normal” or “average” rate of contribution for each class. The contribution rate for an individual enterprise is set within certain limits of deviation from the industrial average according to the accident experience of the individual establishment and/or according to the safety measures taken or general safety conditions prevailing in the establishment. The application of the system of merit or experience rating is most likely to result in substantial variations in the contribution rates of different establishments.

The merit rating system may be applied to all of the establishments covered under the insurance scheme or it may be applied to only establishments that exceed a certain size. The system is applied to small establishments mainly when the merit rating is set according to prevention measures taken or according to safety conditions in the individual establishments. When the rating is set according to accident experience, the application is usually limited to establishments over a certain size, e.g., establishments with over 100 employees, where chance variations play a smaller role.

The administration of a system based on merit or experience rating requires very elaborate and smooth-working machinery. All establishments must be classified individually and all records and statistics must be kept individually. Also, highly qualified and specialized personnel are required for the assessment of the various factors for determining the contribution rate for each establishment. There are various difficulties involved in this process. For example, the resulting decision may become a source of dispute, and sometimes, the fixing of the rate may be arbitrary, particularly when the provisions governing the merit rating are not very clear. Moreover, when the system is in its early stages and the rules are not clear, the personnel responsible for the application may be subject to undue pressure from interested parties.

Due to the need for more complicated administrative machinery, the merit or experience rating system will generally involve higher administrative costs than coordinated operations such as contribution collections.

If this system were to be stretched to its extreme form, the insurance element (i.e., pooling of risk) would disappear and each establishment would in effect pay its own accident costs.

Cambodia’s employment injury insurance scheme shall be self-financing and is to be financed by contributions by the employer only. The use of a uniform rate of contribution is the recommended financing method, as the available data is insufficient for calculating rates according to the experience or risk rate of an industry. An additional factor supporting the use of a uniform rate is the fact that the major industries in Cambodia currently consist of the garment manufacturing industries, which have similar risk rates due to their homogenous nature and standard work methods. The rate of contribution would allow for full funding of the covered liability. The government will initially provide a launching grant to cover the set-up cost of the schemes and shall also cover the administrative cost for one year.

### **4.3 Benefits**

The scheme will provide the benefits described in the following sections.

#### **4.3.1 Medical benefit**

The medical benefit refers to the provision of medical treatment, drugs, medicines, and reconstructive surgery using implants to injured employees. This can be provided through panel clinics appointed by the organization for treatment of minor injuries. Government hospitals provide both in- and outpatient treatment at specified rates charged by the government. It is important to ensure that the social insurance organization covers the treatment. Annex 9 provides a list of the specific occupational diseases to be covered by the employment injury insurance.

#### **4.3.2 Temporary disablement (cash) benefit**

The temporary disablement (cash) benefit is paid after a three-day waiting period for the period of disablement up to the maximum payment period. The amount of the benefit is 70% of the assumed average wage of the six months preceding the accident. The calculation is carried out as a daily rate with a minimum daily rate that is subject to change by the Minister of Labour and Vocational Training. This amount is greater than the amounts stipulated in Conventions No. 102 and No. 121, which are 50% and 60%, respectively. The rate is also higher than the rate recommended in the Recommendation Supplementing the Employment Injury Benefits Convention (see Annex 3).

#### **4.3.3 Permanent disablement (cash) benefit**

The permanent disablement (cash) benefit is classified into the two categories of permanent total disablement benefit and permanent partial disablement benefit to reflect the different degrees of disability.

The permanent total disablement benefit is paid at a rate of 70% of the assumed average wage of the preceding six months and is paid for life with a minimum daily rate to be determined by the Minister. This wage replacement rate for permanent total disablement is greater than the rates stipulated in Conventions No. 102 and No. 121, which are 50% and 60%, respectively.

The permanent partial disablement benefit is paid at a rate of 70% of the assumed average wage of the preceding six months multiplied by the degree of disablement. It is paid for life with a minimum daily rate to be determined by the Minister.

An additional lump sum is given in all cases of disablement greater than 20%. The amount will be equal to three (3) months salary in cases of 100% disablement and will be apportioned according to the percentage of disablement for all other cases above 20%.

The pension is subject to adjustments to the cost of living,<sup>4</sup> which are not automatic but instead determined after an actuarial assessment of the viability of the scheme. This system provides long-term financial control and ensures the viability of the scheme.

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<sup>4</sup> According to Article 21, paragraph 1 of Convention No. 121 and Article 65, paragraph 10 of Convention No. 102, pensions shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living. In addition, Article 17 of Convention No. 121 requires that “the conditions, in which periodical payments due in respect of loss of earnings capacity or corresponding loss of faculty shall be reassessed, suspended or cancelled by reference to a change of loss in the degree, shall be prescribed.”

In order to avoid the administrative complexity of periodically paying out a small amount of benefits over a long period, the permanent partial disablement benefit for cases of disablement below 20% may be paid out as a lump sum if the employee so chooses. In general, this provision is acceptable to many employees who expect a large sum of money after an accident.

#### **4.3.4 Constant attendance allowance**

A constant attendance allowance equal to 40% of the permanent total disablement benefit is paid to employees who are totally disabled and require the constant attendance of another person for their daily living requirements. This benefit is subject to the maximum monthly amount fixed by the Minister.

#### **4.3.5 Rehabilitation benefit**

Injured employees also are entitled to a rehabilitation benefit, which includes both physical and vocational rehabilitation. The rehabilitation benefit includes the provision and replacement of artificial limbs free of charge. The transportation cost for travelling to centres for the fitting of the artificial limbs and training in the use of the devices is also paid by the National Social Security Organization. The quality of such artificial limbs and other artificial aids are determined by the organization.

#### **4.3.6 Dependants' benefit**

If an employee dies of an employment injury, a dependants' benefit is paid to the deceased employee's primary dependants: the widow or widower and children below the age of 18 years, as well as dependent aged parents. The full rate of the benefit is divided between the widow and children on the one side and the parents on the other.

If a parent exists, the widow(er) and children proportionately share 85% of the full rate of the total disability benefit, the full rate being 70% of the average assumed monthly wage of the preceding six months. In the case of a single child, three-fifths of this partial rate is paid to the widow(er) and two-fifths to the child. Aged parents are entitled to the remaining 15% of the full pension rate (70%).

In the case that there are no parents eligible for the benefit, the full rate (70%) is paid to the widow or widower and children according to the same proportions mentioned above. Conventions No. 102 and No. 121 stipulate that the wage replacement rate for dependants should be greater than 40% and 50%, respectively, for a widow with two children. Under the sub-decree, the survivors' benefit for a widow with two children will be paid at a higher rate:  $70\% \times \frac{3}{7}$  for the widow plus  $70\% \times \frac{2}{7}$  for each child.

The widow or widower receives the benefit until death or remarriage, whichever occurs earlier. Children receive benefits up to age 18 or marriage if it occurs earlier.

Then the dependent benefit rate is re-calculated reflecting current family structure in case of the change in the family structure i.e. death of parents, re-marriage of widow/er, and attainment of 18 years and marriage of children.

#### 4.3.7 Funeral benefit

A funeral benefit is given as a grant in an amount equal to the average cost of a standard funeral in Cambodia. This amount has been determined to be Riel 700,000. The Minister has the power to change the grant amount if necessary.

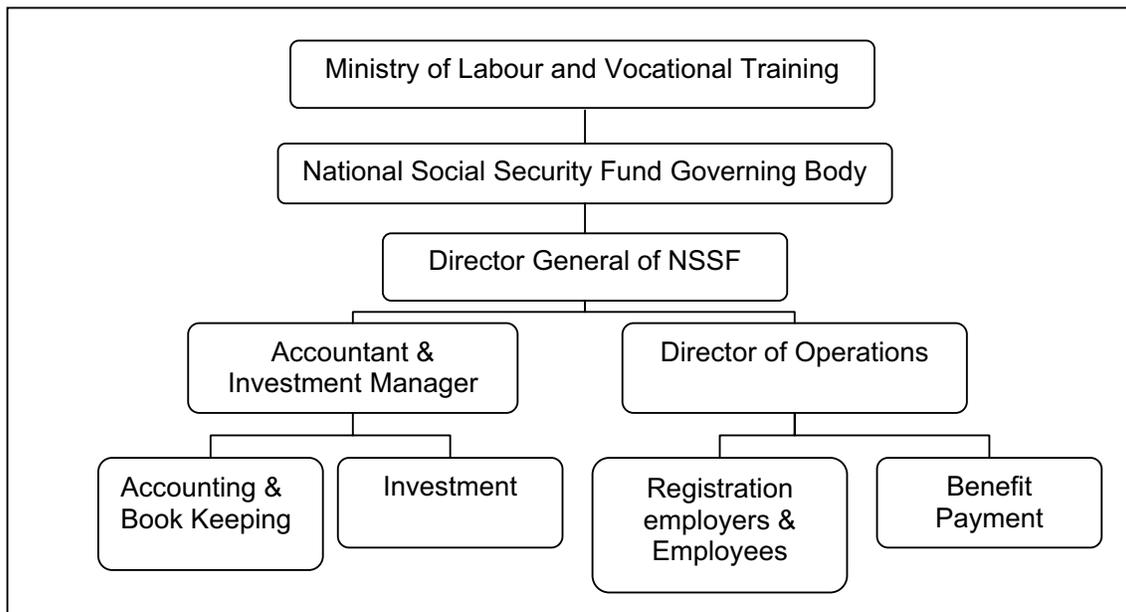
### 4.4 Administration

The general administration of the benefit schemes is assigned to the National Social Security Fund (NSSF), which is under the supervision of the Ministry of Labour and Vocational Training (MOLVT). The NSSF will be managed by the Governing Body, which will consist of a tripartite representation of employers, employees, and the government. The administration will ensure that all matters requiring medical decisions are made by a Medical Board and that appeals can be made to the Appellate Medical Board, whose decision is final. Other disputes between various parties will be adjudicated by the Social Security Appellate Boards established for various regions.

#### 4.4.1 Administrative structure

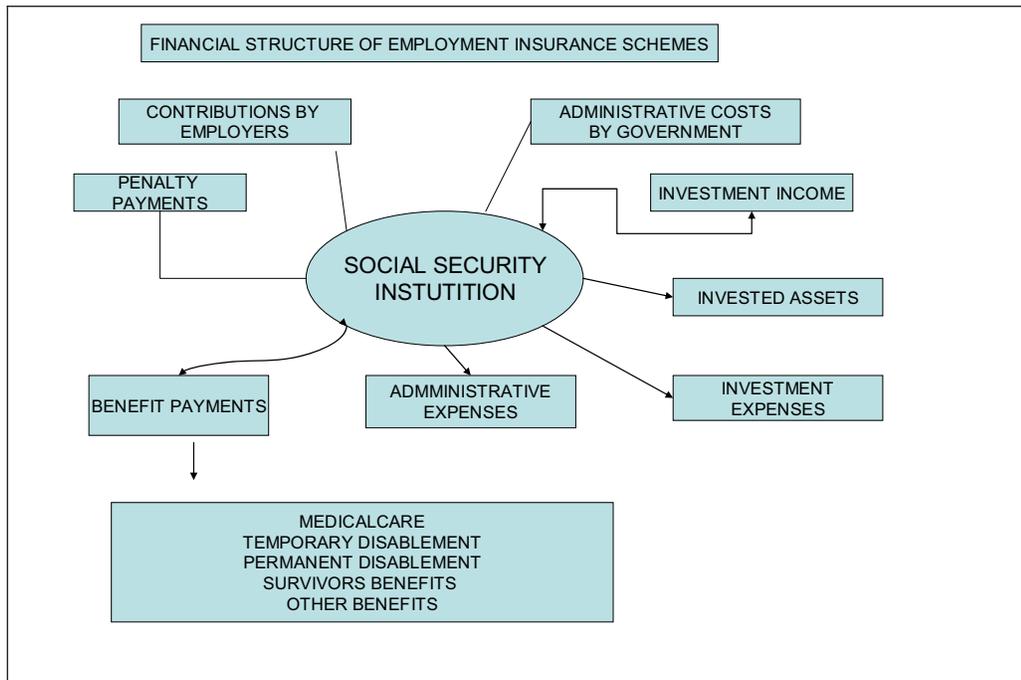
The NSSF will have the following structure as a body corporate.

**Figure 1: Structure of NSSF**



The financial structure of the scheme will be as follows.

**Figure 2: Financial structure of the EII scheme**



#### 4.4.2 Administrative process

The administrative process will involve the registration of employers and employees, including the maintenance of records on employers and employees. The key services to be carried out for beneficiaries include the determination of eligibility and payment of both short- and long-term benefits. The collection of contributions will ensure the viability of the fund.

#### 4.5 Offences and penalties

The sub-decree allows for penalties in the form of fines and jail sentences. The purpose of the penalties will be to ensure compliance with the scheme requirements and also to deter fraudulent claims. The offences covered in the legislation include non-registration of the enterprise or employees, non-payment or underpayment of contributions, and a refusal to comply with the other administrative requirements.

Other offences include the submission of false information to claim benefits to which a person is not entitled. The offences will be tried by a court of the magistracy and sentenced or fined accordingly.

#### 4.6 Others

The sub-decree also will set up a quasi-judicial authority called the Social Security Appellate Board to adjudicate different interpretations of the law. This body will operate like a court and thus enable the employer or employee to dispense with the legal processes and bring their dispute to a neutral third party for resolution at lower cost than court cases.

## **4.7 Summary**

The sub-decree covers all aspects of implementing a social security scheme providing employment injury coverage. Any improvements can be carried out after the initial implementation, as there is flexibility for making necessary modifications.

# **Chapter 5: Conclusions and Future Activities**

## **5.1 Findings and recommendations**

### **5.1.1 Legislative framework**

The sub-decree on social security has been amended in consultation with various experts in the field (see Annex 4).

### **5.1.2 Draft sub-decree on the establishment of the NSSF**

The draft sub-decree is attached to this report. The regulations for the implementation of the scheme have also been drafted and are attached to this report.

## **5.2 Future Activities**

The concept of social insurance is new to Cambodia, so an educational programme to explain the scheme must be planned and implemented for employers and employees, as well as the general public. Also, the NSSF staff must be trained to understand and implement the social security scheme. The staff should be provided with training in the areas of legislative structure, enforcement, financing (including the investment of reserves), and the general administration of the NSSF.

## **PART II: FINANCIAL ASSESSMENT**

### **Chapter 1: Economic and Social Context**

#### **1.1 General information**

Cambodia is composed of 24 municipalities which can be divided further into 183 districts. Phnom Penh is one of these municipalities and consists of seven districts: Chamkarmon (CM), Daun Penh (DP), Prampi Makara (PM), Tuol Kork (TK), Dangkor (DK), Meanchey (MC), and Russey Keo (RK). Cambodia transitioned from a communist regime to a market-oriented economy in 1989. Up until 1998, however, the progress of its economic reforms was slow due to political instability. Since the start of the new government in 1998, the country has actively carried out reforms and policies for a market-oriented economy.

#### **1.2 Macro-economic environments**

The Cambodian economy enjoyed steady growth over the last decade, posting an average real growth rate of 5.6% with continuous years of positive growth. From 1993 to 2002, the industry and service sectors recorded relatively high economic growth rates of 15.2% and 4.5%, respectively, whereas the average growth rate of the agriculture, fishery, and forestry sector was only 1.4%, as shown in Table 2. Among industry's sub-sectors, the textile, apparel, and footwear sub-sector recorded a 45.3% growth rate on average during the same period and accounted for about 15.8% of total GDP in 2002.

Confidence in the Riel is very low, which has led to instability in the domestic currency. Dollar circulation in Cambodia is estimated to be at up to 70%. The substantial dollarization of the economy has impaired the ability of the central bank to conduct an independent monetary policy.

The Riel depreciated by 28% against the dollar in 1997, which led to a 14.8% increase in consumer prices. The impact of the depreciation, however, was rather small because of the country's high dependency on dollars. The interest rates of commercial banks generally decreased between December 2000 and December 2001. The interest rate for Riel-denominated savings deposits fell from 5.9% to 3.3%, while term deposits increased from 0.5% to 3.3%. The interest rate for foreign currency savings deposits fell from 2.3% to 2.0%, while term deposits decreased from 3.7% to 3.3%.

#### **1.3 Level of income**

The real GDP per capita in USD grew steadily from 1993 to 2002, with 5.6% annually average growth. The only year of negative growth was 1998. The GDP per capita grew from USD 205.3 in 1993 to USD 254.8 in 2002 (Table 1), or 24.1% in 9 years. However, the Cambodian GDP per capita still remains one of the lowest in the region (Table 4).

The overall average monthly salary increased from USD 14.9 in 1993 to USD 24.1 in 2002. The growth of average monthly income, however, varied among sectors. The average monthly wage in the agriculture, fishery, and forestry sector increased by only USD 3.4, or 30%, over a decade, while the average wage in the industry and service sectors increased by USD 32.2, or 90%, and USD 22.8, or 95%, respectively.

## 1.4 Population and demographics

The population in Cambodia has been steadily increasing and reached 13.4 million in 2002. The General Population Census of Cambodia 1998 (GPCC 1998) indicated that 51.8% of the population is female and that the annual population growth rate is between 2.5% to 3.0%. By Southeast Asian standards, this rate of growth is considered as high. The census showed that 42.8% of the population was under 15 years old, 51.9% was between 15 to 59 years old, and 5.3% was 60 years old or older.

According to Cambodia's 2000 Demographic and Health Survey, the total fertility rate was 4.0 per women aged 15 to 49. The total fertility rate was 3.1 for urban areas and 4.2 for rural areas. The crude birth rate per 1,000 population was 27.7. In Cambodia, the infant mortality rate dropped rapidly until the end of the 1970s. For example, the infant mortality rate was 12.9% in 1977 and decreased to 8.5% in 1982, but since the 1980s, infant mortality rate has remained stable. In 2000, the neonatal mortality rate was 37 per 1,000 live births and the under-five mortality rate was 124 per 1,000 live births. The life expectancy at birth was 52.3 years for males and 58.9 years for females.

According to the official population projection provided by the National Institute of Statistics, the population is projected to grow to 19.3 million by the year 2020. This represents an average annual growth rate of 2.1% over a 15-year period. The age structure in 2020 is projected to be 36.0% under the age of 15, 57.4% aged 15 to 59, and 6.7% aged 60 years old or older. Based on these projections, the overall dependency ratio would decrease from 82.5% to 62.7%, although the aged dependency ratio (population 60+/population 15-59) would only slightly increase by 0.6%.

## 1.5 Labour force and employment

The results of the 2001 Labour Force Survey (LFS) in November showed that the total economically active population 10 years and over in Cambodia numbered 6.4 million people. It consisted of 3.1 million (48.2 %) male labour force participants and 3.3 million (51.8 %) female labour force participants. The relative share of the economically active population held by Phnom Penh, "other urban areas," and "other rural areas" was 0.4 million (5.8 %), 0.6 million (8.8%) and 5.4 million (85.3%), respectively.

There are major discrepancies among estimates of the unemployment rate. The unemployment rates in Table 1 represent an average of 7.1% from 1993 to 2002. However, socioeconomic and other surveys tend to show lower unemployment rates averaging 1.8%.<sup>5</sup>

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<sup>5</sup> Cambodia Statistical Year Book 2001, p 20, Table 1,

**Table 1: Key economic indicators**

Year	Population (mill.)	Labour force (mill.)	Unemployment rate (%)	Real GDP (1993 prices USD mill.)	Real GDP Growth rate (%)	GDP per capita (1993 prices in USD)	Rate of increase of GNP per Capita (%)	Inflation in Riel	Inflation in USD	Riel/USD exchange rate (official)
1993	10.5	4.3	2	2,135.8	7.8%	205.3		75.2%	3.5%	2,797
1994	9.9	4.5	11	2,272.9	6.4%	230.3	12.2%	-0.1%	8.3%	2,569
1995	10.2	4.6	3	2,458.4	8.2%	241.0	4.6%	7.8%	12.3%	2,467
1996	10.3	4.7	6	2,544.2	3.5%	246.1	2.1%	7.2%	0.1%	2,640
1997	10.4	4.9	10	2,637.5	3.7%	254.4	3.4%	8.0%	-4.7%	2,991
1998	12.3	5.1	3	2,675.8	1.5%	216.8	-14.8%	14.8%	-9.0%	3,774
1999	12.7	5.3	7	2,862.6	7.0%	226.1	4.3%	4.0%	2.9%	3,814
2000	13.0	5.4	8	3,072.8	7.3%	236.6	4.6%	-0.8%	-1.8%	3,854
2001	13.3	5.6	10	3,277.3	6.7%	246.2	4.1%	0.2%	-1.6%	3,924
2002	13.4	5.8	11	3,414.1	4.2%	254.8	3.5%	3.3%	3.5%	3,918

Source: Cambodia's Annual Economic Review, Cambodia Development Resource Institute, September 2003, Cambodia Statistical Year Book 2001, National Institute of Statistics, Ministry of Planning

**Table 2: Growth rate by sector at constant 1993 price**

Year	Agriculture, Fisheries & Forestry	Industry	(Textile, apparel & Footwear)	Services	Total GDP
1994	7.8%	5.5%	(-16.0%)	-0.1%	4.0%
1995	10.0%	18.8%	(28.6%)	5.7%	9.3%
1996	-0.6%	10.9%	(77.8%)	3.1%	2.6%
1997	5.6%	20.4%	(131.3%)	-3.7%	4.1%
1998	2.6%	7.7%	(45.9%)	-0.6%	2.3%
1999	4.7%	16.5%	(40.7%)	3.7%	6.6%
2000	-2.6%	34.0%	(63.6%)	5.2%	7.9%
2001	-8.5%	10.8%	(16.6%)	20.4%	6.8%
2002	-6.1%	12.5%	(19.5%)	6.9%	4.1%
Average	1.4%	15.2%	45.3%	4.5%	5.3%

Source: Cambodia's Annual Economic Review, Cambodia Development Resource Institute, September 2003

**Table 3: GDP by sector at 1993 price in USD (million)**

Year	Agriculture, Fisheries & Forestry	Industry	(Textile, apparel & Footwear)	Services	Total GDP
1994	940	287	(21)	927	2,154
1995	1,034	341	(27)	980	2,355
1996	1,028	378	(48)	1,010	2,416
1997	1,086	455	(111)	973	2,514
1998	1,114	490	(162)	967	2,571
1999	1,166	571	(228)	1,003	2,740
2000	1,136	765	(373)	1,055	2,956
2001	1,039	848	(435)	1,270	3,157
2002	976	954	(520)	1,358	3,288

Source: Cambodia's Annual Economic Review, Cambodia Development Resource Institute, September 2003

**Table 4: GDP per capita in USD**

	1999	2000	2001	2002	2003
<b>Cambodia</b>	277.0	283.2	287.1	304.0	320.7
<b>Lao PDR</b>	281.3	324.1	323.9	330.7	359.6
<b>Malaysia</b>	3485.2	3874.6	3696.2	3905.0	4164.1
<b>Thailand</b>	2030.6	2021.1	1888.5	2059.7	2308.6
<b>Vietnam</b>	370.0	397.0	411.2	436.3	481.6

Source: World Development Indicator, the World Bank

**Table 5: Monthly wage in USD by sector**

		1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	Ave.
Average wage	Nominal amount	14.9	18.2	19.4	20.7	20.7	21.1	23.5	24.3	23.6	24.1	-
	Change	---	22.1%	6.6%	6.7%	0.0%	1.9%	11.4%	3.4%	-2.9%	2.1%	5.7%
Agriculture, Fisheries & Forestry	Nominal amount	11.5	12.6	13.6	14.1	14.5	14.6	14.8	14.9	14.9	14.9	-
	Change	---	9.6%	7.9%	3.7%	2.8%	0.7%	1.4%	0.7%	0.0%	0.0%	3.0%
Industry	Nominal amount	35.8	41.2	46.6	50.5	52	53.9	57.1	62.6	65.5	68	-
	Change		15.1%	13.1%	8.4%	3.0%	3.7%	5.9%	9.6%	4.6%	3.8%	7.5%
Service	Nominal amount	24	33.9	40.6	42.2	41.9	40	43.7	44.5	44.8	46.8	-
	Change	---	41.3%	19.8%	3.9%	-0.7%	-4.5%	9.3%	1.8%	0.7%	4.5%	8.4%

Source: Cambodia's Annual Economic Review, Cambodia Development Resource Institute, September 2003

**Table 6: Age structure and dependency ratios**

Age	1998	2020
0-14	42.8	36.0%
15-60	51.9	57.4%
60+	5.3	6.7%
Aged dependency ratio	10.2%	11.6%
Young age dependency ratio	82.5%	62.7%
Total dependency ratio	92.7%	74.3%

Source: The population of Cambodia 1980-1996 and projected to 2020, National Institute of Statistics, Ministry of Planning

## Chapter 2: Review of the Proposed EII Scheme

### 2.1 Main features of the proposed scheme

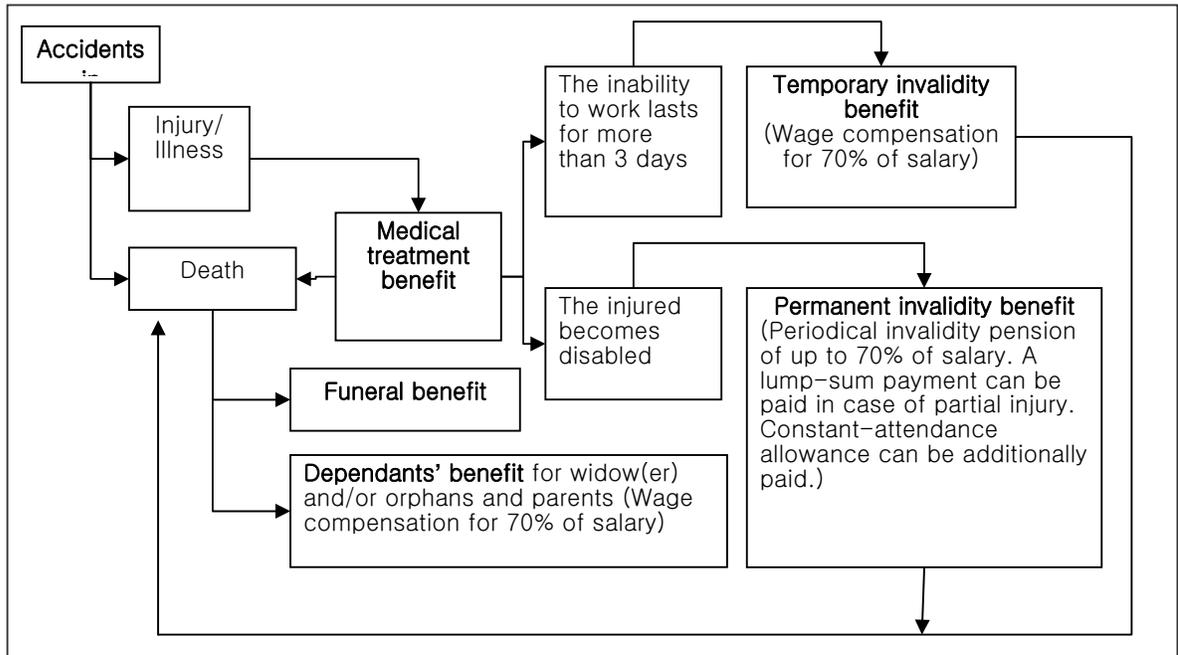
The proposed EII is a mandatory social insurance scheme which covers all employees as defined by the Labour Law, including employees whose employers do not fulfil the obligation of contribution. Such employers will be subject to a substantial penalty, e.g., the total compensation cost to compensate the injured employee. The work injury insurance will be applied to a limited region of Phnom Penh for the initial period only as a pilot implementation. After gaining some experience and confidence with the program, the scope of coverage will be extended to all Cambodian workers.

The employment injury scheme will cover the contingencies of accidents at work, occupational diseases, and commutes to and from work, and will include both short-term benefits and long-term benefits. Short term benefits include medical treatment (in-kind benefits), funeral benefits (cash lump-sum), and temporary invalidity benefits (cash lump-sum or periodical cash payments). Long-term benefits include invalidity and dependants' benefits as summarized below.

**Table 7: Benefit provided under the EII scheme**

	In-kind benefit	Cash benefit	
		Lump-sum	Periodical payment
<b>Short-term benefits</b>	Medical treatment	Temporary invalidity benefit	---
		Funeral benefit	
<b>Long-term benefits</b>	---	Partial permanent invalidity benefit and minor cases of permanent invalidity benefit, if requested by the insured	Permanent invalidity benefit, with constant-attendance allowance if applicable
	---	---	Dependants' benefit

**Figure 3: Benefit flow chart**



## 2.2 Short-term benefits

**Medical treatment:** Medical treatment will be provided to those who sustain injury or illness. Treatment will include surgery, dentistry, X-ray photographs, laboratory examinations, and other analyses as well as pharmaceutical and incidental products for treatment. Medical treatment also will include the costs of transportation to a hospital or other places, the cost of maintenance and repair of prostheses limbs, and work rehabilitation or vocational training.

**Temporary invalidity (disability) benefit (TDB):** If an injured person is temporarily unable to work, a wage replacement benefit will be provided after a three-day waiting period. Seventy per cent (70%) of the average wage of the six months preceding the date of injury will be applied to the number of days of absence due to injury or illness.

**Funeral benefit:** A lump-sum payment of 700,000 Riel will be paid to the family of the victim.

## 2.3 Long-term benefits

**Permanent invalidity (disability) benefit (PDB):** If an injured person is found to be permanently disabled, an invalidity pension will be provided according to the degree of disablement. The amount of the pension will be determined by the degree of invalidity, with a maximum of 70% of the average wage of the 6 months preceding the accident. In the case of a partial permanent invalidity where the loss of earnings capacity is 20% or less, the victim can choose to receive a lump-sum payment instead of the pension.

**Dependants' benefit:** A dependants' benefit will be paid to the victim's primary dependants: the widow or widower and children below the age of 18, as well as dependent aged parents. The full rate of the benefit will be divided between the widow(er) and children on the one side and the parents on the other.

If a parent exists, 85% of the full rate, which is 70% of the average assumed monthly wage of the preceding six months, will be shared proportionately by the widow(er) and children as shown in Table 8. In the case that no parent is eligible to receive the benefit, the full rate is to be paid to the widow or widower and children. The widow or widower will receive the benefit until death or remarriage, whichever occurs earlier, while the children will receive benefits until the age of 18 or marriage if it occurs earlier. Aged parents will be entitled to receive 15% of the full rate of pension and will receive the pension for life. Whenever there is a change in the family structure concerning entitlement of the dependent benefits, the benefit allocation within the family should be re-calculated.

**Table 8: Calculation of dependants' benefit**

	With a parent	With no parent	With no parent and no widow(er)
<b>Parents</b>	0.15	---	---
<b>Widow(er)</b>	$0.85*3/(2n+3)$	$1.00*3/(2n+3)$	---
<b>Each child</b>	$0.85*2/(2n+3)$	$1.00*2/(2n+3)$	$1.00*3/(5n)$

Note: "n" denotes the number of children

## 2.4 Proposed financing methodology

### 2.4.1 Short-term benefit branch

It is recommended that short-term benefits (temporary disability cash benefits, medical treatment for occupational injuries and diseases, and funeral benefit) be financed based on the pay-as-you-go (PAYG) financing method (or annual assessment system) so that annual expenditure is financed from annual contribution income. Taking into account the unknown cost experience and possible fluctuations of benefit expenditure, it is recommended that the contribution rate be set so as to provide margins for the accumulation of contingency reserves for one year.

### 2.4.2 Long-term benefit branch

It is recommended that the terminal funding method be applied in the long-term benefit branch (permanent disability and survivors' pensions). The contribution rate should be set so that the annual contribution income is equal to the present value of future benefit payments for that year.

The major reasons for adopting the terminal funding method are (1) the principle of employers' liability, i.e., the principle that the cost of current employment injuries should be borne by current employers, and (2) to avoid the need for future employers to bear an undue increase in contribution burden as a result of advance funding, which would be especially large in the case of Cambodia where the insured persons are concentrated in the younger generation.

### 2.4.3 Contribution rate

In order to avoid administrative complications, a single contribution rate that applies to all industries and enterprises is recommended at the initial stage of EII implementation. Contribution rates reflecting the differences among industries and enterprises could be considered in the future after administration capacities have been built and sufficient detailed

data has been collected.

## Chapter 3: Preliminary Financial Assessment

### 3.1 Major assumptions

#### 3.1.1 Limitation of data

The estimation of the income and expenditures of a social insurance scheme before its inception presents extreme difficulties. The main difficulties arise from the fact that there is no experience data, such as probabilities or cost for compensation, on which to base the estimation. Therefore, for this report, various assumptions were made based on limited data collected during the mission to Cambodia and international data from Thailand, Malaysia, and the Republic of Korea. It should be noted that the contribution rate should be assessed again in future actuarial valuations, taking into account the experience data obtained after the implementation of the scheme.

#### 3.1.2 Injury rate

Since there is no reliable data available on employment injury and illness, Korean employment injury data averaged from 1971 to 1976 was modified by taking into account the difference in the industry structure of Korea in the 1970s and that of current Cambodia. Table 9 presents the assumptions for Cambodia's injury rates, along with international examples. The total injury rate used for this report is 2.8%: 0.035% for the death rate, 0.19% for permanent invalidity, and 2.6% for temporary disability.

**Table 9: International comparison of injury rates**

	Injury Rate			
	Total	Death	Permanent invalidity	Temporary disability
<b>Cambodia (assumptions of this report)</b>	<b>2.80%</b>	<b>0.035%</b>	<b>0.19%</b>	<b>2.6%</b>
Korea (1971-1976)	4.48%	0.056%	0.303%	4.12%
Thailand (1981-1990)	1.60%	0.029%	0.105%	1.47%
Malaysia (1999)	2.55%	0.032%	0.280%	2.24%
Established Market Economies	---	0.005%	---	---
Formerly Socialist Economies of Europe	---	0.011%	---	---
India	---	0.011%	---	---
China	---	0.011%	---	---
Other Asia and islands	---	0.023%	---	---
Sub-Saharan Africa	---	0.021%	---	---
Latin America and the Caribbean	---	0.014%	---	---
Middle Eastern Crescent	---	0.023%	---	---
World	---	0.014%	---	---

Source: ILO

### 3.1.3 Assumptions for different benefits

#### 3.1.3.1 Short-term benefits

##### a) Medical treatment

A unit cost of USD 40 was assumed for this report, which represents the sum of the average medical cost for industrial injuries in Cambodia (USD 34.80) based on a government document and the assumed medical cost for very minor injuries (USD 5). The amount of USD 5 should be sufficient to cover both medical treatment and transportation to a clinic, which the EII scheme in Cambodia is obligated to cover by law. Given the fact that the average medical cost in the Workmen's Compensation Fund in Thailand was about US\$40 in 1990, this assumption is considered as conservative.

##### b) Temporary invalidity benefit

**Average monthly wage:** The weighted average monthly salary was derived from MOLVT sample data<sup>6</sup> for the number of workers and monthly salary in each industry. The sample data offered a useful basis for calculating this figure, which experts in Cambodia have judged to be reasonable and acceptable. The weighted average monthly salary was calculated to be USD 78.94.

**Table 10: Estimated average monthly salary (in USD)**

Type of Industry	Number of Employees	Salary
Garment industry	64,079	67.21
	15,592	77.33
	64	84.00
	4,960	80.91
Total/weighted average	84,695	69.89
Non-garment industry	198	362.06
	855	500.00
	146	294.20
	396	100.00
	3,761	87.26
	575	357.57
	50	100.00
	523	261.81
Total/weighted average	6,713	193.17
<b>Whole Industry</b>	<b>Weighted Average</b>	<b>78.94</b>

Source: Department of Social Security, MOLVT

**Average compensated days off:** A temporary invalidity benefit shall be provided to employees if a work-related accident or illness causes them to be absent from work for more than 3 days. Since there is no available data on the cases of people in Cambodia who incur

<sup>6</sup> MOLVT carried out a sampling survey of work establishments in Phnom Penh in 2003.

injuries requiring more than 3 days of medical treatment and thus are unable to work for that period, it is assumed 20 days as the average duration of TDB based on international examples. The average benefit duration in Malaysia in 2002 was 27.14 days, while in Japan it was 21.0 days in 2002 and 20.8 days in 2003. In Korea, the average duration of TDB during the period of 1971 to 1976 was 11.4 days.

**Table 11: International comparison of average duration of TDB per case of injury**

Year	1971-1976	2002	2003	2005
Korea	11.4	---	---	---
Japan	---	21.0	20.8	---
Malaysia	---	27.1	---	---
Cambodia (assumption)		---	---	<b>20</b>

c) Funeral benefit

It is assumed that 700,000 Riel will be provided as a funeral grant in the case of a death.

**3.1.3.2 Long-term benefits**

*Discount rate:* The discount rate was assumed to be 2%, which is considered to be reasonable based on the recent monetary and macro-economic environment. A sensitivity analysis shows that applying a 1% discount rate would increase the premium by 15.0% and applying a 3% discount rate would decrease the premium rate by 12.7%.

a) Permanent invalidity benefit

*Expected degree of invalidity:* The expected degree of permanent invalidity was assumed to be 22.23% based on Korean data from the period of 1971 to 1976. The distribution of the degree of invalidity in Korea from 1971 to 1976 and the expected degree of invalidity in Cambodia are summarized in the table below.

**Table 12: Distribution of degree of invalidity in Korea from 1971 to 1976 and expected degree in Cambodia**

Degree of invalidity	1	0.9	0.8	0.7	0.6	0.5	0.4	0.3	0.25	0.2	0.15	0.1	0.05	0.01
Injured Workers Total: 26,826	463	48	186	402	695	1,040	1,475	2,916	2,088	4,631	4,448	4,064	1,531	2,839
In percentage (%)	1.73	0.18	0.69	1.50	2.59	3.88	5.50	10.87	7.78	17.26	16.58	15.15	5.71	10.58
Expected degree of invalidity- Cambodia	<b>0.2223</b>													

Source: Dr. Kim, Korean Labour Institute

*Age structure of employees:* The MOLVT sample data was used to determine the estimated age distribution of employees in Phnom Penh, as shown in the table below.

**Table 13: Estimated age structure of employees in Phnom Penh**

AGE	Non-garment	Garment	Total	Percentage (%) of the total
Under 19	385	8,590	8,975	10.50
20-24	3,195	40,272	43,467	50.86
25-29	1,423	18,637	20,060	23.47
30-34	575	6,823	7,398	8.66
35-39	425	2,918	3,343	3.91
40-44	329	906	1,235	1.45
45-49	252	402	654	0.77
50-54	192	135	327	0.38
<b>Total</b>	6,776	78,690	85,466	100.00

Source: Department of Social Security, MOLVT

*Expected lifetime and unit present values:* A mixed life table was calculated, as attached in Annex 9, based on which unit present values were calculated.

**Table 14: Expected life expectancy and unit present values**

Age	Disabled		Life expectancy (mixed)	Unit present value
	Worker			
under 19	10.4%		46.7	30.8
20-24	50.9%		42.5	29.0
25-29	23.4%		38.5	27.2
30-34	8.7%		34.4	25.2
35-39	3.9%		30.3	23.0
40-44	1.5%		26.2	20.6
45-49	0.8%		22.1	18.1
50-54	0.4%		18.1	15.4
Total	100.0%		---	---

b) Dependents' benefit

*Household structure:* An estimated household distribution was created based on demographic data from the General Population Census of Cambodia 1998. The estimated number of children in the table may exaggerate the actual number in Phnom Penh, since the average number of children in a household in the Phnom Penh area is less than that of the country as a whole. However, the effect of the additional number of children on the valuation result would be marginal, since the payment to children lasts until the last child turns 18 regardless of how many children a family has.

**Table 15: Estimated household structure**

	Widow(er)	Child_1	Child_2	Child_3	Child_4
<b>Under 19</b>	17				
<b>20-24</b>	22	1			
<b>25-29</b>	27	6	3	1	
<b>30-34</b>	32	11	8	6	1
<b>35-39</b>	37	16	13	11	6
<b>40-44</b>	42		18	16	11
<b>45-49</b>	47				16
<b>50-54</b>	52				

The following assumptions were used in estimating the above household distribution:

- a) Average woman's age at first birth: between 21-22 years old;
- b) Median age of mother at first birth: 21.9 years old;
- c) Average term between births: about 3 years;
- d) Average number of children in a single family: 4; and
- e) Average number of people in a family: 5.4 members.

*Estimated present value for widow(er), children, and parents:* Based on the above-mentioned assumptions and the assumptions that 10% of employees no longer have parents and that existing parents are 25 years older than the victim employee, the present value for a widow(er), children, and parents' pension were calculated as shown below.

**Table 16: Estimated present value for widow(er), children, and parents**

Age of the deceased	Death distribution	Death distribution for married	Widow(er)		Children: Present value	Parent(s)	
			Expected benefit duration	Present value		Expected benefit duration	Present value
0-19	10.5%	1.37%	46.67	30.76	0	26.19	20.64
20-24	50.9%	28.27%	42.49	29.015	15.29	22.12	18.09
25-29	23.5%	19.71%	38.45	27.18	15.29	18.13	15.38
30-34	8.6%	7.91%	34.4	25.19	15.29	14.2	12.5
35-39	3.9%	3.67%	30.29	23.00	11.58	10.32	9.43
40-44	1.4%	1.37%	26.19	20.64	7.47	6.42	6.09
45-49	0.8%	0.72%	22.12	18.09	2.94	2.36	2.33
50-54	0.4%	2.16%	18.13	15.38	0	0	0
Total	100.0%	65.18%	---	---	---	---	---

### 3.1.4 Contribution density

The contribution density is assumed to be 90% based on the assumption that the MOLVT will regulate the enterprise registration using its list of registered enterprises.

## 3.2 Estimated contribution rate

### 3.2.1 Pay-As-You-Go (PAYG) contribution rate for short-term benefits

*Medical treatment:* The PAYG rate for medical treatment was calculated as  $(A) * (B) / (C) / (D) = 0.13\%$ , where,

- (A) Injury rate except in death case = 2.765% (= 2.8% - 0.035%)
- (B) Medical unit cost = USD 40
- (C) Annual salary (Monthly salary \* 12) = USD 947.28 (= USD 78.94 \* 12)
- (D) Density factor = 0.9

*Temporary invalidity (disability) benefit (TDB):* The PAYG rate for the temporary invalidity benefit was calculated as

$(A) * (B) * (C) / 360 / (D) = 0.12\%$ , where,

- (A) Injury rate after more than four days except in death case = 2.6%
- (B) Percentage of wage compensated = 70%
- (C) Average number of days for wage compensation per case = 20 days
- (D) Density factor = 0.9

*Funeral benefit:* The PAYG rate for the funeral benefit was calculated as

$(A) * 700,000 \text{ Riel} / (B) / (C) / (D) = 0.01\%$ , where,

- (A) Death rate = 0.035%
- (B) Annual salary = USD 947.28 (= USD 78.94 \* 12)
- (C) Exchange rate = 3,918
- (D) Density factor = 0.9

### 3.2.2 Contribution rate based on the terminal funding method for long-term benefits

*Permanent Invalidity (disability) benefit (PDB):* A detailed calculation would require the accumulation of present values for disability pensioners of different age groups. The following calculation provides a rough idea of how the contribution rate is calculated.

The method of estimating the contribution rate for the permanent invalidity benefit can be roughly illustrated as

$(A) * (B) * (C) * (D) / (E) = 0.95\%$ , where,

- (A) Injury rate for permanent disability = 0.19%
- (B) Expected degree of loss = 22.2%
- (C) Percentage of wage compensated (in case of full invalidity) = 70%
- (D) Average present value = 28.97
- (E) Density factor = 0.9

*Dependants' benefit:* The PAYG rate of the dependant benefit is calculated similarly to the PDB. However, the calculation cannot be shown in a concise manner due to the wide range of valuations for the beneficiaries (e.g., widow(er), children, parents) in the family structure. The estimated crude contribution rate is 0.40%.

**Table 17: Estimated Basic Pay-As-You-Go ratios and contribution rate of the EII scheme**

<b>Short-term benefits</b>	Injury rates	Costs	Annual salary USD	Average duration	PAYG contribution rate
Medical care	Injury rate except death	Medical unit cost in USD	947.28	---	0.13%
	2.765%	40			
TDB	Temporary invalidity rate	Rate of compensation	947.28	20 days	0.12%
	2.6%	0.7			
Funeral	Death rate	Compensation in Riel	947.28	---	0.01%
	0.035%	700,000			
Sub-total	---	---	---	---	0.26 %
<b>Long-term benefits</b>	Injury rates	Costs	Annual salary USD	Average duration	Terminal funding contribution rate
PDB	Permanent invalidity rate	Rate of compensation	Expected degree of loss	Present value	0.95%
	0.19%	0.7	0.2223	28.97	
Dependants' benefits	---	---	---	---	0.40%
Sub-total	---	---	---	---	1.34%
Administration	---	---	---	---	0.16% (10% of subtotals)
<b>Sum of estimated PAYG ratios and terminal funding contribution rates</b>					<b>1.76 %</b>

### 3.2.3 Estimated contribution rate

*Full funding:* The estimated contribution was calculated based on the assumption of a 90% contribution density, using the terminal funding methodology. The estimated contribution for the EII scheme is **1.76%**, which consists of 0.26% for short-term benefits, 1.34% for long-term benefits, and 0.16% for administration (10% of the sum of contributions for short-term and long-term benefits).

*Partial funding:* The contribution rates were estimated under different rates of partial funding for long-term benefits. Under the 90% partial funding assumption, the contribution rate for the long-term branch decreases to 1.21% and the total contribution decreases to 1.61%. Likewise, the contribution rate under 70% funding is estimated as 1.32%, and the rate under the 50% funding assumption is estimated as 1.02%. The table below summarizes the contribution rates under different funding methods.

**Table 18: Summary of estimated contribution rates**

<b>Financial methods</b>	<b>Terminal funding</b>	<b>Partial funding</b>		
		90%	70%	50%
Funding level	100%			
<b>Short term</b>	<b>0.26%</b>	<b>0.26%</b>	<b>0.26%</b>	<b>0.26%</b>
- Medical care	0.13%	0.13%	0.13%	0.13%
- TDB	0.12%	0.12%	0.12%	0.12%
- Funeral	0.01%	0.01%	0.01%	0.01%
<b>Long term</b>	<b>1.34%</b>	<b>1.21%</b>	<b>0.94%</b>	<b>0.67%</b>
- PDB	0.95%	0.85%	0.60%	0.30%
- Dependants' Benefit	0.40%	0.36%	0.25%	0.12%
<b>Administration</b>	<b>0.16%</b>	<b>0.15%</b>	<b>0.12%</b>	<b>0.09%</b>
<b>Total</b>	<b>1.76%</b>	<b>1.61%</b>	<b>1.32%</b>	<b>1.02%</b>

## **Chapter 4: Conclusions and Recommendations**

### **4.1 Contribution rate**

#### **4.1.1 Estimated contribution rate**

In order to avoid administrative complications, a single contribution rate that applies to all industries and enterprises is recommended at the initial stage of EII implementation. Contribution rates reflecting the differences among industries and enterprises could be considered in the future after administrative capacities have been built and sufficient detailed data has been collected. The contribution basis is determined by the total wage before taxation, which is categorized by level with a floor and a ceiling. The wage floor as well as the minimum contribution basis is 50,000 Riel per month, while the ceiling is 700,000 Riel per month and the maximum contribution basis is 725,000 Riel per month (see Annex 6 and 12).

The estimated contribution rate for the EII scheme is 1.76%, which consists of 0.26% for the short-term branch, 1.34% for the long-term branch, and 0.16% for administration. It is advisable to have employers pay the entirety of this contribution, as employment injury and illness are their liabilities.

It is recommended that the terminal funding method be applied in the long-term benefit branch (permanent disability and survivors' pensions). The contribution rate should be set so that the annual contribution income is equal to the present value of future benefit payments for that year.

The major reasons for adopting the terminal funding method are (1) the principle of employers' liability, i.e., the principle that the cost of current employment injuries should be borne by current employers, and (2) as a result of advance funding, to avoid the need for future employers to bear an undue increase in contribution burden, which would be especially large in the case of Cambodia where the insured persons are concentrated in the younger generation.

#### **4.1.2 Periodical actuarial valuation**

It is recommended to carry out an actuarial valuation of the scheme within five years after its launch as stipulated in the legislation, since the current contribution rate must be adjusted according to experienced incident rates and cost following the inception of the scheme. The option of adopting differentiated contribution rates according to the type of industry and individual enterprise would be considered in future actuarial valuations.

All efforts should be made to set up proper mechanisms of collecting necessary data for actuarial valuations, including the computerization of the administration and a coordination mechanism between actuaries, statisticians, and administration planners.

During the first several years of the scheme before the next valuation, it may be the case that the adopted contribution rate is lower than the contribution rate actually necessary to maintain long-term financial sustainability. However, it should be well noted that the scheme will have no problem with cash flow, since the contribution rate will be set to finance the long-term financial liabilities of the long-term benefit branch. Any resulting unfunded liabilities will be relatively small and could easily be recovered by a small increase in contribution rates

in future actuarial valuations. Therefore, this kind of uncertainty should not prevent the Cambodian government from implementing the EII scheme.

In the case that the adopted contribution rate is higher than the contribution rate actually necessary to keep long-term financial sustainability, the contribution rate could be lowered in future actuarial valuations. It should be kept in mind that the required contribution rate could be adjusted lower at any point in the future if the rate of industrial accidents or diseases decreases due to prevention efforts and/or changes in the country's industries. Such decreases have been frequently observed in many developed countries.

## **4.2 Investment**

It should be well noted that the efficient and risk-averse investment of the scheme's accumulated reserves is crucial for its future financial sustainability. All policies for maintaining a stable and positive real-term return over the long run should be explored, including the partial investment of the fund in foreign currency and markets.

As section 3.3 of Part I briefly explains, the laws concerning investment are currently under development. It is advisable to carry out further study of the investment of the EII scheme's reserves toward the development of a sustainable investment strategy that considers such questions as, "How big is the absorptive capacity of the local financial markets?" and "How would partial investment of local currency.

## **PART III: ADMINISTRATION**

### **Chapter 1: Administrative Organizations Related to Labour and Social Protection**

#### **1.1 Review of existing structure**

##### **1.1.1 Public Administration**

The Government of Cambodia has twenty-five (25) Ministries that are responsible for specific functions associated with each ministry. The Administrative Public Establishment is the civil service authority responsible for public administration. The administration is divided into twenty (20) provinces called khett and four (4) municipalities, or krong. The four krong are Kong Keb, Phnom Penh, Seihanu, and Pailin.

The current civil service was created as an amalgam of previously autonomous administrations. As a consequence, the human and financial resources available for the civil service are scarce and capacity is in general lacking. In order to rectify these shortcomings, reforms have been initiated to create a neutral, transparent, responsive, competent, and responsible administration and civil service.

The government has started the National Programme for Administrative Reform (NPAR), which will be implemented in three phases: 1) setting the foundation for reform; 2) reorganization and redeployment; and 3) strengthening capacity and developing human resources. Phase one of these reforms, designed to achieve five (5) objectives, has been completed. The next phase focuses on the effective implementation of laws and regulations through a transformed public administration. The focus is to provide quality public services when and where they are needed.

The Strategy to Rationalize the Civil Service covers issues such as the size, composition, and deployment of the workforce and the remuneration of civil servants. In the short term, the strategy will:

- Consolidate progress to date;
- Implement the Priority Mission Groups (PMG) programme in the Ministries;
- Develop a service delivery policy to guide the provision of public services and the use of fees by the administration;
- Finalize the capacity building strategy;
- Complete necessary analysis to improve business processes and organization of work to enhance service delivery; and
- Fully develop the IT strategy to improve productivity (E-Government).

In the meantime, the Council for Legal and Judicial Reform (CL&JR) was established to coordinate efforts to reform the legal and judicial system in Cambodia. The process has just begun, and it will take a long time before the objectives are achieved. The initial objectives are to complete the legal framework to promote and protect citizen rights and strengthen the judiciary.

These developments are pertinent to the design of the administration system for the NSSF. The initial expectations of the administrative system and the success of the NSSF in implementing social security protection to the working population must be set by taking into account the development of the social and legal framework of Cambodia.

### **1.1.1.1 Ministry of Social Affairs, Labour, Vocational Training, and Youth Rehabilitation (MOSALVY)<sup>7</sup>**

The Ministry of Social Affairs, Labour, Vocational Training, and Youth Rehabilitation is responsible for labour issues and all types of social security other than social security for civil servants. The Ministry has two (2) Secretaries of State reporting to the Minister. A Cabinet Advisor and five (5) Under Secretaries provide support to the Secretaries and Minister.

The Ministry is divided into four (4) functional units (called Directorates) for administration. The first unit is the Directorate General of Administration and Finance, which has four (4) departments. These departments are Administration and Personnel, Finance and Supply, International Cooperation Relief Aid, and Planning and Statistics. The second unit is the Directorate General of Social Affairs and Youth Rehabilitation, which has five departments: Social Welfare, Child Welfare, Rehabilitation, Youth Development, and Retirement Pension. The third unit, the largest unit in the Ministry, is the Directorate General of Labour and Vocational Training, which is divided into six (6) departments: Labour Inspection, Employment and Manpower, Occupational Health, Social Security, Vocational Training, and Technical Vocation and Labour Market. The fourth unit is the Directorate Inspection General. A brief description of the functions of the departments under the Directorate General of Labour and Vocational Training is provided below.

#### **Labour Inspection Department**

The Labour Inspection Department reports to the National Labour Advisory Council, which is headed by the Minister and includes one (1) representative each from employers and employees as deputy chairmen. There exists an Arbitration Council consisting of seven (7) committees with representatives from employers and employees, to which disputes are referred for a decision. A decision of the council must be accepted within seven (7) days. Provisions for the resolution of disputes and the process are stipulated in PRAKAS 305. The categories of disputes are general working conditions, salary, dismissals, occupational safety and health, and service charges.

The Labour Inspection Department has a division for Phnom Penh and three (3) bureaus that are in charge of the other cities in Cambodia and the provinces, with each bureau being responsible for seven (7) provinces. In addition, there is a section in charge of labour relations in accordance with PRAKAS 293. The law classifies all establishments with less than seven (7) employees as handicraft establishments, which are not covered under the law. All establishments with more than seven (7) workers must have an elected representative of the workers on a management committee. The number of worker representatives increases in line with the number of employees in the enterprise.

Provisions under PRAKAS 243 stipulate the establishment of a committee to investigate employment-related accidents. The membership of these committees includes representatives from the Department of Social Security and the Department of Occupational Health.

All employers employing one (1) or more workers are required compulsorily to register with the department within a period of one (1) month. Upon registering, employers are given an Enterprise Book with a registration number, which must be kept at the enterprise to record all

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<sup>7</sup> MOSALVY has been reformed, and the social security department now operates under the Ministry of Labour and Vocational Training (MOLVT). Since the specific departmental structure and mandates are not available as of May 2005, this section provides information on the previous structure of the department as it existed under MOSALVY.

observations of the inspector. The employer is also required to maintain a payroll book to record all workers in the enterprise. The format of the book is determined by the department and is either in the form of a book or electronic records on a computer. This department has maintained good records of employees, which could be used to register employers when the social security scheme is launched.

### **Employment and Manpower Department**

The Employment and Manpower Department of the Ministry has six (6) offices, which are responsible for the placement of workers both locally and overseas.

The functions of the department include the management and the registration of all foreign employees. The inspection of foreign workers and the collection of tax for the Cambodian Alien Control Work Permit are carried out by the department. The department is also responsible for the issuance of all work permits to local workers. All employees have a seven-day period for their initial registration with the department to secure a work permit and the employment. The department must be notified upon an employee's departure. The department issues work permits to employees, but the document is retained by the employer in the case of larger establishments especially in the garment industry. According to reports, the department has registered 90% of all employed workers with statistics on type of industry and job.

The department has 24 offices and 2,000 staff. The Phnom Penh office has 50 staff and prepares statistics on employment with a six-month time lag.

### **Occupational Health Department**

The Occupational Health Department has control of the employment of company doctors, who have to pass examinations conducted by the department before being appointed by an enterprise. These doctors are responsible for first-aid treatment as well as treatment for all minor ailments, injuries, and illnesses. They are responsible for reporting all diseases and accidents on a monthly basis to the department. This reporting requirement has been implemented since January 2004. The doctors also are responsible for communicating with all parties at the workplace, namely, the employer and employees, to ensure a safe and healthy workplace.

The law requires an enterprise with 50 to 300 workers to appoint a medical assistant and a nurse who must provide services for two (2) hours daily. An enterprise with 300 to 600 workers is required to appoint a permanent nurse and a doctor, who provides two (2) hours of service daily. Enterprises with 600 to 2,000 workers must employ two (2) nurses permanently along with a doctor, whose service time increases according to the size of the enterprise as follows: three (3) hours for enterprises with less than 900 workers, four (4) hours for enterprises with 900 to 1,400 workers, and six (6) hours for enterprises with less than 2,000 workers. In case the number of employees exceeds 2,000, three (3) permanent nurses must be employed with a doctor who is in attendance for eight (8) hours daily.

### **Technical Vocation & Labour Market Department**

The Department of Technical Vocation & Labour Market has four (4) main functions, the primary one of which is the industrial training programme for apprentices. It has trained 12,777 apprentices in the last three (3) years. The department is attempting to set up an accreditation board for all training programmes, which would issue certificates to successful candidates. It is also responsible for setting occupational skill standards in Cambodia in accordance with international standards. Another area of responsibility is the development of a reliable labour market information system.

### **Vocational Training Department**

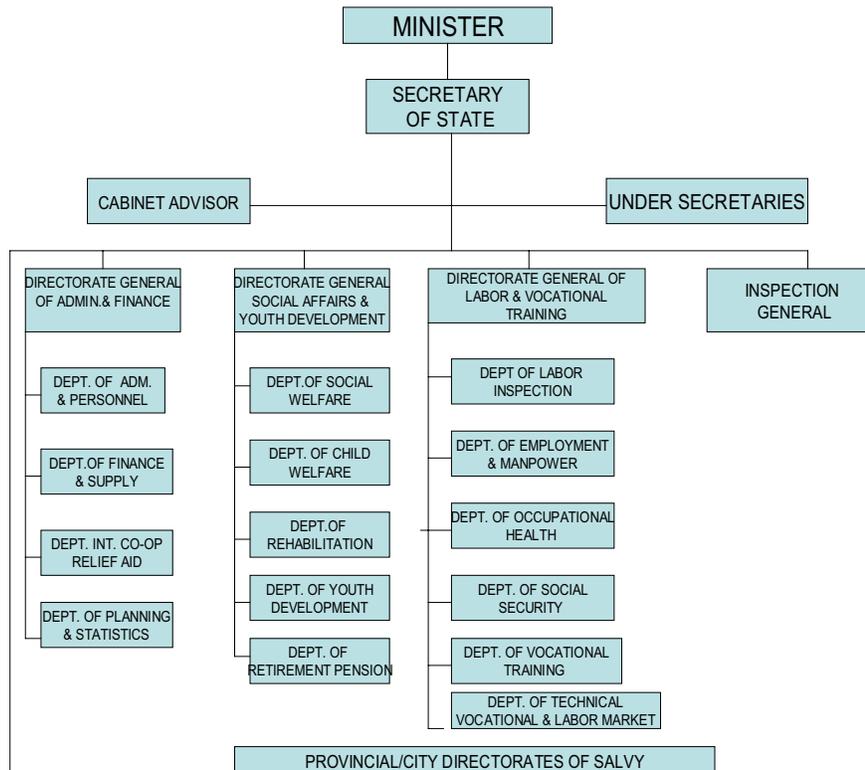
The Department of Vocational Training is responsible for vocational training of youths in Cambodia. The department has three (3) vocational centres in Phnom Penh and four (4)

training schools in the provinces. The centres and schools carry out short-term training courses stretching over a period of three (3) to six (6) months. Students are provided with free training in automobile engineering, welding, construction, electrical works, and other needs of industries. A polytechnic is also under construction in Phnom Penh with the assistance of the Government of India. The lack of financing prevents the department from further extending training.

**Social Security Department**

The Department of Social Security was established in 1993 and currently has 23 staff. The department has been responsible for the preparation of all of the PRAKAS for the implementation of social security protection for the general population. The department also receives and examines accident reports from employers, employees, or their representatives. Investigations of enterprises are regularly performed. However, not all employers report accident cases to the department, which is the reason for the low number of reported accidents. A survey showed that the number of reported cases was 601 in 2000, 227 in 2001, 238 in 2002, and 296 in 2003, totalling 1,383 for the survey period, with only 16 deaths reported.

**Figure 4: Organization chart of the MOSALVY**

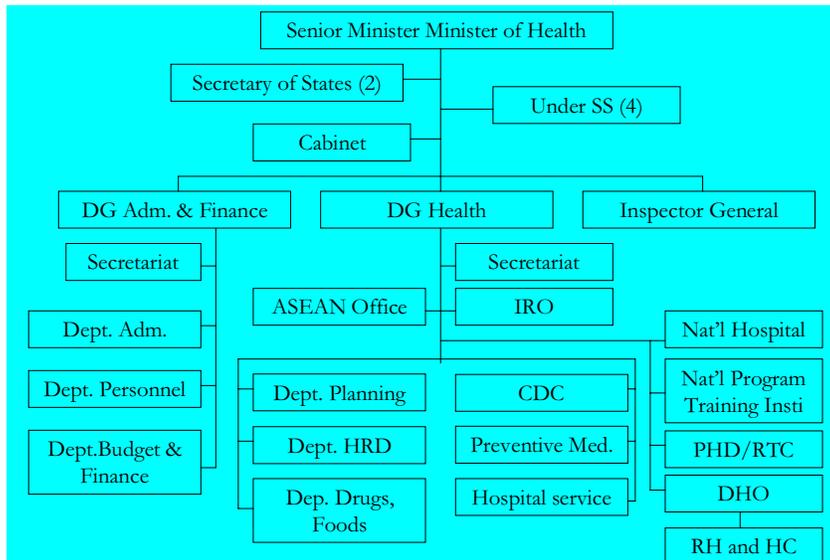


Despite the existence of laws on all labour matters, the enforcement of these laws is lacking and in many cases non-existent. The legal mechanism for enforcement is in its formative stages and will have to be further developed. Due to their low salary, government staff and civil servants lack motivation to attend to their work. Also, the staff are faced with insufficient financing and facilities to effectively carry out their duties. The knowledge base and capacity of the staff need to be enhanced. The introduction of modern methods of administration, e.g., IT technology, along with the provision of proper training and adequate compensation would enhance the effectiveness of the staff.

### 1.1.1.2 Ministry of Health

The Ministry of Health is empowered by the Kram on Management of Private Medical, Paramedical, and Medical Aid Practice, to register and monitor the activities of such practices. This law was adopted by the National Assembly on 2 August 2000. The ministry officials informed the consultant for this report that, despite the law being in place, its enforcement has been difficult. The Ministry has decided to focus on the quality aspects of treatments and has assumed an advisory role to this effect.

**Figure 5: Organization Chart of the Ministry of Health**



The Ministry of Health is also reforming health services in the country. The objective of the restructuring effort is to provide quality services to the population and to ensure an equitable distribution of services among rural and urban areas. The reform programme is focused on the rural sector, as services in rural areas are lacking.

**Table 19: Ministry's plan for medical provisions**

No:	Province	No. of districts	Referral Hospital	Health Centre	Pop. Covered
1	Kandal	8	5	88	1,068,648
2	Kampong Cham	10	10	128	1,539,312
3	Kampong Chhnang	2	2	34	418,489
4	Kampong Speu	3	3	50	574,597
5	Kampong Thom	3	3	50	618,473
6	Kampot	4	4	47	529,655
7	Kep Ville	1	1	4	31,526
8	Koh kong	2	2	12	127,521
9	Kratie	2	2	22	248,312
10	Takeo	5	5	70	854,727
11	Battambang	5	4	74	843,990
12	Banteay Meanchey	4	4	53	650,812
13	Oudor Meanchey	1	1	10	126,015
14	Pailin Ville	1	1	3	41,958
15	Prey Veng	7	7	90	1,004,343
16	Preah Vihear	1	1	12	130,902
17	Pursat	2	2	31	369,421
18	Sihanouk Ville	1	1	11	147,543
19	Municipality PP	4	1	37	969,105
20	Mandul Kiri	1	1	6	37,914
21	Rattanakiri	1	1	10	98,824
22	Stung Treng	1	1	10	80,208
23	Siem Reap	3	3	53	749,474
24	Svay Rieng	3	3	37	478,230
Total		75	68	942	11,739,999

**Health care providers**

The structure of health care providers can be separated into two (2) categories: the public health care system and the private providers of health care. The public health care system is being reformed to create a three-level structure with the ability to deliver necessary services.

The Ministry provided the following figures on the types of medical institutions and the services provided.

**Table 20: Registration of health care provider by type of service**

Type of Service	# Registered	# Not Registered	Total
Private Hospitals	10	66	76
Polyclinics	14	25	39
Maternity Homes	2	25	27
Laboratories	3	62	65
Dispensaries	3	31	34
Dental Services	45	394	439
Cosmetic Surgery	0	9	9
Consultant Rooms Small Clinics	580	1877	2457
Total	657	2489	3146

The data clearly indicates that the enforcement mechanism is not in place. Only 20.8% of all medical institutions, 13.0% of hospitals, and 35.9% of polyclinics registered with the Ministry of Health in 2003. These institutions will serve as the medical service providers for treatment of employment injuries.

The process of selecting and appointing services providers for employment injury treatment calls for careful consideration, and it is recommended that only legally registered providers be appointed initially. This will act as an incentive for providers to register and also will strengthen the process of compliance with the laws enforced by the Ministry of Health.

Service contracts with these providers can be negotiated only with respect to the provision of outpatient treatment in polyclinics at rates to be determined and agreed upon for full treatment of the injury. The determination of these rates will depend on the package of medical services and the quality of such services. Since there is no medical association that encompasses all doctors and service providers, the rate will be determined by the NSSF based on the average cost of the package and on negotiations with all of the legal providers. This rate will then be applied to all providers of the services.

The process of appointing hospitals is made difficult by the fact that only a very small percentage of them are officially registered. Since the rates for inpatient treatment cannot be predetermined, the NSSF will pay the total medical cost incurred to treat the injured employee at a hospital, regardless of whether or not that hospital has registered with the Ministry of Health. This initial policy should be changed at some point in the future to a policy of paying for treatment at registered hospitals only, in order to ensure compliance with laws enforced by the Ministry.

## **1.2 National Social Security Fund (NSSF)**

The objective of the NSSF is to administer the provisions of the sub-decree on social security coverage initially for the employment injury scheme and later for other contingencies such as old age, invalidity, and survivorship, as well. The administration processes involved are the registration of employers and employees, the collection of contributions, the payment of benefits, the investment of reserves, and the keeping of records and statistics. These processes should be carried out in a cost-efficient manner while aiming for good customer service, e.g., the timely payment of adequate benefits, and ensuring the scheme's long-term sustainability especially with regard to financing.

### **1.2.1 Board**

The administration of the social security schemes shall be the responsibility of a Governing Body also known as the Board. The composition and membership of the Board is provided in the sub-decree (see Annex 4, Article 6) and is based on the tripartite principle that three (3) parties, namely, the government, employers, and employees, shall take joint responsibility for the administration of the scheme.

The Chairman of the Board will be a representative from the ministry in charge of social security, as the direction and control of social security policy lies with this ministry. Support and coordination will be provided by representatives from the Council of Ministers as the entity responsible for the country's development. A representative of the Ministry of Economy and Finance will provide the guidelines for the investment of the fund's accumulated reserves, while a Ministry of Health representative will assist in the provision and development of the scheme's medical aspects.

The government representatives will be supported by four (4) members representing employers and employees, each side having two (2) representatives. The Garment Manufacturers Association in Cambodia (GMAC) is the largest employers association and thus may be requested to nominate representatives to the Board. The garment industry also has the largest worker's unions, and the Minister may invite representatives from these unions to serve on the Board.

The Minister is empowered to appoint these representatives after consultation with the association and union. This system gives the government the flexibility and freedom to appoint responsible members who will cooperate in the development of the social security schemes and the coverage to be provided.

An independent person with knowledge of social security and labour law also will serve on the Board to provide a neutral view that will balance the partisan views of the other parties.

### **1.2.2 (Central) Social Security Office**

The administration of the schemes mainly involves the functions of registering the liable employers and covered employees, recording and collecting contributions, and paying and recording both the long-term and short-term benefits, in addition to functions such as managing the funds and recording all financial transactions of the NSSF. These four (4) primary functions can be divided into two distinct areas: financial and operational.

The chief executive of the NSSF shall serve as the Director General and will be assisted by two deputies, an accountant and a director of operations.

The accountant shall be responsible for the annual financial report and annual budget of the NSSF and shall have the added responsibility of keeping all of the financial transaction records in accordance with the laws of Cambodia. The accountant also will be responsible for the investment of surplus funds and for ensuring a high rate of return on investment. The appointment of the accountant shall be made in consultation with the Ministry of Economy and Finance. The accountant will have relevant staff, such as bookkeepers and financial executives, to assist in the efficient functioning of the department. The number of this staff will be minimal in the beginning of the scheme and will be increased in accordance with the development of the workload and responsibilities of the department.

The director of the operations division has the duty to first identify the liable employer and all of the employees in the enterprise and register them accordingly. The duties of this division include collecting and recording the contributions from the registered employers, charging interest on late contribution payments, and collecting such charges. The second principal function of the operations division is to process accident reports, investigate to determine if the reported injury qualifies as an employment injury, and determine the right to payment of benefits. The director is responsible for the proper functioning of the division and the development of new methods and procedures to ensure the efficient collection of contributions and timely payment of benefits owed to employees or their dependants. For the detailed chart, see section 4.4.1 in the Part I.

### **1.2.3 Local Social Security Offices**

Initially, the administration will be carried out only by the NSSF headquarters. All local offices will be structured according to the functional areas and will be headed by the local office manager. The local offices will be separate from the headquarters and will report directly to

the director of operations. The local office will pay all short-term benefits, while all long-term benefits will be paid by the central headquarters to the employee or his dependants. The local office shall have inspectors who will be responsible for the enforcement of the sub-decree and will carry out inspections to ensure that employers are fulfilling their obligations, such as the payment of contributions.

## **Chapter 2: Administration Process**

The NSSF initially shall administer a pilot employment injury scheme in the Phnom Penh area, i.e., the city limits and adjoining districts, which has a large number of garment and footwear companies.

This area has been selected after discussion based on the fact that it is the centre of economic activity in Cambodia and has the largest number of businesses in operation, not to mention a variety of industries and a large number of employees. The industries that operate in the capital consist of garment factories, including weaving and thread-making factories; footwear manufacturing; construction; banks; hotels; utility companies supplying water, electricity, and telecommunication services; and the port authority. It was decided that the construction and transport industries would be included in the scheme coverage.

The representative nature of the industries should enable a successful test of the viability of the contribution rate for providing coverage for employment injury. In addition, the pilot project will assist in refining the administrative process as well as in gauging the level of acceptance of the scheme among employers and employees.

This initial inclusion of some higher-risk industries was a source of concern during the discussion of the scheme, as it was difficult to determine their specific risk rating. However, since the risk would be spread over a larger group, it should not adversely affect the fund's long-term viability. Furthermore, since the support of the social partners (e.g., labour unions) in the scheme is crucial for the successful implementation of the scheme, it was decided not to exclude certain industries.

The concept of social insurance is new to Cambodia, so it will be promoted through an educational campaign aimed at employers and employees in particular and the public in general to ensure their support. Also, the NSSF staff are not yet well trained in social insurance implementation. The pilot project will provide them with hands-on training and experience, which will be vital to the successful administration of the scheme and the further development of other social security benefits such as pensions and health care.

The lack of reliable data on the rate of work-related and commuting accidents, their severity, and the length of disablement was an important factor in the decision to initially implement the coverage on a pilot basis. It was decided that reliable data would be consistently gathered during the implementation stage for possible future modifications of the contribution rate.

In the discussion of the scheme, attention was focused on the size of the enterprise to be initially covered. Data on employers in the Phnom Penh region is available from the Labour Inspection Department's register of employers. Taking into account the distribution of employers according to the size of the enterprise, it was decided that enterprises with ten (10) or more employees should be covered initially and will remain covered even if the number of employees subsequently drops to less than ten (10).

Initially, the advisor to the Minister felt that enterprises with more than 50 employees should be covered. It was argued that enterprises with less than this number would not have the administrative capacity to comply with the requirements of the Social Security Law, since many small and medium-size enterprises rely only on the owner or manager to carry out all functions related to social security. The consensus, however, was that the additional administrative work would not be burdensome, given the fact that it only would involve the preparation of documents once a month and the payment of contributions once a month.

A higher floor for the number of employees would exclude a large number of employers and restrict the initial coverage. The department officers, who had a strong grasp of the actual circumstances in enterprises, agreed that the pilot scheme should cover enterprises with ten (10) or more employees.

## **2.1 Registration**

### **2.1.1 Identification of the employers**

All employers will be provided with Employer Registration Forms before the actual launching of the scheme. This will enable the NSSF to set up the administration process and make other preparations to provide coverage from the day the law comes into force. The list of employers from the labour inspection division, which is the most comprehensive information available at present, will be used for the initial registration of employers.

All employers to whom the forms are distributed will be required to return the registration form to the NSSF within a month. The NSSF shall also set up a helpdesk to assist all employers and answer their queries. The register will be updated on a daily basis by adding the information from returned forms. Officers and clerks of the NSSF shall also contact employers by phone, and the labour inspectors will assist in promoting the registration. To further encourage compliance, announcements will be made in the local press and on the radio regarding employers' duty to register and return the forms. The assistance of employers associations and employee unions will be vital for the success of the registration process.

### **Employees to be covered for registration**

According to the definition of "employee" under Article 2 of the sub-decree on social security, all foreign and local employees under a contract of service are covered irrespective of their employment status. Permanent employees, apprentices, casual workers employed for the purposes of the employer's industry, and state employees not governed by the Common Statute for Civil Servants are also covered.

This comprehensive coverage is based on the principle that, wherever a risk of employment injury exists, the employee, irrespective of the length of service, should be provided with protection. Problems concerning registration, coverage, and payment of contributions may be encountered in cases where employees are paid on a daily basis. An education program for employers and employees, coupled with a reliable enforcement strategy, could assist in reducing the problems, allowing for successful coverage of the majority of such employees. This would also pave the way for better coverage through other social security benefits such as pensions and health care at a later stage.

### **2.1.2 Determining the data to be collected**

The following information is to be collected through an employer's registration:

- a) Name of the employer;
- b) Postal or correspondence address of the employer and address where the employer carries out his business;
- c) Telephone number, fax number, and e-mail address of the employer;
- d) Any business registration number or operating license number;
- e) The first date on which the employer started business and the date on which ten (10) employees were employed by the employer;
- f) Nature of the industry; and
- g) All the particulars of the owners of the business, including their names, residential address, any identification number or passport number, and telephone or hand phone numbers.

The collection of the above-mentioned data will ensure regular communications with the employer on matters such as contributions, employee registration, and the reporting and investigation of accidents. The date of commencement of business and the liability date for contributions are for enforcement purposes. The classification of industry is for statistical purposes, and the International Industrial Classification Code is to be applied to the registered industries. The particulars of the owners of the industry are for enforcement purposes in the event legal action has to be taken to ensure compliance.

Upon receiving the Employers Registration Form, the NSSF shall allocate an employer's code number to the employer. This code shall be sequentially generated by a computer system as a series of seven (7) numbers that is preceded and followed by an alphabet letter. The last letter shall serve as the code for checking the validity of the number. The first letter shall denote the region of coverage. The 24 provinces and four (4) municipalities in Cambodia will be grouped into five (5) administrative zones, each of which will be assigned a letter from A to E. The first two (2) digits of the number shall identify the local office, and the following five (5) digits shall represent the sequential number for each employer, beginning with 00001. For example, the employer code for the first employer registered in the Phnom Penh region shall be A1100001X.

Data on the covered employee will be stored under a specific identification number which records all contributions made during the duration of work. The required data upon initial registration would be as follows:

- a) Name as given on the Cambodian National Registration Card;
- b) Cambodian National Registration Number;
- c) Date of birth in the order of month, date, and year in four (4) digits;
- d) Sex;
- e) Date of employment with the employer;
- f) The occupation;
- g) Wage of the employee at registration;
- h) Father's name.

This data will be collected using Form 2, as stipulated in the sub-decree on social security, and will be reported by the employer monthly.

The initial registration will be completed before the launching of the scheme and additional registrations will be submitted monthly before the 14<sup>th</sup> day of the following month. Each registered employee will be issued a social security number to be used throughout his working life. This number must be unique, and each employee shall have only one (1) number even if the employee changes employers or moves to a different district. As in the case of the employer, the employee's social security number will be used to verify the employee's data before contributions are recorded under the individual record. The social

security number should begin with the year of birth of the employee followed by the month and day and another five (5) digits issued sequentially starting with the first registered employee. An example of an employee's number would be as follows: 1957102900001.

### 2.1.3 Information and support services

The NSSF will set up a Registration Unit that will cooperate with the Labour Department, Employers Association, Trade Unions, and the other governmental departments. The unit will also provide support services by assisting employers in correctly filling out the Registration Form either over the counter or over the telephone.

### 2.1.4 Other issues

The registration process can only begin after all of the necessary administration processes have been established. The Registration Forms for employers and employees and the explanatory notes must be printed in sufficient number and should be available upon request. The computer system for the registration process should be operational. All employees should be trained in the process prior to the launching of the scheme and the registration process.

## 2.2 Contribution Collection

### 2.2.1 Amount of contribution

The amount of an employer's contributions will be based on the schedule in the sub-decree, which will be finalized after the actuarial assessment of the contribution rate. The schedule is dependent on wages, as shown below:

**Table 21: First Schedule**

MONTHLY WAGE	ASSUMED MONTHLY WAGE	MONTHLY CONTRIBUTION (to be amended after the actuarial assessment in the case the contribution rate is 1%)
Less than 50,000	50,000	880
50,001 – 100,000	75,000	1,320
100,001 – 150,000	125,000	2,200
150,001 – 200,000	175,000	3,080
200,001 – 250,000	225,000	3,960
250,001 – 300,000	275,000	4,840
300,001 – 350,000	325,000	5,720
350,001 – 400,000	375,000	6,600
400,001 – 450,000	425,000	7,480
450,001 – 500,000	475,000	8,360
500,001 – 550,000	525,000	9,240
550,001 – 600,000	575,000	10,120
600,001 – 650,000	625,000	11,000
650,001 – 700,000	675,000	11,880
More than 700,000	725,000	12,760

## **2.2.2 Method of contribution collection**

Employers must pay contributions for the previous month before the 15<sup>th</sup> day of the current month. The employer can choose one of two methods of payment of monthly contributions: either direct payment at the NSSF office or bank transfer through one of the banks appointed by the NSSF. In both cases, the employer is required to prepare a monthly contribution schedule containing the name of each employee, the employee's Cambodian National Identity Number and social security number, and the amount of contribution for the employee in that month.

In the case of an over-the-counter payment, the NSSF officers cannot accept cash payments. This is to prevent any mishandling of the cash and to avoid complicated administrative procedures. The NSSF office in charge of receiving the contribution payments shall acknowledge receipt of the payment and issue an official receipt after checking the particulars of the contribution schedule and the cheque. The payments shall be recorded in the computer system, which will generate the official receipt with all of the details relating to the payments. All such payments from employers will be sent to the bank officially appointed to handle the monies paid to the NSSF.

The second method available to the employer is to make the contribution payment directly at a bank officially appointed by the NSSF. At the bank, the employer will follow the procedure of submitting the contribution schedule with the payments and will use a pay-in slip to deposit the cheque. The pay-in slip will be retained by the employer as proof of payment. A special slip for such payments could be printed in cooperation with the bank; this would facilitate the payments and the recording of relevant information. The employer may use other fund-transfer facilities provided by the bank to make payment in place of cash or a cheque. However, in this case, the employer will have to retain the proof of such payments, and such documents must contain the date of payments and the amount so paid for the month concerned. The bank receiving such contribution payments shall transfer the amount to the NSSF account at the official bank within a week of receiving the monies. The bank shall also send to the NSSF office all of the schedules received along with the details of payments received, as soon as the money is transferred into the official account. Upon receiving the documents from the bank, the NSSF office will update the employer's database with regard to the payment of contributions. The information to be recorded in the computer system consists of the employer's code number, the month for which the contribution was made, the date of payment, and the amount paid. The system will not issue any receipts for the contribution received, as the receipt of payment to the bank serves as proof of such payment.

The computer system will reconcile the amount of contributions received each month through the available systems of contribution payment. In the reconciliation, any contribution payments made through cheques that have not been cleared or that have been dishonoured by the bank shall be considered as non-payments. The total amount of contributions received will have to be reconciled with the amount credited to the individual member records. This process is vital for the payment of benefits and the viability of the schemes.

## **2.2.3 Delayed Payments and non-payment of contribution**

The date of payment at the bank or the NSSF office will be recorded in the computer system for contribution payments. This computer system will automatically detect any late payments and calculate the levy to be imposed for late payment. The system will generate a demand note stating the month for which the delay occurred, the date the contribution was received, the number of days of delay, and the levy to be paid by the employer. The letter demanding

this payment will request that the payment be settled within a period of 14 days from the date of the demand note. The demand note may only be settled at the relevant local office either by payment or by an exemption in the case that the employer has valid grounds for the delay.

In the event that an employer has not made the contribution payments within the stipulated period, the computer system will generate a letter to the employer stating that the NSSF has not received the contributions for the month and requesting immediate payment. The list of such errant employers shall be provided to the NSSF inspectors, who will take action to call the employer or visit the premises of the employer. Legal action should be taken if the employer continues to default on payment for six (6) months.

#### **2.2.4 Other Issues**

The efficiency and effectiveness of the collection system is dependent on the correct and timely updating of the data on collections and the posting of the data to the relevant employer and employee accounts. The data entry must be efficient. Both the bank and the employer could be encouraged to submit their data on diskettes, as data received electronically would be reliable and have a low error rate and thus would reduce the cost for corrections.

### **2.3 Benefit claims and payments**

#### **2.3.1 Overall process**

The employer is responsible for reporting all accidents that occur at the place of work as well as all commuting accidents that have been reported to the employer. The accident should be reported using the prescribed form, which will request the particulars of the employer, the employee, and the accident, within 48 hours of the accident. The employer is responsible for arranging medical treatment for the injured employee and for arranging the transportation of the injured employee to the nearest medical facility for treatment. The employer shall also forward all original medical receipts to the NSSF office for payment of the temporary disablement benefit. The accident report shall contain the following information:

- a) Name, address, telephone number and code number of employer;
- b) Name address, telephone number, Cambodian National Identity Card number, social security number, and occupation of the employee;
- c) Date, time, place, and nature of accident. Also, the time the employee started work on the day of the accident and the time the work for the day would have ended;
- d) Nature of the injury sustained;
- e) Names of two (2) witnesses of the accident;
- f) Name of medical institution or clinic that provided the treatment;
- g) Duration of medical leave given by the medical authority; and
- h) Wages and contributions of the employee in the six (6) immediately preceding the month of accident.

The NSSF office shall record all reported accidents in a register which will be kept on a computer. The particulars given in the accident report also shall be recorded in the register, which assigns a sequential number to each accident. In addition to all of the particulars, the accident register will have columns showing the amount of benefits paid and the date of such payments.

### **2.3.1.1 Temporary disablement benefit**

A temporary disablement benefit shall be paid to an injured employee upon receiving an application from that employee. The claims can be made on a form which shall request the name and address of the employee and the date of accident as well as the signature of the employee. The application shall be made only once, at the time the employee first makes the claim, and the NSSF shall continuously pay the temporary disablement benefit for the duration of the benefit. All payments shall be paid by cheque in the name of the employee only.

### **2.3.1.2 Permanent disablement benefit**

A claim for permanent disablement benefit must be made by the employee within one (1) year of the date that a medical authority declares the employee unfit for employment after a period of temporary disablement, if any.

The application for permanent disablement shall be accompanied by a medical report by the medical authority that treated the employee. The medical report shall contain details of the treatment and the dates of treatment, beginning with the first treatment. It should also report on the present condition of the employee, including details concerning any loss of earnings capacity due to the injuries sustained as a result of the employment injury.

The NSSF office shall record such claims in a register of permanent disablement cases, which shall be linked to the accident register containing all of the details recorded at the time of the accident. The office then shall arrange for a medical board to examine the injured employee and determine the loss of earnings capacity. The injured employee shall be paid a lump sum if the loss of earnings capacity is assessed to be below 20% or a monthly pension if the assessment exceeds that percentage or if the employee elects not to receive the lump sum.

The monthly pension for permanent disablement shall be paid into the employee's savings account in a bank approved by the NSSF. The recipient of this benefit shall make an annual declaration proving that s/he is still disabled. The purpose of this declaration is also to determine whether the recipient is still alive to receive the benefit, as the benefit is payable for life. In cases where the employee is 100% disabled and requires the constant attendance of another person, such declaration should be attested by a senior government officer in that locality.

### **2.3.1.3 Medical benefit**

The NSSF will appoint certain medical clinics and hospitals to provide the medical benefit to injured employees. In the case of minor accidents, the employer shall send the employee to the nearest appointed clinic, which will treat the employee and then send the bill to the NSSF. In the event the accident is employment-related, the NSSF will claim the total value of medical benefit from the employer. In cases where the employer has directly paid the medical cost, the employer may claim the amount from the NSSF, which shall reimburse the employer according to rates to be determined by the NSSF. A study must be carried out on the charges being imposed by clinics and hospitals in order to determine the reimbursement rates. This data was not available at the time of the mission.

#### **2.3.1.4 Survivors' benefits**

Claims for survivors' or dependants' benefits should be submitted to the nearest NSSF office by the widow(er), children, and parents of the employee who has died as a result of an employment injury. The claim form shall contain the following information of the deceased employee: name, Cambodian National Identification Number, social security number, date of accident and date of death, particulars of the claimants, and their relationship with the deceased. The particulars of the claimants shall include the name, an identity card number and, in the case of infants and children, the birth certificate number, and the postal address for correspondence. The claimant shall submit certified copies of the identification documents mentioned above and any other document requested by the NSSF office to determine the eligibility of the claimant to benefits and the amount thereof. Parents claiming the benefit will be required to submit proof of parentage through the birth certificate of the deceased or any other document accepted as alternative evidence to the NSSF.

As for the case of permanent disablement benefits, the recipient shall submit an annual statement of the married status of the recipient. All children and widows lose their benefit upon marriage or remarriage as the case may be. Parents receive the benefit for the duration of their life.

#### **2.3.1.5 Rehabilitation services**

Rehabilitation services shall be made available to the injured employee through contractual arrangements with third-party suppliers. The injured employee will receive artificial limbs, their replacements, and other orthopaedic appliances. The injured employee shall claim for these appliances and support such claims with a letter of recommendation from a competent authority. In the event the medical board recommends the appliance, the NSSF shall make all arrangements for the fitting, the training in the use of the appliance, and delivery. The injured employee will be reimbursed for all travelling costs related to such fittings and for any loss of wages incurred for the purposes of receiving the appliance.

#### **2.3.2 Benefit claims**

All claims for benefits shall be made on the prescribed forms and submitted to the relevant NSSF office within the prescribed time limit provided in the sub-decree on social security. The claimant shall also submit all necessary documents that support the claim for the benefit. The NSSF shall have the right to reject any claim that does not comply with the procedures set by the organization. However, such rejection shall only be carried out after the employer, the employee, or the claimant has been given the opportunity to resubmit the claims in accordance with the advice and guidance provided by the NSSF officials.

#### **2.3.3 Approval of claims**

The clerk, upon receiving the necessary documents and verifying them to be in order and in accordance with the procedures, will register the report in the accident register. Subsequent to this registration, a file shall be opened and the file reference will correspond to the accident number and the social security number. The clerk will then submit the file with recommendations to the officer, who will examine the details and determine whether the case can be accepted for payment. The officer, upon approving the claims or rejecting them, will instruct the clerk either to make the calculations and prepare to make payments or to send a letter rejecting the claim. The clerk and officer will verify the following details before

making the decision: whether the employer and employee have been registered and whether contributions have been made for the employee during the period preceding the accident. The officer will check the date and time of accident on all the documents to ensure they are all consistent.

In the case of a commuting accident, an investigation must be carried out by the officer before the case is approved. All attempts to detect fraudulent claims must be made to ensure only legitimate cases are compensated.

All short-term benefits can be approved by junior officers, while all long-term pension payments for permanent disablement and survivors benefits shall be approved only by the head of the benefit division. The measure will ensure the viability of the fund. All long-term payments will also be approved by and paid from the headquarters of the NSSF.

#### **2.3.4 Benefit payments**

Lump-sum benefits for temporary and permanent disablement shall be paid by cheque to the injured employee. All periodical pensions for permanent disablement and survivors shall be paid into the bank accounts of the recipients and, for cases where there are no such deposit facilities, payments by cheque shall be made monthly. The NSSF may introduce other methods that will not inconvenience the recipients.

#### **2.3.5 Rejected cases**

The rejection of cases or claims is an administrative decision, and the injured employee or the dependants can appeal to the headquarters of the NSSF. The office that rejects the case or claim shall inform the party of the procedures for appeal. The first stage is an administrative review which may be conducted by the Director General of the NSSF. After reconsidering the facts of the case, the Director General may reverse the decision of the local office. In case of such a reversal, the local office of the NSSF shall pay the benefit in accordance with the sub-decree. However, if the Director General upholds the decision, the claimant is informed and can appeal to the Social Security Appellate Board as provided in Article 68 of the sub-decree.

The Social Security Appellate Board shall be established as an independent body and be administered and managed separately from the NSSF. This Board shall be the final adjudicating authority on all matters as mentioned in Article 68 of the sub-decree.

### **2.4 Accounting, financial management and investment of reserves**

#### **2.4.1 Accounting**

The NSSF shall adopt the Cambodian accounting standards for the preparation of all of the organization's financial statements. The NSSF shall operate three (3) principal accounts: 1) the first account for all receipts of contributions, charges for late payments, and any other income received by the organization; 2) the second account for the payment of all short-term and long-term benefits as well as all expenses incurred to manage the scheme, including the payment of allowances to the members of the Governing Body and to members of the medical boards or Appellate Medical Boards; and 3) the third account for all administrative expenditures of the NSSF, the amount of which shall correspond to the annual budget approved by the Governing Body or an annual grant by the government.

The first account shall be established in a bank approved by the Governing Body and shall be managed according to Article 31, which provides that all monies received from the sources mentioned in Article 31 are acceptable (see Article 31 for details.).

Payments from the fund can be made for the purposes as provided in Article 32 (see Article 32 for details).

The Accountant appointed shall be responsible for the bookkeeping and the preparation of the annual financial statement of the NSSF in accordance with the requirements of the sub-decree.

#### **2.4.2 Financial management and investment of reserves**

All monies that are received and that are not needed immediately for payments shall be invested to generate additional income for the Fund. The investments in the fund shall initially be either in government securities or in-time deposits at approved banks.

The Investment Panel shall invest all excess monies according to the guidelines established by the Ministry of Finance. The general policy guideline for investment of the reserves and financial management of the fund is that the money must be invested in low-risk investments and investments that are secured and guaranteed by the financial institution or the government. The responsibility for financial management shall lie with the Director General and the Accountant of the NSSF.

### **2.5 Computerization of the NSSF**

The computer system of the NSSF will be developed in line with the objective of the government to establish e-government in the area of public administration.

The future development of the social security schemes in Cambodia should be taken into account in the process of computerization. The architecture of the computer system at the inception of the scheme should be established so that the system can be expanded in line with the extension of coverage as well as the introduction of new benefits. The architecture will support the following: registration procedures using a separate database for employers and employees; contribution collection procedures by taking into account all of the contributions and the levies on late contribution payments; payment procedures for all short-term and long-term benefits; and the accounting and personnel administrations.

The system should be an open system and should be compatible with all types of equipment. This will ensure that the NSSF is not overly reliant on one vendor and will also provide opportunities to improve and upgrade the systems in the future. In the initial years, the database should be centrally located at the headquarters. Later, with the expansion of coverage, a decentralized system may be considered. The size of the system, especially its storage and processing capacity, should be large enough to allow the functioning of all the systems on a twenty-four hour basis for seven days a week with a maximum response time of five seconds. The system should be web-based to provide online information for enquiries from employers, employee, and the general public.

### **2.5.1 Hardware**

The hardware will depend on the availability of the equipment which can be supplied and maintained by the vendor.

### **2.5.2 Software**

The NSSF will tender the software development work to a vendor, who will write customized software for the various functions of the organization. The project will have to be well managed, beginning with the program design being established with precision. The development of the software will then proceed in accordance with the design. A program will be tested for reliability, consistency, and security before it is accepted for use.

### **2.5.3 Risk strategy**

The computers will be housed in fire-proof facilities on the NSSF premises, and all access to the area shall be limited to authorized personnel. The wiring, cabling, and room temperature in the computer facilities should conform to safety standards.

The data shall be protected by protection strategies, such as authorized access through the use of authorization cards and security codes. The data will be protected so that no direct updating will be allowed except through a protection firewall. Similarly, no outside access through the web will be allowed. Diskettes containing employee data will be scanned before the data is uploaded to the database.

Data storage will be backed up daily, and a copy of the data will be stored in two different locations as a security measure. The computer system will have virus protection programs that will be updated constantly to prevent attack from new viruses. The computer will have a constant electric supply, and the attached USB should allow for three hours of power supply. In the event of long-term interruption of power, a diesel generator could be considered for supplying the power required. This factor is important, since there are regular power failures especially during the dry season in Cambodia.

### **2.5.4 Human resource management and training**

The efficient functioning of an organization is heavily dependent on human resource management. The importance of recruiting capable and knowledgeable personnel cannot be understated.

The senior manager of the development of the IT structure should have professional qualifications in the field of computer science. The supporting staff, including programmers, system analysts, and data entry clerks, should also have relevant qualifications and, preferably, experience as well.

The training of all of the staff will be handled by the selected vendor for the NSSF's IT system. As the software will be customized for the NSSF and the system configuration as well as the hardware will be purchased, the vendor will be required to provide the necessary training for each aspect to all of the staff. The training will ensure a transfer of technology that in turn will increase the competence of the staff and enable the future development of the applications.

## **Chapter 3: Health Care Provision**

### **3.1 Provider payment mechanism**

The NSSF shall establish the rate of payment per case, and, irrespective of the treatment, the provider appointed by the NSSF will be paid a common rate. In the case where the employer or employee incurs the cost of medical treatment, the NSSF shall reimburse the expenditure according to the rates that it has established.

### **3.2 Standardization of costs of medical treatment**

Standard costs of medical treatment must be established by the Ministry of Health. The acceptable rates established by the H.M. Sihanouk Hospital are provided in Annex 12. The treatments are listed in English and French. This list has been established with the concurrence of the Ministry of Health and can be applied. However, a survey of costs charged by other clinics and private medical establishments should be carried out to determine the fair rate to be set by the NSSF before it begins the process of appointing the panel of clinics and hospitals.

### **3.3 Qualification for medical personnel**

The NSSF shall accept all medical practitioners and personnel who meet the qualifications set by the Ministry of Health.

### **3.4 Rehabilitation service**

Rehabilitation services, which include implants and the provision of artificial limbs and other aids, shall also be outsourced to the medical service providers. The process of appointing the providers can be carried out after calling for tenders. One or more providers that offer quality products at competitive prices can be appointed for a period of one year. The period can be extended for those that provide reliable and good services, or new providers can be appointed based on a fresh call for tenders. The repair and replacement of artificial aids and artificial limbs shall be the responsibility of the providers.

Medical rehabilitation and physiotherapy shall be carried out in appointed hospitals, and all the costs will be paid by the NSSF. Vocational rehabilitation shall be carried out with the assistance of the Ministry of Labour and Vocational Training, as the Ministry is responsible and has the facilities for vocational training. The NSSF shall bear the costs of vocational rehabilitation and pay the Ministry for services provided.

## **Chapter 4: Summary of Recommendations**

### **4.1 Conclusions**

The existing government development program involving the Ministry of Health, the Ministry of Justice, and the Civil Administration are positive factors that are facilitating the introduction of social security coverage for employees in Cambodia. The developing administrative changes are conducive to and supportive of the administrative structure for the implementation and introduction of social security coverage.

### **4.2 Recommendations**

The social security scheme providing coverage for employment injury should be introduced as a pilot scheme covering the municipality of Phnom Penh and the adjoining districts, where garment and textile manufacturing enterprises are located. Initially, all establishments with ten (10) or more employees will be covered, and once the enterprise is covered, it shall remain within the scheme even if the number of employees subsequently decreases to less than ten (10).

A plan to implement the pilot scheme must be developed. The establishment of the NSSF as a separate entity will be the first step in the implementation process. For this purpose, a government grant would have to be allocated to cover the administration costs for a period of at least 12 months.

The appointment of the Director General, Accountant, and other supporting staff is the next step in setting up the administration of the scheme. The establishment of the administrative structure will require office space and the availability of infrastructure such as telephones and other necessary office equipment, furniture, and stationary. The staff of the social security department should be absorbed into the NSSF and shall serve as the core group to develop the administration. This is recommended in view of the fact that they have been involved and exposed to the development of the schemes.

The NSSF staff will then begin the process of designing the forms and having them printed and ready for the pilot phase. At the same time, the IT system will be developed and readied to provide administrative support. In addition, the NSSF staff will carry out detailed planning of the implementation process, as well as the preparation of the forms, manuals, pamphlets, and agreements with the service providers, including the fee schedules. After the finalization and enactment of the law for employment injury coverage, a lead time of six months will be required for preparatory work before the scheme can be actually implemented.

## ANNEX 1: INTERNATIONAL EXPERIENCE OF EMPLOYMENT INJURY INSURANCE

The Experiences of East Asian Countries are shown as a reference for development of EII in Cambodia.

**Japan** is the most advanced country in Asia and offers comprehensive social insurance coverage. Its work injury programme began in 1949 and has been amended five times to take into consideration the changing needs of the covered population. The coverage is through compulsory social insurance: all firms and industries with five or more employees are covered. Voluntary coverage is provided to employees in agriculture, forestry, and fishery establishments with fewer than five employees. Seamen and public sector employees are covered under special systems. The rate of contribution ranges from 0.55% to 13.5% of the payroll and is based on the three-year accident experience of the enterprise.

In accordance with the ILO Convention, there is no minimum qualifying conditions for rights to benefits. The temporary disablement rate is 60% of the average daily wage in the preceding six months with an additional supplement of 20% of the average daily wage. The minimum benefit is 4,250 yen per day. From the nineteenth month, less severely disabled persons continue to receive the same level of benefit until recovery, while more severely disabled persons receive an injury and disease compensation pension, plus a supplement based on the worker's annual bonus.

Seriously disabled persons are assessed according to different grades of disability and receive annual pension depending on the grade of injury. Those with grade 1 to 7 disabilities receive an annual pension that ranges between 131 and 313 times the average daily wage of the preceding six months. This pension varies with the degree of disability. Less seriously disabled persons (grade 8 to 14 disabilities) receive a lump-sum benefit that ranges between 56 and 503 times the average daily wage. This pension varies with the assessed degree of disability.

A constant attendance allowance is paid to persons with disabilities assessed as grade 1 or 2. The rate of the monthly payment depends on whether full- or part-time care is provided and whether care is provided by family members or others.

Medical care includes medical treatment, surgery, hospitalization, nursing, dental care, medicines, appliances, and transportation.

Survivors are given an annual pension equal to the average wage in the preceding six months multiplied by 153-245 days according to the number of survivors. The widow is eligible for the benefit without exception, while the widower, children, parents, grandparents, grandchildren and dependant brothers and sisters must meet specified age and disability requirements.

A funeral grant equal to 60 days wages or 305,000 yen plus 30 days wages, whichever is greater, is paid upon death due to employment injury.

**Korea**, the second most advanced economy in Asia, provides a permanent disability benefit according to the assessed degree of disablement. A first-degree disability is defined as the total loss of work capacity and the need for constant attendance. The second degree is defined as a severe loss of work capacity, and the third and fourth degrees involve some loss of work capacity. A first-degree disability (total disablement) receives 100% of the basic pension amount. In terms of partial disablement, the compensation for a second-degree

disability is equal to 80% of the basic pension amount, and the compensation for a third-degree disability is 60% of the basic pension amount. A dependant's supplement is paid to cases of assessed first- to third-degree disabilities. The eligible dependants include the spouse, children under the age of 18 or disabled children, and parents (including the spouse's parents) who are aged 60 years or older or disabled with a second-degree disability. The compensation for a lower-level disability (fourth degree) is paid as a lump sum equal to 225% of the basic pension amount.

**Thailand** carries out a system of compulsory coverage for employment injury for all enterprises with one or more employees. However, employees in agriculture, forestry and fishing, employees of state enterprises, and government employees are excluded. Contributions are based on the risk classification of the employer, and the rate ranges from 0.2% to 1% of payroll. Benefits are provided without a qualifying period. A temporary disablement benefit equal to 60% of wages is paid after a three-day waiting period. The minimum monthly amount is 2,000 baht and the maximum is 9,000 baht. Benefits are paid at a rate of 60% of the average monthly wage for a maximum period of 15 years in the case of total permanent disablement. In the case of partial disablement, the benefit is paid according to the assessed degree of incapacity for a maximum period of 10 years or as a lump sum. A survivors benefit is payable for a period of eight years at a rate of 60% of the average monthly wage. The benefit is payable to the spouse, parents, and children below the age of 18, although there is no age limit for disabled children. The benefit is equally divided among the dependants. Also, a funeral grant equal to 100 times the minimum daily wage is provided.

**Vietnam** has a social insurance system that provides coverage for work injury. The programme provides compulsory coverage for all state employees, employees of non-state enterprises with 10 or more workers, employees of foreign-invested enterprises, employees working in processing and industrial zones, and employees of foreign organizations or international organizations in Vietnam. Government civil servants and employees in the armed forces, from central and district level, are protected only through special programmes. The contribution rate for employers is 5% of wages, which covers sickness, maternity, and employment injury. The government is subsidizing the total cost of benefit expenditures until the full implementation of the programme by all employers. There is no minimum qualifying period for entitlement to benefit. The benefit for temporary disablement is payable from the first day and is equal to 100% of earnings, payable for as long as the disability lasts and until permanent disablement can be determined. Disabilities are assessed according to four classes. For an assessment of 91% to 100% disablement (Class 1), the benefit rate is 80% of wages, while the rate for an assessment of 81% to 90% (Class 2 disability) is 70% of wages. The rate for a Class 3 disability, which is an assessment of 71% to 80% disablement, is 60% of wages, and a Class 4 disability, which is an assessment of 61% to 70% disablement, is compensated at 50% of wages. A lump sum of two to 12 months wages is paid for an assessment of disability of 60% or less. A constant attendance allowance is paid in cases of Class 1 or 2 disabilities, where the worker is unable to live independently. Inpatient and outpatient treatment, including surgery, medicine, and rehabilitation, is provided free to injured workers. In the event of death, a survivors' benefit is provided in the same way as for the programme for old age, disability, and survivors, with an additional lump sum of 12 months average wage for state employees. A funeral grant equal to 8 months minimum wage is also provided.

## ANNEX 2: SOCIAL SECURITY (MINIMUM STANDARDS) CONVENTION, NO. 102, 1952

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fifth Session on 4 June 1952, and

Having decided upon the adoption of certain proposals with regard to minimum standards of social security, which are included in the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-eighth day of June of the year one thousand nine hundred and fifty-two the following Convention, which may be cited as the Social Security (Minimum Standards) Convention, 1952:

### PART I. GENERAL PROVISIONS

#### Article 1

1. In this Convention--

- (a) the term **prescribed** means determined by or in virtue of national laws or regulations;
- (b) the term **residence** means ordinary residence in the territory of the Member and the term **resident** means a person ordinarily resident in the territory of the Member;
- (c) the term **wife** means a wife who is maintained by her husband;
- (d) the term **widow** means a woman who was maintained by her husband at the time of his death;
- (e) the term **child** means a child under school-leaving age or under 15 years of age, as may be prescribed;
- (f) the term **qualifying period** means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

2. In Articles 10, 34 and 49 the term **benefit** means either direct benefit in the form of care or indirect benefit consisting of a reimbursement of the expenses borne by the person concerned.

#### Article 2

Each Member for which this Convention is in force--

- (a) shall comply with--
  - (i) Part I;
  - (ii) at least three of Parts II, III, IV, V, VI, VII, VIII, IX and X, including at least one of Parts IV, V, VI, IX and X;
  - (iii) the relevant provisions of Parts XI, XII and XIII; and
  - (iv) Part XIV; and
- (b) shall specify in its ratification in respect of which of Parts II to X it accepts the obligations of the Convention.

### **Article 3**

1. A Member whose economy and medical facilities are insufficiently developed may, if and for so long as the competent authority considers necessary, avail itself, by a declaration appended to its ratification, of the temporary exceptions provided for in the following Articles: 9 (d) ; 12 (2); 15 (d); 18 (2); 21 (c); 27 (d) ; 33 (b); 34 (3); 41 (d); 48 (c); 55 (d); and 61 (d).

2. Each Member which has made a declaration under paragraph 1 of this Article shall include in the annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement, in respect of each exception of which it avails itself--

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

### **Article 4**

1. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one or more of Parts II to X not already specified in its ratification.

2. The undertakings referred to in paragraph 1 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

### **Article 5**

Where, for the purpose of compliance with any of the Parts II to X of this Convention which are to be covered by its ratification, a Member is required to protect prescribed classes of persons constituting not less than a specified percentage of employees or residents, the Member shall satisfy itself, before undertaking to comply with any such Part, that the relevant percentage is attained.

### **Article 6**

For the purpose of compliance with Parts II, III, IV, V, VIII (in so far as it relates to medical care), IX or X of this Convention, a Member may take account of protection effected by means of insurance which, although not made compulsory by national laws or regulations for the persons to be protected--

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of employers and workers;
- (b) covers a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee; and
- (c) complies, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Convention.

## **PART II. MEDICAL CARE**

### **Article 7**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of benefit in respect of a condition requiring medical care of a preventive or curative nature in accordance with the following Articles of this Part.

### **Article 8**

The contingencies covered shall include any morbid condition, whatever its cause, and pregnancy and confinement and their consequences.

### **Article 9**

The persons protected shall comprise--

- (a) prescribed classes of employees, constituting not less than 50 per cent of all employees, and also their wives and children; or
- (b) prescribed classes of economically active population, constituting not less than 20 per cent of all residents, and also their wives and children; or
- (c) prescribed classes of residents, constituting not less than 50 per cent of all residents; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more, and also their wives and children.

### **Article 10**

1. The benefit shall include at least--

- (a) in case of a morbid condition--
  - (i) general practitioner care, including domiciliary visiting;
  - (ii) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
  - (iii) the essential pharmaceutical supplies as prescribed by medical or other qualified practitioners; and
  - (iv) hospitalisation where necessary; and
- (b) in case of pregnancy and confinement and their consequences--
  - (i) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
  - (ii) hospitalisation where necessary.

2. The beneficiary or his breadwinner may be required to share in the cost of the medical care the beneficiary receives in respect of a morbid condition; the rules concerning such cost-sharing shall be so designed as to avoid hardship.

3. The benefit provided in accordance with this Article shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

4. The institutions or Government departments administering the benefit shall, by such means as may be deemed appropriate, encourage the persons protected to avail

themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

#### **Article 11**

The benefit specified in Article 10 shall, in a contingency covered, be secured at least to a person protected who has completed, or whose breadwinner has completed, such qualifying period as may be considered necessary to preclude abuse.

#### **Article 12**

1. The benefit specified in Article 10 shall be granted throughout the contingency covered, except that, in case of a morbid condition, its duration may be limited to 26 weeks in each case, but benefit shall not be suspended while a sickness benefit continues to be paid, and provision shall be made to enable the limit to be extended for prescribed diseases recognised as entailing prolonged care.

2. Where a declaration made in virtue of Article 3 is in force, the duration of the benefit may be limited to 13 weeks in each case.

### **PART III. SICKNESS BENEFIT**

#### **Article 13**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of sickness benefit in accordance with the following Articles of this Part.

#### **Article 14**

The contingency covered shall include incapacity for work resulting from a morbid condition and involving suspension of earnings, as defined by national laws or regulations.

#### **Article 15**

The persons protected shall comprise--

- (a) prescribed classes of employees, constituting not less than 50 per cent of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent of all residents; or
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

#### **Article 16**

1. Where classes of employees or classes of the economically active population are protected, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a periodical payment calculated in such a manner as to comply with the requirements of Article 67.

#### **Article 17**

The benefit specified in Article 16 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.

#### **Article 18**

1. The benefit specified in Article 16 shall be granted throughout the contingency, except that the benefit may be limited to 26 weeks in each case of sickness, in which event it need not be paid for the first three days of suspension of earnings.

2. Where a declaration made in virtue of Article 3 is in force, the duration of the benefit may be limited--

- (a) to such period that the total number of days for which the sickness benefit is granted in any year is not less than ten times the average number of persons protected in that year; or
- (b) to 13 weeks in each case of sickness, in which event it need not be paid for the first three days of suspension of earnings.

### **PART IV. UNEMPLOYMENT BENEFIT**

#### **Article 19**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of unemployment benefit in accordance with the following Articles of this Part.

#### **Article 20**

The contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.

#### **Article 21**

The persons protected shall comprise--

- (a) prescribed classes of employees, constituting not less than 50 per cent of all employees; or
- (b) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (c) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

## **Article 22**

1. Where classes of employees are protected, the benefit shall be a periodical payment calculated in such manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a periodical payment calculated in such a manner as to comply with the requirements of Article 67.

## **Article 23**

The benefit specified in Article 22 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.

## **Article 24**

1. The benefit specified in Article 22 shall be granted throughout the contingency, except that its duration may be limited--

- (a) where classes of employees are protected, to 13 weeks within a period of 12 months, or
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, to 26 weeks within a period of 12 months.

2. Where national laws or regulations provide that the duration of the benefit shall vary with the length of the contribution period and/or the benefit previously received within a prescribed period, the provisions of subparagraph (a) of paragraph 1 shall be deemed to be fulfilled if the average duration of benefit is at least 13 weeks within a period of 12 months.

3. The benefit need not be paid for a waiting period of the first seven days in each case of suspension of earnings, counting days of unemployment before and after temporary employment lasting not more than a prescribed period as part of the same case of suspension of earnings.

4. In the case of seasonal workers the duration of the benefit and the waiting period may be adapted to their conditions of employment.

## **PART V. OLD-AGE BENEFIT**

### **Article 25**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

### **Article 26**

1. The contingency covered shall be survival beyond a prescribed age.

2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned.

3. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

#### **Article 27**

The persons protected shall comprise--

- (a) prescribed classes of employees, constituting not less than 50 per cent of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent of all residents; or
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

#### **Article 28**

The benefit shall be a periodical payment calculated as follows:

- (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

#### **Article 29**

1. The benefit specified in Article 28 shall, in a contingency covered, be secured at least--

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 30 years of contribution or employment, or 20 years of residence; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least--

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of 15 years of contribution or employment; or

(b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, ten years of contribution or employment, or five years of residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment but is less than 30 years of contribution or employment; if such qualifying period exceeds 15 years, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. Where the benefit referred to in paragraphs 1, 3 or 4 of this Article is conditional upon a minimum period of contribution or employment, a reduced benefit shall be payable under prescribed conditions to a person protected who, by reason only of his advanced age when the provisions concerned in the application of this Part come into force, has not satisfied the conditions prescribed in accordance with paragraph 2 of this Article, unless a benefit in conformity with the provisions of paragraphs 1, 3 or 4 of this Article is secured to such person at an age higher than the normal age.

### **Article 30**

The benefits specified in Articles 28 and 29 shall be granted throughout the contingency.

## **PART VI. EMPLOYMENT INJURY BENEFIT**

### **Article 31**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of employment injury benefit in accordance with the following Articles of this Part.

### **Article 32**

The contingencies covered shall include the following where due to accident or a prescribed disease resulting from employment:

- (a) a morbid condition;
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.

### **Article 33**

The persons protected shall comprise--

- (a) prescribed classes of employees, constituting not less than 50 per cent of all employees, and, for benefit in respect of death of the breadwinner, also their wives and children; or
- (b) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more, and, for benefit in respect of death of the breadwinner, also their wives and children.

### **Article 34**

1. In respect of a morbid condition, the benefit shall be medical care as specified in paragraphs 2 and 3 of this Article.

2. The medical care shall comprise--

- (a) general practitioner and specialist in-patient care and out-patient care, including domiciliary visiting;
- (b) dental care;
- (c) nursing care at home or in hospital or other medical institutions;
- (d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
- (e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances, kept in repair, and eyeglasses; and
- (f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner.

3. Where a declaration made in virtue of Article 3 is in force, the medical care shall include at least--

- (a) general practitioner care, including domiciliary visiting;
- (b) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
- (c) the essential pharmaceutical supplies as prescribed by a medical or other qualified practitioner; and
- (d) hospitalisation where necessary.

4. The medical care provided in accordance with the preceding paragraphs shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

### **Article 35**

1. The institutions or Government departments administering the medical care shall co-operate, wherever appropriate, with the general vocational rehabilitation services, with a view to the re-establishment of handicapped persons in suitable work.

2. National laws or regulations may authorise such institutions or departments to ensure provision for the vocational rehabilitation of handicapped persons.

### **Article 36**

1. In respect of incapacity for work, total loss of earning capacity likely to be permanent or corresponding loss of faculty, or the death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

2. In case of partial loss of earning capacity likely to be permanent or corresponding loss of faculty, the benefit, where payable, shall be a periodical payment representing a suitable proportion of that specified for total loss of earning capacity or corresponding loss of faculty.

3. The periodical payment may be commuted for a lump sum--

- (a) where the degree of incapacity is slight; or
- (b) where the competent authority is satisfied that the lump sum will be properly utilised.

### **Article 37**

The benefit specified in Articles 34 and 36 shall, in a contingency covered, be secured at least to a person protected who was employed in the territory of the Member at the time of the accident if the injury is due to accident or at the time of contracting the disease if the injury is due to a disease and, for periodical payments in respect of death of the breadwinner, to the widow and children of such person.

### **Article 38**

The benefit specified in Articles 34 and 36 shall be granted throughout the contingency, except that, in respect of incapacity for work, the benefit need not be paid for the first three days in each case of suspension of earnings.

## **PART VII. FAMILY BENEFIT**

### **Article 39**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of family benefit in accordance with the following Articles of this Part.

### **Article 40**

The contingency covered shall be responsibility for the maintenance of children as prescribed.

### **Article 41**

The persons protected shall comprise--

- (a) prescribed classes of employees, constituting not less than 50 per cent of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent of all residents; or
- (c) all residents whose means during the contingency do not exceed prescribed limits; or

- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

#### **Article 42**

The benefit shall be--

- (a) a periodical payment granted to any person protected having completed the prescribed qualifying period; or
- (b) the provision to or in respect of children, of food, clothing, housing, holidays or domestic help; or
- (c) a combination of (a) and (b).

#### **Article 43**

The benefit specified in Article 42 shall be secured at least to a person protected who, within a prescribed period, has completed a qualifying period which may be three months of contribution or employment, or one year of residence, as may be prescribed.

#### **Article 44**

The total value of the benefits granted in accordance with Article 42 to the persons protected shall be such as to represent--

- (a) 3 per cent of the wage of an ordinary adult male labourer, as determined in accordance with the rules laid down in Article 66, multiplied by the total number of children of persons protected; or
- (b) 1.5 per cent of the said wage, multiplied by the total number of children of all residents.

#### **Article 45**

Where the benefit consists of a periodical payment, it shall be granted throughout the contingency.

### **PART VIII. MATERNITY BENEFIT**

#### **Article 46**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of maternity benefit in accordance with the following Articles of this Part.

#### **Article 47**

The contingencies covered shall include pregnancy and confinement and their consequences, and suspension of earnings, as defined by national laws or regulations, resulting therefrom.

#### **Article 48**

The persons protected shall comprise--

- (a) all women in prescribed classes of employees, which classes constitute not less than 50 per cent of all employees and, for maternity medical benefit, also the wives of men in these classes; or
- (b) all women in prescribed classes of the economically active population, which classes constitute not less than 20 per cent of all residents, and, for maternity medical benefit, also the wives of men in these classes; or
- (c) where a declaration made in virtue of Article 3 is in force, all women in prescribed classes of employees, which classes constitute not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more, and, for maternity medical benefit, also the wives of men in these classes.

#### **Article 49**

1. In respect of pregnancy and confinement and their consequences, the maternity medical benefit shall be medical care as specified in paragraphs 2 and 3 of this Article.
2. The medical care shall include at least--
  - (a) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
  - (b) hospitalisation where necessary.
3. The medical care specified in paragraph 2 of this Article shall be afforded with a view to maintaining, restoring or improving the health of the woman protected and her ability to work and to attend to her personal needs.
4. The institutions or Government departments administering the maternity medical benefit shall, by such means as may be deemed appropriate, encourage the women protected to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

#### **Article 50**

In respect of suspension of earnings resulting from pregnancy and from confinement and their consequences, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66. The amount of the periodical payment may vary in the course of the contingency, subject to the average rate thereof complying with these requirements.

#### **Article 51**

The benefit specified in Articles 49 and 50 shall, in a contingency covered, be secured at least to a woman in the classes protected who has completed such qualifying period as may be considered necessary to preclude abuse, and the benefit specified in Article 49 shall also be secured to the wife of a man in the classes protected where the latter has completed such qualifying period.

#### **Article 52**

The benefit specified in Articles 49 and 50 shall be granted throughout the contingency, except that the periodical payment may be limited to 12 weeks, unless a longer period of abstention from work is required or authorised by national laws or regulations, in which event it may not be limited to a period less than such longer period.

## **PART IX. INVALIDITY BENEFIT**

### **Article 53**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

### **Article 54**

The contingency covered shall include inability to engage in any gainful activity, to an extent prescribed, which inability is likely to be permanent or persists after the exhaustion of sickness benefit.

### **Article 55**

The persons protected shall comprise--

- (a) prescribed classes of employees, constituting not less than 50 per cent of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent of all residents; or
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

### **Article 56**

The benefit shall be a periodical payment calculated as follows:

- (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

### **Article 57**

1. The benefit specified in Article 56 shall, in a contingency covered, be secured at least--

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or 10 years of residence; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least--

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the pension corresponding to the reduced percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced pension shall be payable in conformity with paragraph 2 of this Article.

#### **Article 58**

The benefit specified in Articles 56 and 57 shall be granted throughout the contingency or until an old-age benefit becomes payable.

### **PART X. SURVIVORS' BENEFIT**

#### **Article 59**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of survivors' benefit in accordance with the following Articles of this Part.

#### **Article 60**

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.
2. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount, and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

#### **Article 61**

The persons protected shall comprise--

- (a) the wives and the children of breadwinners in prescribed classes of employees, which classes constitute not less than 50 per cent of all employees; or

- (b) the wives and the children of breadwinners in prescribed classes of the economically active population, which classes constitute not less than 20 per cent of all residents; or
- (c) all resident widows and resident children who have lost their breadwinner and whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, the wives and the children of breadwinners in prescribed classes of employees, which classes constitute not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

## **Article 62**

The benefit shall be a periodical payment calculated as follows:

- (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

## **Article 63**

1. The benefit specified in Article 62 shall, in a contingency covered, be secured at least--

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or 10 years of residence; or
- (b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least--

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or
- (b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced

percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. In order that a childless widow presumed to be incapable of self-support may be entitled to a survivor's benefit, a minimum duration of the marriage may be required.

#### **Article 64**

The benefit specified in Articles 62 and 63 shall be granted throughout the contingency.

### **PART XI. STANDARDS TO BE COMPLIED WITH BY PERIODICAL PAYMENTS**

#### **Article 65**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be--

- (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
- (c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
- (d) a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purposes of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

10. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

#### **Article 66**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be--

- (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August

1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

8. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

### **Article 67**

In the case of a periodical payment to which this Article applies--

- (a) the rate of the benefit shall be determined according to a prescribed scale or a scale fixed by the competent public authority in conformity with prescribed rules;
- (b) such rate may be reduced only to the extent by which the other means of the family of the beneficiary exceed prescribed substantial amounts or substantial amounts fixed by the competent public authority in conformity with prescribed rules;
- (c) the total of the benefit and any other means, after deduction of the substantial amounts referred to in subparagraph (b), shall be sufficient to maintain the family of the beneficiary in health and decency, and shall be not less than the corresponding benefit calculated in accordance with the requirements of Article 66;
- (d) the provisions of subparagraph (c) shall be deemed to be satisfied if the total amount of benefits paid under the Part concerned exceeds by at least 30 per cent the total amount of benefits which would be obtained by applying the provisions of Article 66 and the provisions of:
  - (i) Article 15 (b) for Part III;
  - (ii) Article 27 (b) for Part V;
  - (iii) Article 55 (b) for Part IX;
  - (iv) Article 61 (b) for Part X.

**SCHEDULE TO PART XI: PERIODICAL PAYMENTS TO STANDARD BENEFICIARIES**

<i>Part</i>	<i>Contingency</i>	<i>Standard Beneficiary</i>	<i>Percentage</i>
III	Sickness	Man with wife and two children	45
IV	Unemployment	Man with wife and two children	45
V	Old age	Man with wife of pensionable age	40
VI	<u>Employment injury:</u>		
	Incapacity of work	Man with wife and two children	50
	Invalidity	Man with wife and two children	50
	Survivors	Widow with two children	40
VIII	Maternity	Woman	45
IX	Invalidity	Man with wife and two children	40
X	Survivors	Widow with two children	40

**PART XII. EQUALITY OF TREATMENT OF NON-NATIONAL RESIDENTS**

**Article 68**

1. Non-national residents shall have the same rights as national residents: Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes.

2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same rights as nationals of the Member concerned: Provided that the application of this paragraph may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

**PART XIII. COMMON PROVISIONS**

**Article 69**

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;
- (d) where the person concerned has made a fraudulent claim;

- (e) where the contingency has been caused by a criminal offence committed by the person concerned;
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;
- (g) in appropriate cases, where the person concerned neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;
- (h) in the case of unemployment benefit, where the person concerned has failed to make use of the employment services placed at his disposal;
- (i) in the case of unemployment benefit, where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute, or has left it voluntarily without just cause; and
- (j) in the case of survivors' benefit, as long as the widow is living with a man as his wife.

### **Article 70**

1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a Government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

### **Article 71**

1. The cost of the benefits provided in compliance with this Convention and the cost of the administration of such benefits shall be borne collectively by way of insurance contributions or taxation or both in a manner which avoids hardship to persons of small means and takes into account the economic situation of the Member and of the classes of persons protected.

2. The total of the insurance contributions borne by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their wives and children. For the purpose of ascertaining whether this condition is fulfilled, all the benefits provided by the Member in compliance with this Convention, except family benefit and, if provided by a special branch, employment injury benefit, may be taken together.

3. The Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention, and shall take all measures required for this purpose; it shall ensure, where appropriate, that the necessary actuarial studies and calculations concerning financial equilibrium are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question.

## **Article 72**

1. Where the administration is not entrusted to an institution regulated by the public authorities or to a Government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national laws or regulations may likewise decide as to the participation of representatives of employers and of the public authorities.

2. The Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of the Convention.

## **PART XIV. MISCELLANEOUS PROVISIONS**

### **Article 73**

This Convention shall not apply to--

- (a) contingencies which occurred before the coming into force of the relevant Part of the Convention for the Member concerned;
- (b) benefits in contingencies occurring after the coming into force of the relevant Part of the Convention for the Member concerned in so far as the rights to such benefits are derived from periods preceding that date.

### **Article 74**

This Convention shall not be regarded as revising any existing Convention.

### **Article 75**

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

(Editors' Note: Provisions pursuant to Article 75 are contained in Conventions Nos. 121 (Article 29), 128 (Article 45) and 130 (Article 36).)

### **Article 76**

1. Each Member which ratifies this Convention shall include in the annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation--

- (a) full information concerning the laws and regulations by which effect is given to the provisions of the Convention; and
- (b) evidence, conforming in its presentation as closely as is practicable with any suggestions for greater uniformity of presentation made by the Governing Body of the International Labour Office, of compliance with the statistical conditions specified in--
  - (i) Articles 9 (a), (b), (c) or (d); 15 (a), (b) or (d); 21 (a) or (c); 27 (a), (b) or (d); 33 (a) or (b); 41 (a), (b) or (d); 48 (a), (b) or (c); 55 (a (a), (b) or (d); 61 (a), (b) or (d) , as regards the number of persons protected;
  - (ii) Articles 44, 65, 66 or 67, as regards the rates of benefit;

- (iii) subparagraph (a) of paragraph 2 of Article 18, as regards duration of sickness benefit;
- (iv) paragraph 2 of Article 24, as regards duration of unemployment benefit; and
- (v) paragraph 2 of Article 71, as regards the proportion of the financial resources constituted by the insurance contributions of employees protected.

2. Each Member which ratifies this Convention shall report to the Director-General of the International Labour Office at appropriate intervals, as requested by the Governing Body, on the position of its law and practice in regard to any of Parts II to X of the Convention not specified in its ratification or in a notification made subsequently in virtue of Article 4.

#### **Article 77**

1. This Convention does not apply to seamen or seafishermen; provision for the protection of seamen and seafishermen has been made by the International Labour Conference in the Social Security (Seafarers) Convention, 1946, and the Seafarers' Pensions Convention, 1946.

2. A Member may exclude seamen and seafishermen from the number of employees, of the economically active population or of residents, when calculating the percentage of employees or residents protected in compliance with any of Parts II to X covered by its ratification.

### **PART XV. FINAL PROVISIONS**

#### **Article 78**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### **Article 79**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

#### **Article 80**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate --

- (a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
- (b) the territories in respect of which it undertakes that the provisions of the Convention or of any Parts thereof shall be applied subject to modifications, together with details of the said modifications;

- (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- (d) the territories in respect of which it reserves its decision pending further consideration of the position.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 82, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

#### **Article 81**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention or of the Parts thereof accepted by the Declaration will be applied in the territory concerned without modification or subject to modifications; when the Declaration indicates that the provisions of the Convention or of certain Parts thereof will be applied subject to modifications, it shall give details of the said modifications.

2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 82, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

#### **Article 82**

1. A Member which has ratified this Convention may, after the expiration of the ten years from the date on which the Convention first comes into force, denounce the Convention or any one or more of Parts II to X thereof by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce the Convention or any one of Parts II to X thereof at the expiration of each period of ten years under the terms provided for in this Article.

### **Article 83**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

### **Article 84**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

### **Article 85**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

### **Article 86**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 82 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

### **Article 87**

The English and French versions of the text of this Convention are equally authoritative.

### ANNEX 3: EMPLOYMENT INJURY BENEFIT CONVENTION NO. 121, 1964

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-eighth Session on 17 June 1964, and

Having decided upon the adoption of certain proposals with regard to benefits in the case of industrial accidents and occupational diseases, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this eighth day of July of the year one thousand nine hundred and sixty-four the following Convention, which may be cited as the Employment Injury Benefits Convention, 1964:

#### Article 1

In this Convention--

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation;
- (c) the term **industrial undertaking** includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas, water and sanitary services; and transport, storage and communication;
- (d) the term **dependent** refers to a state of dependency which is presumed to exist in prescribed cases;
- (e) the term **dependent child** covers--
  - (i) a child under school-leaving age or under 15 years of age, whichever is the higher, and

(ii) a child under a prescribed age higher than that specified in subclause (i) and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, on conditions laid down by national legislation: Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in subclause (i).

#### Article 2

1. A Member whose economic and medical facilities are insufficiently developed may avail itself by a declaration accompanying its ratification of the temporary exceptions provided for in the following Articles: Article 5, Article 9, paragraph 3, clause (b), Article 12, Article 15, paragraph 2, and Article 18, paragraph 3. Any such declaration shall state the reason for such exceptions.

2. Each Member which has made a declaration under paragraph 1 of this Article shall include in its report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement in respect of each exception of which it avails itself--

- (a) that its reason for doing so subsists; or

- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

### Article 3

1. Any Member which ratifies this Convention may, by a declaration accompanying its ratification, exclude from the application of the Convention--

- (a) seafarers, including seafishermen,
- (b) public servants,

where these categories are protected by special schemes which provide in the aggregate benefits at least equivalent to those required by this Convention.

2. Where a declaration under paragraph 1 of this Article is in force, the Member may exclude the persons belonging to the category or categories excluded from the application of the Convention from the number of employees when calculating the percentage of employees in compliance with paragraph 2, clause (d), of Article 4, and with Article 5.

3. Any Member which has made a declaration under paragraph 1 of this Article may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of this Convention in respect of a category or categories excluded at the time of its ratification.

### Article 4

1. National legislation concerning employment injury benefits shall protect all employees, including apprentices, in the public and private sectors, including co-operatives, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.

2. Any Member may make such exceptions as it deems necessary in respect of--

- (a) persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business;
- (b) out-workers;
- (c) members of the employer's family living in his house, in respect of their work for him;
- (d) other categories of employees, which shall not exceed in number 10 per cent. of all employees other than those excluded under clauses (a) to (c).

### Article 5

Where a declaration provided for in Article 2 is in force, the application of national legislation concerning employment injury benefits may be limited to prescribed categories of employees, which shall total in number not less than 75 per cent. of all employees in industrial undertakings, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.

### Article 6

The contingencies covered shall include the following where due to an employment injury:

- (a) a morbid condition;

- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national legislation;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered as the result of the death of the breadwinner by prescribed categories of beneficiaries.

#### Article 7

1. Each Member shall prescribe a definition of "industrial accident", including the conditions under which a commuting accident is considered to be an industrial accident, and shall specify the terms of such definition in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation.

2. Where commuting accidents are covered by social security schemes other than employment injury schemes, and these schemes provide in respect of commuting accidents benefits which, when taken together, are at least equivalent to those required under this Convention, it shall not be necessary to make provision for commuting accidents in the definition of "industrial accident".

#### Article 8

Each Member shall--

- (a) prescribe a list of diseases, comprising at least the diseases enumerated in Schedule I to this Convention, which shall be regarded as occupational diseases under prescribed conditions; or
- (b) include in its legislation a general definition of occupational diseases broad enough to cover at least the diseases enumerated in Schedule I to this Convention; or
- (c) prescribe a list of diseases in conformity with clause (a), complemented by a general definition of occupational diseases or by other provisions for establishing the occupational origin of diseases not so listed or manifesting themselves under conditions different from those prescribed.

#### Article 9

1. Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of the following benefits:

- (a) medical care and allied benefits in respect of a morbid condition;
- (b) cash benefits in respect of the contingencies specified in Article 6, clauses (b), (c) and (d).

2. Eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions: Provided that a period of exposure may be prescribed for occupational diseases.

3. The benefits shall be granted throughout the contingency: Provided that in respect of incapacity for work the cash benefit need not be paid for the first three days--

- (a) where the legislation of a Member provides for a waiting period at the date on which this Convention comes into force, on condition that the Member includes in its reports upon the application of this Convention submitted under Article 22 of the

- Constitution of the International Labour Organisation a statement that its reason for availing itself of this provision subsists; or
- (b) where a declaration provided for in Article 2 is in force.

#### Article 10

1. Medical care and allied benefits in respect of a morbid condition shall comprise--

- (a) general practitioner and specialist in-patient and out-patient care, including domiciliary visiting;
- (b) dental care;
- (c) nursing care at home or in hospital or other medical institutions;
- (d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
- (e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances kept in repair and renewed as necessary, and eyeglasses;
- (f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner; and
- (g) the following treatment at the place of work, wherever possible:
  - (i) emergency treatment of persons sustaining a serious accident;
  - (ii) follow-up treatment of those whose injury is slight and does not entail discontinuance of work.

2. The benefits provided in accordance with paragraph 1 of this Article shall be afforded, using all suitable means, with a view to maintaining, restoring or, where this is not possible, improving the health of the injured person and his ability to work and to attend to his personal needs.

#### Article 11

1. Any Member which provides medical care and allied benefits by means of a general health scheme or a medical care scheme for employed persons may specify in its legislation that such care shall be made available to persons who have sustained employment injuries on the same terms as to other persons entitled thereto, on condition that the rules on the subject are so designed as to avoid hardship.

2. Any Member which provides medical care and allied benefits by reimbursing expenses may in its legislation make special rules in respect of cases in which the extent, duration or cost of such care exceed reasonable limits, on condition that the rules on the subject are not inconsistent with the purpose stated in paragraph 2 of Article 10 and are so designed as to avoid hardship.

#### Article 12

Where a declaration provided for in Article 2 is in force, medical care and allied benefits shall include at least--

- (a) general practitioner care, including domiciliary visiting;
- (b) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
- (c) the essential pharmaceutical supplies on prescription by a medical or other qualified practitioner;
- (d) hospitalisation, where necessary; and

(e) wherever possible, emergency treatment at the place of work of persons sustaining an industrial accident.

#### Article 13

The cash benefit in respect of temporary or initial incapacity for work shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 19 or with the requirements of Article 20.

#### Article 14

1. Cash benefits in respect of loss of earning capacity likely to be permanent or corresponding loss of faculty shall be payable in all cases in which such loss, in excess of a prescribed degree, remains at the expiration of the period during which benefits are payable in accordance with Article 13.

2. In case of total loss of earning capacity likely to be permanent or corresponding loss of faculty, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 19 or with the requirements of Article 20.

3. In case of substantial partial loss of earning capacity likely to be permanent which is in excess of a prescribed degree, or corresponding loss of faculty, the benefit shall be a periodical payment representing a suitable proportion of that provided for in paragraph 2 of this Article.

4. In case of partial loss of earning capacity likely to be permanent which is not substantial but which is in excess of the prescribed degree referred to in paragraph 1 of this Article, or corresponding loss of faculty, the cash benefit may take the form of a lump-sum payment.

5. The degrees of loss of earning capacity or corresponding loss of faculty referred to in paragraphs 1 and 3 of this Article shall be prescribed in such manner as to avoid hardship.

#### Article 15

1. In exceptional circumstances, and with the agreement of the injured person, all or part of the periodical payment provided for in paragraphs 2 and 3 of Article 14 may be converted into a lump sum corresponding to the actuarial equivalent thereof when the competent authority has reason to believe that such lump sum will be utilised in a manner which is particularly advantageous for the injured person.

2. Where a declaration provided for in Article 2 is in force and the Member concerned considers that it lacks the necessary administrative facilities for periodical payments, the periodical payment provided for in paragraphs 2 and 3 of Article 14 may be converted into a lump sum corresponding to the actuarial equivalent thereof, as computed on the basis of available data.

#### Article 16

Increments in periodical payments or other supplementary or special benefits, as prescribed, shall be provided for disabled persons requiring the constant help or attendance of another person.

#### Article 17

The conditions in which periodical payments due in respect of loss of earning capacity or corresponding loss of faculty shall be reassessed, suspended or cancelled by reference to a change in the degree of loss shall be prescribed.

#### Article 18

1. The cash benefit in respect of death of the breadwinner shall be a periodical payment to a widow as prescribed, a disabled and dependent widower, dependent children of the deceased and other persons as may be prescribed; this payment shall be calculated in such a manner as to comply either with the requirements of Article 19 or with the requirement of Article 20: Provided that it shall not be necessary to make provision for a benefit to a disabled and dependent widower where the cash benefits to other survivors are appreciably in excess of those required by this Convention and where social security schemes other than employment injury schemes provide to such widower benefits which are appreciably in excess of those in respect of invalidity required under the Social Security (Minimum Standards) Convention, 1952.

2. In addition, a funeral benefit shall be provided at a prescribed rate which shall not be less than the normal cost of a funeral: Provided that where cash benefits to survivors are appreciably in excess of those required by this Convention the right to funeral benefit may be made subject to prescribed conditions.

3. Where a declaration provided for in Article 2 is in force and the Member concerned considers that it lacks the necessary administrative facilities for periodical payments, the periodical payment provided for in paragraph 1 of this Article may be converted into a lump sum corresponding to the actuarial equivalent thereof, as computed on the basis of available data.

#### Article 19

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in Schedule II to this Convention, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be--

- (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
- (c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent. of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
- (d) a person whose earnings are equal to 125 per cent. of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purpose of clause (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances, if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

10. No periodical payment shall be less than a prescribed minimum amount.

## Article 20

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in Schedule II to this Convention, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be--

- (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of clause (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

8. No periodical payment shall be less than a prescribed minimum amount.

#### Article 21

1. The rates of cash benefits currently payable pursuant to paragraphs 2 and 3 of Article 14 and paragraph 1 of Article 18 shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.

#### Article 22

1. A benefit to which a person protected would otherwise be entitled in compliance with this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense or at the expense of a social security institution or service;
- (c) where the person concerned has made a fraudulent claim;
- (d) where the employment injury has been caused by a criminal offence committed by the person concerned;
- (e) where the employment injury has been caused by voluntary intoxication or by the serious and wilful misconduct of the person concerned;
- (f) where the person concerned, without good cause, neglects to make use of the medical care and allied benefits or the rehabilitation services placed at his disposal, or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries; and
- (g) as long as the surviving spouse is living with another person as spouse.

2. In the cases and within the limits prescribed, part of the cash benefit otherwise due shall be paid to the dependants of the person concerned.

#### Article 23

1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with employment injury benefit questions or with social security questions in general and on which the persons protected are represented, no right of appeal shall be required.

#### Article 24

1. Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national legislation may likewise decide as to the participation of representatives of employers and of the public authorities.

2. The Member shall accept general responsibility for the proper administration of the institutions or services concerned in the application of this Convention.

#### Article 25

Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

#### Article 26

1. Each Member shall, under prescribed conditions--

- (a) take measures to prevent industrial accidents and occupational diseases;
- (b) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity; and
- (c) take measures to further the placement of disabled persons in suitable employment.

2. Each Member shall as far as possible furnish in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation information concerning the frequency and severity of industrial accidents.

#### Article 27

Each Member shall within its territory assure to non-nationals equality of treatment with its own nationals as regards employment injury benefits.

## Article 28

1. This Convention revises the Workmen's Compensation (Agriculture) Convention, 1921, the Workmen's Compensation (Accidents) Convention, 1925, the Workmen's Compensation (Occupational Diseases) Convention, 1925, and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934.

2. Ratification of this Convention by a Member which is a party to the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934, shall, in accordance with Article 8 thereof, ipso jure involve the immediate denunciation of that Convention, if and when this Convention shall have come into force, but the coming into force of this Convention shall not close that Convention to further ratification.

## Article 29

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

## Article 30

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

## Article 31

1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority amendments to Schedule I to this Convention.

2. Such amendments shall take effect in respect of any Member already a party to the Convention when such Member notifies the Director-General of the International Labour Office of its acceptance thereof.

3. Unless the Conference otherwise decides when adopting an amendment, an amendment shall be effective, by reason of its adoption by the Conference, in respect of any Member subsequently ratifying the Convention.

## Article 32

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

## Article 33

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

#### Article 34

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

#### Article 35

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

#### Article 36

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

#### Article 37

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

#### Article 38

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 34 above, if and when the new revising Convention shall have come into force;
- b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 39

The English and French versions of the text of this Convention are equally authoritative.

**4.3 SCHEDULE I. LIST OF OCCUPATIONAL DISEASES**

<b><i>Occupational diseases</i></b>	<b><i>Work involving exposure to risk *</i></b>
1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraco-silicosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2. Bronchopulmonary diseases caused by hard-metal dust.	"
3. Bronchopulmonary diseases caused by cotton dust (byssinosis), or flax, hemp or sisal dust.	"
4. Occupational asthma caused by sensitising agents or irritants both recognised in this regard and inherent in the work process.	"
5. Extrinsic allergic alveolitis and its sequelae caused by the inhalation of organic dusts, as prescribed by national legislation.	"
6. Diseases caused by beryllium or its toxic compounds.	"
7. Diseases caused by cadmium or its toxic compounds.	"
8. Diseases caused by phosphorus or its toxic compounds.	"
9. Diseases caused by chromium or its toxic compounds.	"
10. Diseases caused by manganese or its toxic compounds.	"
11. Diseases caused by arsenic or its toxic compounds.	"
12. Diseases caused by mercury or its toxic compounds.	"
13. Diseases caused by lead or its toxic compounds.	"
14. Diseases caused by fluorine or its toxic compounds.	"
15. Diseases caused by carbon disulfide.	"
16. Diseases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons.	"
17. Diseases caused by benzene or its toxic homologues.	"
18. Diseases caused by toxic nitro- and amino-derivatives of benzene or its homologues.	"
19. Diseases caused by nitroglycerin or other nitric acid esters.	"
20. Diseases caused by alcohols, glycols or ketones.	"
21. Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulfide.	"
22. Hearing impairment caused by noise.	"

23. Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves).	"
24. Diseases caused by work in compressed air.	"
25. Diseases caused by ionising radiations.	All work involving exposure to the action of ionising radiations.
26. Skin diseases caused by physical, chemical or biological agents not included under other items.	All work involving exposure to the risk concerned.
27. Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	"
28. Lung cancer or mesotheliomas caused by asbestos.	"
29. Infectious or parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) Health or laboratory work.  (b) Veterinary work.  (c) Work handling animals, animal carcasses, parts of such carcasses, or merchandise which may have been contaminated by animals, animal carcasses, or parts of such carcasses.  (d) Other work carrying a particular risk of contamination.

\*In the application of this Schedule the degree and type of exposure should be taken into account when appropriate.

## **ANNEX 4: RECOMMENDATION SUPPLEMENTING THE EMPLOYMENT INJURY BENEFITS CONVENTION, NO. 121, 1964**

The General Conference of the International Labour Organisation adopts this eighth day of July of the year one thousand nine hundred and sixty-four, the following Recommendation, which may be cited as the Employment Injury Benefits Recommendation, 1964:

1. In this Recommendation
  - (a) the term *legislation* includes any social security rules as well as laws and regulations;
  - (b) the term *prescribed* means determined by or in virtue of national legislation;
  - (c) the term *dependent* refers to a state of dependency which is presumed to exist in prescribed cases.
  
2. Each Member should extend the application of its legislation providing for employment injury benefits, if necessary by stages, to any categories of employees which may have been excepted in virtue of Article 4, paragraph 2, of the Employment Injury Benefits Convention, 1964, from the protection provided for in that Convention.
  
3. (1) Each Member should, subject to prescribed conditions, secure the provision of employment injury or analogous benefits, if necessary by stages and/or through voluntary insurance, to
  - (a) members of co-operatives who are engaged in the production of goods or the provision of services;
  - (b) prescribed categories of self-employed persons, in particular persons owning and actively engaged in the operation of small-scale businesses or farms;
  - (c) certain categories of persons working without pay, which should include
    - (i) persons in training, undergoing an occupational or trade test or otherwise preparing for their future employment, including pupils and students;
    - (ii) members of volunteer bodies charged with combating natural disasters, with saving lives and property or with maintaining law and order;
    - (iii) other categories of persons not otherwise covered who are active in the public interest or engaged in civic or benevolent pursuits, such as persons volunteering their services for public office, social service or hospitals;
    - (iv) prisoners and other detained persons doing work which has been required or approved by the competent authorities.

(2) The financial resources of voluntary insurance for the categories referred to in subparagraph (1) of this Paragraph should not be provided from contributions intended to finance the compulsory schemes for employees.
  
4. Special schemes applicable to seafarers, including sea fishermen, and to public servants should provide benefits in case of an employment injury which are not less favourable than those provided for in the Employment Injury Benefits Convention, 1964.
  
5. Each Member should, under prescribed conditions, treat the following as industrial accidents:
  - (a) accidents, regardless of their cause, sustained during working hours at or near the place of work or at any place where the worker would not have been except for his employment;
  - (b) accidents sustained within reasonable periods before and after working hours in connection with transporting, cleaning, preparing, securing, conserving, storing and packing work tools or clothes;
  - (c) accidents sustained while on the direct way between the place of work and
    - (i) the employee's principal or secondary residence; or
    - (ii) the place where the employee usually takes his meals; or

(iii) the place where he usually receives his remuneration.

6. (1) Each Member should, under prescribed conditions, regard diseases known to arise out of the exposure to substances or dangerous conditions in processes, trades or occupations as occupational diseases.

(2) Unless proof to the contrary is brought, there should be a presumption of the occupational origin of such diseases where the employee

- (a) was exposed for at least a specified period; and
- (b) has developed symptoms of the disease within a specified period following termination of the last employment involving exposure.

(3) When prescribing and bringing up to date national lists of occupational diseases, Members should give special consideration to any list of occupational diseases which may from time to time be approved by the Governing Body of the International Labour Office.

7. Where national legislation contains a list establishing a presumption of occupational origin in respect of certain diseases, proof should be permitted of the occupational origin of diseases not so listed and of diseases listed when they manifest themselves under conditions different from those establishing a presumption of their occupational origin.

8. Cash benefits in respect of incapacity for work should be paid from the first day in each case of suspension of earnings.

9. The rates of cash benefits in respect of temporary or initial incapacity for work, or in respect of total loss of earning capacity likely to be permanent, or corresponding loss of faculty, should be

- (a) not less than two-thirds of the injured person's earnings, provided that a maximum limit may be prescribed for the rate of benefit or for the earnings taken into account for the calculation of the benefit; or
- (b) where such benefits are provided at flat rates, not less than two-thirds of the average earnings of persons employed in the major group of economic activities with the largest number of economically active male persons.

10. (1) The cash benefit payable by reason of loss of earning capacity likely to be permanent, or corresponding loss of faculty, should take the form of a periodical payment for the duration of such loss in all cases in which the degree of loss equals at least 25 per cent.

(2) In cases in which the degree of loss of earning capacity likely to be permanent, or corresponding loss of faculty, is less than 25 per cent. A lump sum may be paid in lieu of a periodical payment. Such lump sum should bear an equitable relationship to periodical payments and should not be less than the periodical payments which would be due in respect of a period of three years.

11. A provision should be made to defray the reasonable cost of the constant help or attendance of another person in cases in which the injured person requires such services; alternatively, the periodical payment should be increased by either a prescribed percentage or a prescribed amount.

12. Where an employment injury entails unemployability or disfigurement and this is not taken fully into account in the evaluation of the loss sustained by the injured person, supplementary or special benefits should be provided.

13. Where the periodical payments made to the surviving spouse and children are less than the maximum amounts prescribed, a periodical payment should be made to the following categories of persons if they were dependent on the deceased for support:

- (a) parents;
- (b) brothers and sisters;

(c) grandchildren.

14. Where a maximum limit upon the total benefits payable to all the survivors is prescribed, such maximum should be not less than the rate of benefits payable in respect of a total loss of earning capacity likely to be permanent or a corresponding loss of faculty.

15. The rates of cash benefits currently payable pursuant to paragraphs 2 and 3 of Article 14 and to paragraph 1 of Article 18 of the Employment Injury Benefits Convention, 1964, should be periodically adjusted, taking account of changes in the general level of earnings or the cost of living.

## **ANNEX 5: SUB-DECREE CONCERNING THE ESTABLISHMENT OF NATIONAL SOCIAL SECURITY FUND**

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- Article 3. Establishment of the NSSF**
- Article 4. Administration of the Social Security Scheme**
- Article 5. The National Social Security Fund**
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- Article 48. Powers to determine contribution rates
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- Article 50. Invalidity pension
- Article 51. Application for old age or invalidity
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- Article 53. Presumption as to accident arising in the course of employment
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- Article 91. Recovery and write-off of benefit

## GENERAL PROVISIONS

### Article 1. Short title, extent, commencement, and application

- (1) This Sub-Decree may be cited as the National Social Security Fund Sub-Decree 2005.
- (2) This Sub-Decree shall apply throughout Cambodia.
- (3) This Sub-Decree shall come into force on such appointed date or dates as the Minister in charge of social security may appoint, and different dates may be appointed for different provisions of this Sub-Decree and for different provinces or for different parts thereof.

### Article 2. Definitions

In this Sub-Decree, unless there is anything repugnant in the subject or context,

- (1) "child" means a child of the deceased employee
  - (a) who is a child under eighteen years of age, including
    - (i) a posthumous child and
    - (ii) an illegitimate child of the employee; or
  - (b) who is a child of any age and is mentally retarded or physically incapacitated and is incapable of supporting himself;
- (2) "contribution" means the sum of money payable to the National Social Security Fund by the principal employer in respect of an insured employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Sub-Decree;
- (3) "dependant" means any of the following relatives of a deceased employee, namely:
  - (a) a widow or widower who is not separated and has undergone a legal marriage registered with the records office, a child or a widowed mother; and
  - (b) if partly dependent on the earnings of the insured person at the time of his death a parent who is aged, other than a widowed mother.
- (4) "duly appointed" means appointed in accordance with the provisions of this Sub-Decree.
- (5) "employee" means any person who is employed for wages under a contract of service or apprenticeship with an employer, whether the contract is expressed or implied or oral or in writing, on or in connection with the work of an industry to which this Sub-Decree applies and
  - (a) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the industry, whether such work is done by the employee on the premises of the industry or elsewhere;
  - (b) who is employed by or through an immediate employer on the premises of the industry or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the industry or which is preliminary to the work carried on in or incidental to the purpose of the industry; or
  - (c) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service,
- (6) "employment injury" means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in an industry and includes any commuting accident on a direct route from his residence to place of work to which this Sub-Decree applies;
- (7) "Funds" means the National Social Security Funds established under this Sub-Decree;
- (8) "Government" means the Government of Cambodia;
- (9) "immediate employer" in relation to employees employed by or through him, means a person who has undertaken the execution on the premises where the principal employer is carrying on his trade or business, profession, vocation, occupation or calling, or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the trade or business, profession, vocation, occupation or calling, of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such trade or business, profession, vocation, occupation or calling, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer;

- (10) "industry" means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft or industrial occupation or a vocation of employees;
- (11) "Minister" means the Minister charged with responsibility for social security;
- (12) "minor" means a person who has not attained eighteen years of age;
- (13) "month" means a month reckoned according to the Gregorian calendar;
- (14) "Organization" means the National Social Security Fund;
- (15) "permanent partial disablement" means such disablement of a permanent nature as reduces the earning capacity of an employee in every employment which he was able to undertake at the time of the accident resulting in the disablement: Provided that every injury specified in Part II of the Second Schedule shall be deemed to result in permanent partial disablement;
- (16) "permanent total disablement" means such disablement of a permanent nature as disables an employee for all work which he was capable of performing at the time of the accident resulting in such disablement: Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Second Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity as specified in the said Part II against those injuries amounts to one hundred per cent (100%) or more;
- (17) "principal employer" means the owner of an industry or the person with whom an employee has entered into a contract of service or apprenticeship and includes:
- (a) a manager, agent or person responsible for the payment of salary or wages to an employee;
  - (b) the occupier of a factory;
  - (c) the legal representative of a deceased owner or occupier; and
  - (d) any government in Cambodia; a department of any such government, local authority, or statutory body; and, where an employee is employed with any such government, department, authority, or body or with any officer on behalf of any such government, department, authority, or body, the officer under whom such employee is working: Provided that no such officer shall be personally liable under this Sub-Decree for anything in good faith done or omitted to be done by him as an officer of such employer;
- (18) "Schedule" means a Schedule to this Sub-Decree;
- (19) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of the injury;
- (20) "wages" means all remuneration payable in money by an employer for work done to an employee by virtue of a written or verbal contract and includes the following: actual wage or remuneration; overtime payments; commissions; bonuses and indemnities; profit sharing; gratuities; the value of benefits in kind; family allowance in excess of the legally prescribed amount; holiday pay or compensatory holiday pay; and any amount paid by the employer during disability and maternity leave. However the following are not included as wages: the value of health care; legal family allowance; travel expenses; and benefits granted exclusively to help the employee do his or her job.

### **Article 3. Establishment of the NSSF**

There shall be established a public establishment called the "National Social Security Fund," hereafter referred to as the NSSF, to replace the Department of Social Security of the Ministry of Labour and Vocational Training. The NSSF shall be administered by the Ministry of Labour and Vocational Training for all matters other than finance. All matters on finance shall be supervised by the Ministry of Economy and Finance.

The NSSF shall have its headquarters in Phnom Penh City.

The NSSF shall be a legal entity with autonomy in administration and shall be self-financing.

### **Article 4. Administration of the Social Security Scheme**

- (1) The National Social Security Fund shall administer the schemes of Social Security protection embodied in the provisions of the Labour Law and in accordance with the provisions of the Sub-Decrees providing for such protection.
- (2) The general direction and superintendence of the Organization shall vest in the Governing Body which shall be established in accordance with the provisions of this Sub-Decree.

#### **Article 5. The National Social Security Fund**

The Organization shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its name and, subject to and for the purposes of this Sub-Decree, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description, and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Organization upon such terms as it thinks fit.

#### **Article 6. Establishment of a Governing Body.**

- (1) There shall be established a Governing Body.
- (2) The Governing Body shall be composed as follows:
  - (a) A representative of the Ministry of Labour and Vocational Training as Chairman;
  - (b) A representative of the Council of Ministers as Member;
  - (c) A representative of the Ministry of Economy and Finance as Member;
  - (d) A representative of the Ministry of Health as Member;
  - (e) Not more than two persons representing employers to be appointed by the Minister in consultation with such organizations representing employers as the Minister may think fit for that purpose;
  - (f) Not more than two persons representing employees to be appointed by the Minister in consultation with such organizations representing employees as the Minister may think fit for that purpose;
  - (g) One person with experience in social security matters to be appointed by the Minister; and
  - (h) The Director General of the NSSF as a Permanent Member.
- (3) The appointment of members of the Governing Body shall be notified in the Prakas of the Ministry.
- (4) Members of the Governing Body appointed under section (2) shall hold office for a period of three years or such term and be subject to such conditions as the Minister may specify in the instrument appointing them.
- (5) The Governing Body shall not be prevented from performing any of its functions, duties and obligations under this Sub-Decree by any vacancy in its membership: Provided that the Minister shall take all possible steps to ensure that any vacancy among persons appointed in accordance with section 2 shall be filled as soon as is reasonably practicable.
- (6) The Minister may appoint an officer of the Organization to perform the duties of Secretary of the Governing Body and another officer to be his Assistant.
- (7) If for any period the Chairman of the Governing Body is temporarily absent from Cambodia or temporarily incapacitated through illness, or for any other reason is unable to perform his duties, the Minister shall appoint any person to perform the duties of Chairman during such period.

#### **Article 7. Governing Body shall**

- (1) Meetings
  - (a) The Governing Body shall meet at least three times in each year.
  - (b) Meetings of the Governing Body shall be convened by the Chairman or in his absence by any person appointed by the Minister to act as Chairman, and notification of meetings shall be issued over the signature of the Chairman, any person appointed by the Minister to act as Chairman or the Secretary.

- (c) The quorum of the Governing Body shall be five members including the Chairman or any person appointed by the Minister to act as Chairman presiding.
  - (d) Where the Governing Body has to determine any question by a vote, and an equality of votes result, the Chairman shall have a casting vote in addition to his deliberative vote.
  - (e) The Governing Body may request any person, not being one of its members, to attend any meeting for the purpose of advising it or furnishing information on any matter under discussion but any person so attending shall have no right to vote.
  - (f) Subject to the provisions of this Sub-Decree, the Governing Body shall regulate its own procedure.
- (2) Minutes
- (a) The Governing Body shall cause minutes of all its meetings to be maintained in proper form and include a record of all decisions taken.
  - (b) Minutes of meetings of the Governing Body shall be duly signed and such minutes shall be receivable in evidence in all legal proceedings without further proof, and every meeting of the Governing Body in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.
- (3) Common seal
- (a) The Organization shall have a common seal which shall bear such device as the Board shall approve, and such seal may from time to time be broken, changed, altered or made anew as the Governing Body may think fit.
  - (b) Until a seal is provided by the Governing Body, a stamp bearing the description "National Social Security Fund" may be used and shall be deemed to be a common seal.
  - (c) The common seal or the stamp referred to in sub-paragraph (b) shall be kept in the custody of the Chief Executive Officer or such other person as may be authorized by the Governing Body and shall be authenticated by either the Chairman or such person as may be authorized by the Governing Body in writing; and all deeds, documents and other instruments purporting to be sealed with the said seal authenticated as aforesaid shall, until the contrary is proved, be deemed to have been validly executed: Provided that any documents or instrument which is executed by a person not being a body corporate would not be required under seal and may in like manner be executed by the Governing Body and any such document or instrument may be executed on behalf of the Governing Body by an officer or servant of the Organization generally or specially authorized by the Governing Body in that behalf.
  - (d) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Organization.
- (4) Validity of act or proceedings
- No act or proceedings taken under this Sub-Decree shall be questioned on the ground-
- (a) of any vacancy in the membership of, or of any defect in the constitution of the Governing Body; or
  - (b) of any omission, defect or irregularity not affecting the merits of the case.

**Article 8. Cessation of membership of Governing Body**

- (1) A member of the Governing Body shall cease to be a member if
  - (a) he fails to attend three consecutive meetings without leave of the Governing Body; or
  - (b) his appointment is revoked by the Minister.
- (2) A member of the Governing Body appointed by the Minister may resign his office by notice in writing to the Minister.

**Article 9. Disqualification**

- (1) A person shall be disqualified from being a member of the Governing Body
  - (a) if he is declared to be of unsound mind by a competent court; or
  - (b) if he is an un-discharged bankrupt; or

- (c) if he has directly or indirectly any interest in a subsisting contract with or any work being done for the Organization except as a medical practitioner or as a shareholder (not being a director) of a company; or
  - (d) if before or after the commencement of this Law, he has been found guilty by any competent court of an offence involving fraud, dishonesty or moral turpitude; or
  - (e) if after demand, a member fails to remit to the Organization previous contributions which have become due; or
  - (f) if he subsequently becomes an officer or servant of the Organization other than the Chief Executive Officer and the Deputy Chief Executive Officer; or
  - (g) if a member has become a member of any legislature.
- (2) Any cessation of membership of the Governing Body in accordance with the provisions of this Article shall be notified in the Government Gazette.

**Article 10. Public servants and public officers**

All members of the Governing Body and officers and servants of the Organization while discharging their duties as such members, officers or servants shall be deemed to be public servants and public officers for the purposes of any written law for the time being in force.

**Article 11. Board to give effect to Minister's directions**

- (1) In the exercise of its powers and the performance of its duties and functions under this Act, the Governing Body shall be responsible to the Minister who may, from time to time, give directions not inconsistent with the provisions of this Sub-Decree, and the Governing Body shall as soon as possible give effect to all such directions.
- (2) The Minister may at any time require the Governing Body to submit to him proposals for the introduction of new Social Security Schemes or the modification or extension of the existing schemes as may be necessary for the fulfilment of the Government's social policy programs.

**Article 12. Delegation of Power**

The Governing Body may, subject to such conditions, limitations, or restrictions as it thinks fit, delegate to the Chairman, Chief Executive Officer, any of its members, or any person authority to sanction expenditures from the National Social Security Funds or any other monies under the control of the Governing Body, up to such limit as it shall in such case specify.

**Article 13. Administrative control of officers and servants by Chief Executive Officer**

- (1) Subject to the directions of the Chairman of the Governing Body, the Chief Executive Officer shall have administrative control of the officers and servants of the Organization.
- (2) The Chief Executive Officer shall perform such other or further duties as the Minister or the Governing Body may from time to time determine.

**Article 14. Appointment of officers and servants**

- (1) Governing Body may appoint such other officers and servants of the Organization as may be necessary for the purpose of carrying out the provisions of this Act.
- (2) No person shall be eligible for employment as officer or servant of the Organization if he has, directly or indirectly any share or interest in any contract or proposed contract with, for or on behalf of the Organization.
- (3) Any officer or servant of the Organization who has or acquires directly or indirectly any such share or interest shall be liable to dismissal by the Governing Body: Provided that no such officer or servant shall be dismissed without being given a reasonable opportunity of being heard.

**Article 15. Setting up divisions, regional offices, etc.**

The Governing Body may set up within the Organization such divisions and regional and local offices as it may consider necessary for the efficient functioning of the organization.

**Article 16. Power to make rules**

(1) With the approval of the Minister, the Governing Body may, from time to time, make staff rules relating to the conditions of service of officers and servants and the Chief Executive Officer and Deputy Chief Executive Officer of the Organization:

**Article 17. Power to dispose of staff questions**

(1) Subject to any other provisions in this Sub-Decree and in the staff rules, the Director-General shall dispose of all questions relating to the service (other than questions on appointment, suspension, promotion and dismissal), pay, privileges and allowances of officers and servants of the Organization.

(2) Any officer or servant aggrieved by a decision of the Director General in the exercise of his powers under this section may appeal to the Governing Body within such period as maybe determined in staff rules.

**Article 18. Committees**

Notwithstanding any other provisions in this Sub-Decree, the Governing Body may set up committees consisting of members of the Governing Body or persons who are not members of the Governing Body or a combination of both to advise or assist the Governing Body on such matters concerning its functions as it considers fit, and the Governing Body may delegate, subject to such conditions as it may impose, such of its functions as it considers fit to any such committees.

**Article 19. Disciplinary Committee**

There shall be a Disciplinary Committee which shall consist of the following three members:

(a) two members to be elected by and from among the members of the Governing Body (other than the Chairman of the Governing Body), one of whom shall be elected as chairman; and

(b) the Chief Executive Officer:

Provided that the Chief Executive Officer or the Deputy Chief Executive Officer, as the case may be, shall not be a member of the Disciplinary Committee in any proceedings before it in which he is the complainant, in which case his place shall be taken by a member to be appointed by and from the members of the Governing Body.

**Article 20. Discipline of officers**

(1) The disciplinary authority in respect of every officer and servant of the Organization, other than the Chief Executive Officer and the Deputy Chief Executive Officer, shall be the Disciplinary Committee established under Article 19.

(2) In the exercise of its functions, powers or duties the Disciplinary Committee shall have the power to take such disciplinary action and impose such disciplinary punishment as maybe provided by any rules that may be made.

(3) The Disciplinary Committee may, subject to section (4), delegate any of its disciplinary functions, powers or duties to any officer or servant of the Organization, or to any committee of officers or servants of the Organization, in respect of any particular officer or servant of the Organization or in respect of any class or category of officers or servants of the Organization, and the officer or servant or the committee delegated with such functions, powers or duties shall carry out, exercise or discharge them under the direction and control of the Disciplinary Committee which shall have the power to review, rescind or vary any decision or finding of such officer or servant, or committee.

(4) No delegation shall be made under section (3) so as to enable an officer or servant of the Organization to exercise any disciplinary authority or to be a member of a committee which may exercise any disciplinary authority over an officer or servant who is superior to him in rank.

(5) Any officer or servant of the Organization who is dissatisfied with the decision of the Disciplinary Committee or of any person or committee delegated with disciplinary functions, powers or duties under section (3) may, within fourteen days, appeal in writing against such decision to the Disciplinary Appeal Board which may give such decision thereon as it deems fit.

#### **Article 21. Establishment of Disciplinary Appeal Board**

- (1) There shall be established a Disciplinary Appeal Board composed as follows:
  - (a) the Chairman of the Governing Body, as Chairman; and
  - (b) members of the Governing Body, excluding the members who sit in the Disciplinary Committee.
- (2) The decision of the Disciplinary Appeal Board shall be final.

#### **Article 22. Power to make disciplinary rules**

- (1) The Governing Body may, with the approval of the Minister, make such disciplinary rules as it deems necessary or expedient to provide or the discipline of the officers and servants of the Organization.
- (2) The disciplinary rules made by the Governing Body under this Article may include
  - (a) provisions for the interdiction with reduction in salary or in other remuneration, or provisions for the suspension without salary or other remuneration, of an officer or servant of the Organization during the pendency of disciplinary proceedings;
  - (b) provisions for disciplinary offences and punishment as the Governing Body may deem appropriate, and the punishments so provided may extend to dismissal or reduction in rank; and
  - (c) the procedure for disciplinary proceedings and provisions for an opportunity for representations to be made by the person against whom disciplinary proceedings are taken.

#### **Article 23. Imposition of surcharge**

- (1) If the Governing Body is satisfied that any person who is or was in the employment of the Organization
  - (a) is or was responsible for any improper payment of monies from the Funds or for any payment of such monies which is not duly vouched;
  - (b) is or was responsible for any deficiency in, or for the destruction of, any monies, stamps, securities, stores or other property of the Organization;
  - (c) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
  - (d) has failed to make any payment, or is or was responsible for any delay in the payment, of monies from the Funds to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Organization, and if a satisfactory explanation is not furnished to the Governing Body within a period specified by the Governing Body, with regard to the failure to collect, improper payment, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Governing Body may surcharge against the said person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay in making payment, the Governing Body may surcharge against the said person such sum as the Governing Body may think fit.
- (2) The Governing Body shall cause the Chief Executive Officer to be notified of any surcharge made under section (1) and the Chief Executive Officer shall thereupon notify the person surcharged.
- (3) The Governing Body may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge

should have been made, and the Governing Body shall at once cause the Chief Executive Officer to be notified of such withdrawal.

(4) The amount of any surcharge imposed under section (1) and not withdrawn under section (3) shall be a debt due to the Organization from the person against whom the surcharge is imposed and may be sued for and recovered in any court at the suit of the Organization and may also be recovered by deduction

- (a) from the salary of the person surcharged if the Governing Body so directs; or
- (b) from the pension of the person surcharged if the Governing Body so directs, by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of the person.

#### **Article 24. Establishment of Promotion Board**

(1) There shall be established a Promotion Board in respect of each of the categories of officers and servants.

(2) The relevant Promotion Board shall have jurisdiction and shall exercise its functions in all matters relating to promotion in respect of all officers and servants of the Organization in the category specified.

#### **Article 25. Establishment of Promotion Appeal Board**

(1) There shall be established a Promotion Appeal Board in respect of each of the categories of officers and servants.

(2) The Promotion Appeal Board shall have jurisdiction and shall exercise its functions in respect of any appeal against any decision of a Promotion Board relating to an officer or servant over whom that Promotion Board has jurisdiction.

(3) Any officer or servant, who is eligible for promotion or acting in a capacity with a view to promotion, who is aggrieved by the decision of the Promotion Board concerned, may appeal to the relevant Promotion Appeal Board.

(4) A Promotion Appeal Board, after considering the appeal, may confirm or vary the decision of the Promotion Board concerned, the result of which shall be duly conveyed to the Promotion Board to enable it to come to a decision.

(5) The Promotion Board may alter the effective date of promotion and the order of seniority of the officers or servants concerned but without prejudice to the promotion *per se* of the successful officers or servants.

(6) The decision of the Promotion Appeal Board shall be final.

#### **Article 26. Fees and allowances**

Members of the Governing Body shall receive such fees and allowances as may from time to time be determined by the Ministry of Labour and Vocational Training in consultation with the Ministry of Economy and Finance in the instrument appointing them.

#### **Article 27. Chief Executive Officer**

(1) The Minister shall appoint a Chief Executive Officer of the Organization.

(2) The Minister may also appoint one or more Deputy Chief Executive Officers.

(3) If for any period the Chief Executive Officer is temporarily absent from Cambodia or temporarily incapacitated through illness, or for any other reason is unable to perform his duties, or where the office of the Chief Executive Officer becomes vacant, the Minister shall appoint one of the Deputy Chief Executive Officer to perform the duties of the Chief Executive Officer during such period.

(4) The terms and conditions of service of the Chief Executive Officer and of the Deputy Chief Executive Officers shall be determined by the Ministry of Labour and Vocational Training in consultation with the Minister of Finance.

(5) The Chief Executive Officer of the NSSF shall be delegated discretionary powers to carry out the administration and routine works of the NSSF in accordance with the provisions of the law and to represent the NSSF. The powers shall be delegated through the established procedures of the NSSF and upon the approval of the Governing Body.

(6) As provided in the Sub-Decree, the Chief Executive Officer shall carry out the following tasks:

- (a) to organize the Governing Body meeting;
- (b) to submit documents to the Governing Body for approving; enforce the decision made by the Governing Body; and periodically report on the NSSF activities to the Governing Body;
- (c) to be in charge of administrative, technical, and financial matters of the NSSF;
- (d) to prepare the NSSF annual budget and submit to the Governing Body for approval;
- (e) to manage and govern agencies or personnel of the NSSF following the NSSF statutes or the existing laws and the approval of the Governing Body.
- (f) to submit proposals for recruitment, nomination, promotion and disciplinary action of the NSSF personnel to the Governing Body;
- (g) to delegate some or all powers including the right to authorize payments to subordinate officers according to the conditions set by the Governing Body;
- (h) to represent the NSSF and be responsible before the laws regarding complaints and to protect the NSSF interests.

#### **Article 28. The NSSF Accountant**

The NSSF Accountant shall be appointed by Prakas by the Ministry of Labour and Vocational Training after consultation with the Minister of Ministry of Economy and Finance. The Accountant shall report and be under the supervision of the Chief Executive Officer of the NSSF.

#### **Article 29. Establishment of a Fund**

(1) The NSSF shall hold its account in conformity with Cambodian Accounting Regulations and Accounting Rules that are defined by the Ministry of Economy and Finance. The fiscal year begins 1 January and ends at 31 December of the same year.

(2) There shall be established under this Sub-Decree the Social Security Fund into which shall be paid

- (a) contributions payable by or in respect of insured persons; rent, interest, dividend or any other income derived from the assets of the Organization;
- (b) sums properly accruing to the Fund under this Sub-Decree, including the repayment of benefits;
- (c) sums recovered under this Sub-Decree as fees, costs, charges and any interest on arrears of contributions;
- (d) sums by way of grants, donations and gifts from the Government, local authority, or any individual or body, whether incorporated or not, for all or any of the purposes of this Sub-Decree; and
- (e) any other monies payable to the Organization.

#### **Article 30. Administration of the Fund**

The Social Security Fund shall be held and administered by the Organization for the purposes of this Sub-Decree. All monies accruing or payable to the said Fund shall be paid into such banks as may be authorized by the Governing Body: Provided that the Board may authorize post offices also to accept, on behalf of the Organization, all monies accruing or payable to the Fund subject to such terms and conditions as may be prescribed.

#### **Article 31. Acceptance of grants, donations, etc.**

The Organization may accept grants, donations and gifts from the Federal or, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Sub-Decree.

#### **Article 32. Purposes for which the Fund may be expended**

Subject to the provisions of this Sub-Decree, the Social Security Fund shall be expended only for the following purposes, namely

- (a) payment of benefits and provision of medical treatment and attendance to employees or to their dependants, as the case may be;
- (b) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of employees;
- (c) payment of contributions to the Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons including the cost of any building and equipment, in accordance with any agreement entered into by the Organization;
- (d) defraying the cost of the appellate boards and medical boards set up under this Sub-Decree;
- (e) payment of sums under any decree, order or award of any court or tribunal against the Organization or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Organization;
- (f) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Sub-Decree;
- (g) defraying expenditure, within the limits prescribed, on measures for the improvement of the health, occupational safety and welfare of insured persons and for the rehabilitation and reemployment of insured persons who have been disabled or injured;
- (h) payment of fees, allowances and other remuneration to members of the Governing Body; and
- (i) such other purposes as may be authorized by the Minister in consultation with the Minister of Economy and Finance.

**Article 33. Expenditure on Administration**

(1) Notwithstanding Article 32, expenditure may be incurred by the Organization out of the Social Security Fund up to such amount as the Minister may authorize, for any one year, for carrying on the administration of the Scheme of Social Security provided under the Sub-Decree including

- (a) the payment of salaries, leave and transfer expenses, travelling and compensatory allowances, gratuities and compassionate allowances, contributions to benefit fund, welfare and recreation of officers and servants of the Organization and meeting expenditures in respect of offices and other services set up for the purpose of giving effect to the provisions of this Sub-Decree;
- (b) the payment of fees and other remuneration to auditors, actuaries, agents, technical advisers, bankers, stock brokers, surveyors or other persons employed on a temporary or part time basis to carry into effect the objectives of this Sub-Decree; and
- (c) the purchase or hire of equipment.

(2) The Organization may authorize the withdrawal of such amount from the Social Security Fund as may be required for granting loans to officers and servants of the Organization as provided in the staff rules or for purposes similar to those approved by the Government for members of the public services.

**Article 34. Administrative expenditure as Government's responsibility**

Notwithstanding the provisions of the foregoing section, the Government may incur all expenditure for and in connection with the establishment of the Organization up to the date of its establishment and thereafter may bear all or to such extent and for such period as may be prescribed by the Minister of Economy and Finance the administrative expenditure in connection with the purposes mentioned in the foregoing Article.

**Article 35. Holding of property, etc.**

The Organization may, subject to such conditions as may be prescribed by the Minister in consultation with the Minister of Economy and Finance acquire and hold property both

movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Organization is established.

#### **Article 36. Investment of funds**

(1) Subject to such conditions as may be prescribed by the Minister in consultation with the Minister of Economy and Finance, the funds of the Organization which are not immediately required for meeting expenses under the Sub-Decree shall be invested in investments or securities authorized for the investment of trust funds by any written law for the time being in force; in investment in shares and debentures in any public company the prices of which are quoted or sought to be quoted on the stock exchange established in Cambodia; and in such other investments or securities as the Governing Body may decide:

Provided that any investment made under this Sub-Decree may be varied, transposed or realized from time to time.

(2) The Minister in consultation with the Minister of Economy and Finance may, at any time, direct the vacation in part or in whole, or prohibits investment, in any security or class of securities. For the purposes of this sub-section "debentures" includes debenture stock, bond, note or other securities or obligations of a company, whether constituting a charge on the assets of the company or not and also includes the right to subscribe for any debenture; "shares" means the paid-up shares (whether fully paid or not) in the share capital of a company and includes stocks and rights to subscribe for any stock or shares.

#### **Article 37. Investment Panel**

There shall be established an Investment Panel which shall subject to such directions as may be issued by the Governing Body, be responsible for matters pertaining to the investments of the Organization. The Investment Panel shall consist of the following persons:

- (a) the Chairman of the Governing Body as Chairman;
- (b) two members appointed by the Governing Body from amongst the members of the Governing Body, one representing the employers and one representing the insured persons;
- (c) the Chief Executive Officer of the NSSF;
- (d) a representative from the Ministry of Economy and Finance; and
- (e) a representative from the Central Bank of Cambodia.

#### **Article 38. Raising of loans**

The Organization may, with the previous sanction of the Minister of Economy and Finance and on such terms as may be prescribed by him, raise loans and take measures for discharging such loans.

#### **Article 39. Budget estimates**

The Organization shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the Minister before such date as may be fixed by him in that behalf and such budget shall contain provisions adequate in the opinion of the Minister for the discharge of the liabilities incurred by the Organization and for the maintenance of a working balance.

#### **Article 40. Accounts**

The Organization shall maintain proper accounts and records and shall prepare a statement of accounts in respect of each year or of such other period as the Minister may direct.

#### **Article 41. Audit**

(1) The accounts of the Organization shall be audited annually by the Auditor-General.

(2) The Auditor-General or an officer delegated by him shall at all reasonable times have access to the books, accounts and other documents of the Organization and may, for the purposes of an audit, call for such explanation and information as he may require or examine any principal or other officer of the Organization.

(3) The Governing Body shall forward to the Minister a copy of the auditor's report and any observations together with an audited copy of the accounts of the Organization. The Minister may direct the Governing Body to send a copy of the auditor's report and of any statement of accounts to any Government department and such statement of accounts to the Auditor-General as necessary.

#### **Article 42. Annual Report**

The Governing Body shall submit to the Minister an annual report of the work and activities of the Organization before 30th June of the following year unless otherwise extended by the Minister.

#### **Article 43. Annual report and audited accounts**

The annual report and the audited accounts of the Organization shall be laid before each House of Parliament.

#### **Article 44. Valuation of assets and liabilities**

The Governing Body shall, at intervals of five years, cause an actuarial review to be carried out on the working of the scheme provided under this Sub-Decree, involving a valuation of the assets and liabilities of the Organization, and such report shall be submitted to the Minister:

Provided that it shall be open to the Minister to direct that such actuarial review and valuation be made at such other times as he may consider necessary.

#### **Article 45. Employers to furnish returns and maintain registers in certain cases**

(1) Every principal and immediate employer shall submit to the Organization or to such officer of the Organization as it may direct such returns in such form and containing such particulars relating to persons employed by him or to any industry in respect of which he is the principal or immediate employer as may be specified by the NSSF.

(2) Where in respect of any industry the Organization has reason to believe that a return should have been submitted under section (1) but has not been submitted, the Organization may require any person in charge of the industry to furnish such particulars as it may consider necessary for the purpose of enabling the Organization to decide whether the industry is an industry to which this Sub-Decree applies.

(3) Every principal and immediate employer shall maintain such registers or records in respect of his industry as may be required by the Sub-Decree.

#### **Article 46. Inspectors, their functions and duties**

(1) The Minister may appoint such persons as Inspectors, as he thinks fit, for the purposes of this Sub-Decree, within such area or areas as he may assign to them: Provided that the powers and duties of Inspectors may be vested by the Minister in any other officer or officers already in the service of the Government.

(2) Social security inspectors shall be covered by the provisions of the Labour Law for the following issues:

- (a) Oath of allegiance before coming into their position;
- (b) Right and power of inspection;
- (c) Conduct of inspection and investigation in enterprises.

(3) Any Inspector appointed by the Minister under section (1), hereinafter referred to as Inspector, or other official of the Organization or other official of the Government authorized in this behalf by him shall cooperate with labour inspectors and other relevant organizations for the purposes of enquiring into the correctness of any of the particulars stated in any

return referred to in Article 45 or for the purpose of ascertaining whether any of the provisions of this Sub-Decree have been complied with and may

- (a) require any principal or immediate employer to furnish to him such information as he may consider necessary for the purposes of this Sub-Decree; or
  - (b) at any reasonable time enter any office, establishment, factory, or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such accounts, books, and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or
  - (c) examine, with respect to any matter relevant to the purposes aforesaid, the principal or immediate employer, his agent or servant, or any person found in such office, establishment, factory, or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to be or to have been an employee; or
  - (d) make copies of or take extracts from any register, account book or other document maintained in such office, establishment, factory, or other premises; or
  - (e) exercise such other powers as may be prescribed.
- (4) An Inspector shall exercise such functions and perform such duties as may be authorized by the Organization or as may be specified in the regulations.

#### **Article 47. Determination of contributions in certain cases**

- (1) Where in respect of an industry no returns, particulars, registers or records are submitted, furnished or maintained in accordance with the provisions of Article 45 or any Inspector or other official of the Organization referred to in section (1) of Article 34 is obstructed by the principal or immediate employer or any other person, in exercising his functions or discharging his duties under Article 47, the Organization may, on the basis of information available to it, by order determine the amount of contributions payable in respect of the employees of that industry.
- (2) The order made by the Organization under section (1) shall be sufficient proof of the claim of the Organization for recovery of the amount determined by such order as a debt due to the Organization.
- (3) Any order made under this section shall be served either personally or by registered post.

#### **Article 48. Powers to Determine Contribution Rates**

- (1) Contributions payable to the NSSF shall be calculated according to wage scales and the monthly wage of the employee. These scales shall be determined by a Joint-Prakas of the Ministry of Labour and Vocational Training and the Ministry of Economy and Finance.
- (2) Contributions towards the pension scheme branch shall be borne by both the employee who is a member of the NSSF and the employer. The total contribution rate for the pension scheme shall be determined by the NSSF after an actuarial evaluation. The rate shall be shared between the employee and the employer and a Prakas of the Ministry of Labour and Vocational Training shall determine the share of each party.
- (3) Contributions for the Employment Injury Scheme shall be borne solely by the employer. The contribution rates of this scheme shall be fixed determined the Ministry of Labour and Vocational Training. In the initial period of introduction of the scheme a uniform rate of contribution rate shall apply to all employers of enterprises or establishments and shall be two per cent (2%) of the monthly wage of the employee. Subsequently, the NSSF may introduce a rate according to the occupational risk classification of each industry and the maximum rate payable shall be five per cent (5%) of the employees' monthly wage.

#### **Article 49. Rates and Qualification Conditions for Old Age and Invalidity Pension**

- (1) An employee or member of the NSSF upon reaching the age of 55 years of age, and having fulfilled the following conditions:

- (a) has been registered with the NSSF for at least twenty years and has paid contributions for sixty months in the period of ten years immediately preceding the date on which he reaches age 55 years; or
- (b) has paid 180 monthly contributions,
- shall be entitled to old age pension equal to thirty per cent (30%) of the average assumed wages for the period of contribution in the last ten years. Where the employee or member of the NSSF has paid contributions exceeding 180 monthly contributions, the rate of pension shall be increased by 1.33 per cent for every 12 additional monthly contributions.
- (2) The employee or member of the NSSF may apply for an early pension before reaching the age of 55 years if he fulfils conditions specified in section (1) and is medically boarded out and certified due to a mental or physical condition incapable of earning one-third of his previous earnings. The early pension shall be equal to thirty per cent (30%) of the average assumed wage corresponding to the months of contribution in the past ten years immediately preceding the application.
- (3) An employee or member of the NSSF who upon reaching age 55 years and had been registered with the NSSF for at least twenty years, and has paid less than sixty monthly contributions in the past ten years immediately preceding the date on which he reaches age 55 years and has less than one hundred and eighty monthly contributions in total shall be entitled to an old age lump sum equal to the total amount of contributions paid on his behalf and interest at a rate of four per cent (4%) on the total amount as at the end of each year.
- (4) An employee or member of the NSSF who upon reaching the age of 55 years has less than sixty monthly contributions and has ceased all wage-related work shall be entitled to old age lump sum equal to the total amount of contributions paid on his behalf.
- (5) Notwithstanding the provisions of sections (3) and (4), the member of the NSSF may have the right to pay contributions voluntarily for entitlement to old age pension. The method and forms of voluntary contributions shall be fixed by Prakas of the Ministry of Labour and Vocational Training.
- (6) In the case that a member of the NSSF dies not as a result of an employment injury, the beneficiaries shall be entitled to funeral grant equal to Riel 700,000 provided that the contributions have been paid for no less than three months in the six months immediately preceding the date of death.

#### **Article 50. Invalidation Pension**

- (1) A member of the NSSF who has been disabled before reaching 55 years of age shall be entitled to invalidity pension provided he has been registered with the NSSF for at least five years and has paid six monthly contributions within the period of twelve months immediately preceding the date of application for invalidity. The invalidity pension shall be equal to twenty-eight per cent (28%) of the average assumed monthly wage corresponding to the contribution.
- (2) The invalidity benefits shall be paid from the date of application for invalidity pension and upon the certification of the loss of earnings capacity by a medical board.
- (3) The invalidity pension shall be reviewed periodically. The NSSF shall determine the review date by a medical board of the continued existence of a medical or mental condition that renders the member incapable of earning one third of his previous earnings.
- (4) The Technical Council in accordance with the proposal of the Governing Body of the NSSF shall determine the conditions for entitlement for invalidity.

#### **Article 51. Application for old age or invalidity**

The application for old age or invalidity pensions shall be send to the NSSF on such forms and in such manner as provided by the guidelines issued by the Ministry of Labour and Vocational Training.

#### **Article 52. Employment Injury Benefits**

Subject to the provisions of this Sub-Decree, employees, their dependants or the persons hereinafter mentioned, as the case may be, shall be entitled to the following benefits, namely:

- (a) periodical payments to an employee suffering from disablement as a result of an employment injury sustained as an employee under this Sub-Decree and certified to be eligible to such payments by an authority specified in this behalf by the Sub-Decree (hereinafter referred to as disablement benefit);
- (b) periodical payments to such dependants of an employee who dies as a result of an employment injury sustained as an employee under this Sub-Decree (hereinafter referred to as dependants' benefit);
- (c) payments for funeral benefit or expenses, as the case may be to the person or persons on the death of an employee as a result of an employment injury sustained as an employee under this Sub-Decree or while he was in receipt of disablement benefit under this Sub-Decree, (hereinafter referred to as funeral benefit);
- (d) periodical payments to an employee who is in receipt of disablement benefit if and so long as he is so severely incapacitated or disabled as to constantly require the personal attendance of another person (hereinafter referred to as constant-attendance allowance): Provided that the existence of the degree of incapacity qualifying a disabled employee for constant-attendance allowance shall be verified by a duly appointed medical board or the appellate medical board or any other authority specified in this behalf by the Minister; and
- (e) medical treatment for and attendance on an employee persons suffering from disablement as a result of an employment injury sustained as an employee under this Sub-Decree (hereinafter referred to as medical benefit);

#### **Article 53. Presumption as to accident arising in the course of employment**

For the purposes of this Sub-Decree, an accident arising in the course of an employee's employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment.

#### **Article 54. Accidents while travelling**

An accident happening to an employee shall be deemed to arise out of and in the course of his employment if the accident happens while the person is travelling on a direct route between his place of residence or stay and his place of work: Provided that if the accident occurs during any interruption of, or deviation from, the employee's journey made, the accident shall not be deemed to arise out of and in the course of his employment.

#### **Article 55. Accidents happening while meeting emergency**

An accident happening to an employee in or about any place which he is for the time being employed for the purpose of his employer's trade or business, profession, vocation, occupation or calling, shall be deemed to arise out of and in the course of employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succor or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimize damage to property.

#### **Article 56. Medical benefit**

- (1) An employee whose condition requires, as a result of employment injury, medical treatment and attendance shall be entitled to receive medical benefit.
- (2) Such medical benefit may be given either in the form of outpatient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as inpatient in hospital or other institution.
- (3) An employee shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the Organization, and the employee shall not have a right to claim any medical treatment except such as is provided by the dispensary, clinic, hospital or other institution to which he is allotted,

(4) Nothing in this Sub-Decree shall entitle an employee to claim reimbursement from the Organization of any expenses incurred in respect of any medical treatment, except as may be provided by the Sub-Decree.

**Article 57. Temporary disablement benefit**

An employee who sustains temporary disablement shall be entitled to periodical payment for the period of such disablement: Provided that no temporary disablement benefit shall be payable unless the temporary disablement lasts for a period of at least four days including the day of the accident: Provided further that for the purposes of this section and whether or not the employee who sustains the employment injury is paid wages on the day of the employment injury, the commencement of the calculation of the period of four days shall begin from the day of sustaining the employment injury.

**Article 58. Claim for permanent disablement benefit**

An employee who is declared to be permanently disabled by a Medical Board or an Appellate Medical Board or a Social Security Appellate Board or a Special Medical Board shall claim such permanent disablement benefit in a manner and with such Form as prescribed by the Organization.

**Article 59. Dependants' benefit**

If an employee dies as a result of an employment injury sustained as an employee under this Sub-Decree (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit at the rates specified in Article 65 shall be payable to his dependants as follows: to his widow or widower during life or until remarriage, to each child until marriage or until he attains the age of eighteen years, whichever occurs earlier: Provided that in the case of a child referred to as an invalid, dependants' benefit shall continue to be paid so long as he is incapable of supporting himself: to the widowed mother and parents for life.

**Article 60. Submission of claim for funeral benefit**

(1) If an employee person dies as a result of an employment injury or while he is in receipt of disablement benefit under this Sub-Decree, dies, a funeral benefit of an amount of Riel 700,000 or an amount as prescribed by the Minister from time to time shall be paid to one or more of the following persons: the widow the widower; the eldest surviving son or adopted son; the eldest surviving daughter or adopted daughter; the parent:

(2) Where there are no such persons as mentioned in subsection (1), any other person who actually incurs the expenditure of the funeral shall be paid the expenses of the funeral of the deceased insured person or the amount as prescribed by the Minister under subsection (1), whichever is the lesser:

Provided that the claim for such benefit shall be made within three months of the death of the insured person or within such extended period as the Organization or any officer or authority authorized by it in this behalf may allow:

Provided further that notwithstanding the above conditions any disagreement over the question of to whom the payment of funeral benefit should be made, the decision of the Director-General or that of an officer authorized by him shall be final.

**Article 61. Constant-attendance allowance**

An employee who is entitled to permanent total disablement benefit shall also be entitled to constant-attendance allowance equivalent to forty per cent of the rate of such benefit, subject to such maximum as may be prescribed by the Minister from time to time by Prakas, if and so long as he is so severely incapacitated as to constantly require the personal attendance of another person:

Provided that the existence of the degree of incapacity qualifying an insured person for constant-attendance allowance shall be verified by a medical board or the appellate medical

board or any other authority so authorized by the Minister, in such manner as is prescribed by the Sub-Decree.

**Article 62. Calculation of daily rate of benefit**

(1) Daily rate of benefit shall be calculated as follows, for temporary disablement and permanent total disablement, an amount equivalent to seventy per cent (70%) of the assumed average daily wage. The "assumed average daily wage" means the assumed average daily wage of the employee who sustains the employment injury resulting in such disablement. The assumed average daily wage shall be equal to one-thirtieth of the assumed average monthly wage of the insured person. Assumed average monthly wage shall be an amount equivalent to the sum of the assumed monthly wages for each of the months for which contributions have been paid or were payable during the continuous period of six months immediately preceding the month in which the employment injury occurred, divided by the number of months for which such contributions were so paid or payable:

Provided that in the event the employee person has been in employment for less than 24 days in any month, the contributions paid or payable for that month in respect of him shall not be taken into consideration for the calculation of the assumed average monthly wage.

(2) Where no contribution shall be paid or payable in respect of the employee during the continuous period of six months immediately preceding the month in which the employment injury occurred or where none of the contributions paid or payable during the continuous period of six months immediately preceding the month in which the employment injury occurred can be taken into consideration for the purpose of the calculation of the assumed average monthly wage, the daily rate of benefit admissible for temporary disablement and permanent total disablement shall be equal to seventy per cent (70%) of the average assumed monthly wage of a person employed on similar work by the same employer or any employer in the same locality divided by thirty:

Provided that for the purposes of this paragraph the average assumed monthly wage shall be equal to the sum of the assumed monthly wage of a person employed on similar work by the same employer or, if there is no such person, any other person employed on similar work by another employer in the same locality for which the contributions have been paid or were payable during the continuous period of six months immediately preceding the month in which the relevant employment injury occurred, divided by the number of months for which such contributions were so paid or payable:

Provided further that in the event such person has been in employment for less than 24 days in any month, the contribution paid or payable for that month in respect of him shall not be taken into consideration for the calculation of the assumed monthly wage.

(3) Where no contribution shall be paid or payable during the continuous period of six months immediately preceding the month in which the employment injury occurred, or where none of the contributions paid or payable during the continuous period of six months immediately preceding the month in which the employment injury occurred can be taken into consideration for the purpose of the calculation of the assumed monthly wage, or where the daily rate of benefit calculated is less than the minimum rate prescribed by the Minister from time to time by a Prakas, then in any such case the daily rate of benefit admissible for temporary disablement or permanent total disablement shall be deemed to be the minimum rate prescribed by the Minister from time to time.

**Article 63. Permanent Disablement Benefit**

(1) An employee who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment for such disablement: Provided that where permanent disablement is not finally assessed, the benefit provided under this paragraph shall be payable for that limited period or, as the case may be, for life.

Daily rate of permanent partial disablement benefit shall be such percentage of the daily rate of permanent total disablement as is specified in the Second Schedule as being the percentage of the loss of earning capacity caused by such permanent partial disablement:

Provided that for permanent partial disablement not specified in the Second Schedule, the daily rate of benefit shall be such percentage of the rate of permanent total disablement benefit as is proportionate to the loss of earning capacity permanently caused by such permanent partial disablement:

Provided further that where more injuries than one are caused by the same accident, the daily rate of benefit for those injuries shall be aggregated but not so in any case as to exceed the permanent total disablement benefit.

(2) An employee whose permanent disablement has been assessed as final and the loss of earnings capacity has been assessed at more than twenty per cent shall receive a lump sum equal to ninety times the daily rate of permanent disablement for an assessment of one hundred per cent loss of earnings capacity and for any less assessment a proportion of the amount according to the assessment made.

#### **Article 64. Commutation of small periodical payments of permanent disablement benefit and lump sum payment**

(1) An employee whose permanent disablement has been assessed as final, and the extent of whose loss of earning capacity has been assessed at not more than twenty per cent (20%), may apply for commutation of the periodical payments of permanent disablement benefit into a lump sum.

(2) An employee whose permanent disablement has been assessed as final and the loss of earnings capacity has been assessed at more than twenty per cent (20%) shall receive a lump sum equal to ninety times the daily rate of permanent disablement for assessment of one hundred per cent (100%) loss of earnings capacity and for any less assessment a proportion of the amount according to the assessment made.

#### **Article 65. Rate of Dependants' Benefit**

The daily rate of dependants' benefit shall be as follows:

(a) for the widow, an amount equivalent to three-fifths of the daily rate of permanent total disablement benefit of the deceased insured person if he had sustained such disablement from the employment injury which resulted in his death;

(b) for the child, two-fifths of the daily rate of permanent total disablement benefit mentioned in (a):

Provided that the total of the dependants' benefit distributed among the widow and child or children, if a parent is alive, shall be eighty-five per cent (85%) of the daily rate of permanent total disablement benefit, the share of each dependant shall be proportionately reduced so that the total amount payable does not exceed that daily rate of permanent total disablement benefit:

Provided further that if there is no parent entitled to the benefit, the rate payable to the widow and children shall be the daily rate of permanent total disablement.

Provided further that if the widow remarries or dies, the daily rate of benefit for the child shall be three-fifths of the daily rate of permanent total disablement benefit mentioned in (a), and if there be more than one child, the amount payable shall be equally divided between them.

(c) dependants' benefit shall be payable to a parent for life, at an amount equal to fifteen per cent (15%) of the daily rate of permanent total disablement benefit.

#### **Article 66. Actuarial present value of the periodical payments**

(1) For the purposes of the Sub-Decree, the actuarial present value of periodical payments shall be determined in accordance with the following paragraphs.

(2) The actuarial present value of periodical payments of temporary disablement benefit shall be deemed to be the amount actually paid to the employee on account of such benefit or where the amount payable is not known, such amount as is determined in any particular case by the Organization or any other officer authorized by it in this behalf.

(3) The actuarial present value of periodical payments of permanent disablement benefit shall be the amount determined by multiplying the daily rate of permanent disablement benefit with the factor, indicated in column 2 of Schedule 4 to this Sub-Decree, corresponding to the age last birthday of the employee on the date from which the permanent disablement benefit becomes payable to him.

(4) The actuarial present value of periodical payments on account of dependants' benefit II payable to the widow of the deceased employee shall be the amount determined by multiplying the full rate of benefit as calculated under the Sub-Decree with the factor indicated in column 3 of Schedule 4 to this Sub-Decree, corresponding to the age last birthday of the widow, on the date of death of the employee

(5) Where a widow as well as children are left behind, the actuarial present value of periodical payments on account of dependants' benefit payable to a child shall be the amount determined by multiplying the full rate of benefit as calculated under this Sub-Decree with the factor indicated in Schedule 4, corresponding to the age last birthday of the youngest son or daughter on the date of death of the employee (the age of a posthumous child being reckoned as 0 last birthday).

(6) Where only a child or children are left behind, the actuarial present value of periodical payments on account of dependants' benefit payable to the child or children shall be the amount determined by multiplying 3/5 of the full rate of benefit as calculated under this Sub-Decree, with the factor indicated in Schedule 4, corresponding to the age last birthday of the youngest son or daughter on the date of death of the employee (the age of a posthumous child being reckoned as 0 last birthday).

(7) Where neither a widow nor a child is left the actuarial present value of the payments on account of dependants' benefit payable to: parents shall be the amount determined by multiplying 0.15 of full daily rate as calculated under this Sub-Decree with the factor in column 3 of Schedule 4 to the age last birthday of the youngest of such parents on the date of death of the employee.

#### **Article 67. Constitution of Social Security Appellate Board**

The Prakas of the Ministry shall determine a Social Security Appellate Board (referred to as "the Board" in this part) for such province or provinces or area or areas as may be specified in the notification. The Board shall consist of a Chairman and two assessors. A person shall be qualified for appointment as Chairman of the Board if he is a citizen and for ten years preceding his appointment he has been a member of the Judicial and Legal Service and solicitor. The Chairman shall be appointed by the Minister on such terms and conditions as may be specified by him. The two assessors shall represent employers and employees and shall be nominated by the Minister in consultation with such organizations representing employers and employees respectively as he may think fit.

#### **Article 68. Matters to be decided by the Board**

(1) If any question or dispute arises as to:

- (a) whether any person is an employee within the meaning of this Law or whether he is liable to pay the employee's contribution; or
- (b) the rate of wages or average daily wages of an employee for the purposes of this Sub-Decree; or
- (c) the rate of contribution payable by a principal employer in respect of any employee; or
- (d) a person who is or was the principal employer in respect of any employee; or
- (e) the right of any person to any benefit and as to amount and duration thereof; or
- (f) any direction used by the Organization on a review of any payment of dependants' benefits; or
- (g) a claim against a principal employer; or
- (h) a claim for the recovery of the value of amount or the benefits received by a person when he is not lawfully entitled thereto; or
- (i) any claim for the recovery of any benefit admissible under this Sub-Decree; or

- (j) any other matter which is in dispute between a principal employer and the Organization, or between a principal employer and an immediate employer, or between a person and the Organization or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Sub-Decree, or any other matter required to be or which may be decided by the Governing Body under this Sub-Decree, such question or dispute shall be decided by the Board in accordance with the provisions of this Sub-Decree.
- (2) If in any proceedings before the Board a disablement question arises and the decision of a medical board or appellate medical board has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Board, the Board shall direct the Organization to have the question decided by this Act and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or the appellate medical board, as the case may be.
- (3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute mentioned in sections (1) or to adjudicate on any liability which by or under this Act is to be decided by the Board.
- (4) No Civil Court shall have jurisdiction to decide or deal with any question or dispute which by or under this Act is to be decided by a medical board or by an appellate medical board.

**Article 69. Institution of proceedings, etc.**

- (1) Subject to the provisions of this Sub-Decree and any regulations made there under, all proceedings before the Board shall be instituted in the Board appointed for the area in which the insured person was working at the time the question or dispute arose.
- (2) The Minister may transfer any matter pending before any Board in a province or area to any such Board in another Province or area.
- (3) The Board to which any matter is transferred under section (2) shall continue the proceedings as if they had been originally instituted in it.

**Article 70. Commencement of proceedings**

- (1) The proceedings before a Board shall be commenced by application.
- (2) Every such application shall be made within a period of three years from the date on which the cause of action arose.
- (3) For the purpose of section (2)
- (a) the cause of action in respect of a claim for benefit shall not be deemed to arise unless the employee or in the case of dependants' benefit, the dependants of the employee or, in the case of funeral benefit, the claimant claims or claim that benefit in accordance with the law made in that behalf within a period of twelve months after the claim became due or within such further period as the Board may allow on grounds which appear to it to be reasonable;
  - (b) the cause of action in respect of a claim by the Organization for recovering contributions from the principal employer or a claim by the principal employer for recovering contributions from an immediate employer shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be received by the Organization under the regulations; and
  - (c) every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee, if any, as may be prescribed by the regulations.

**Article 71. Powers of Social Security Appellate Board**

- (1) The Board shall have all the powers of a Magistrate for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence.
- (2) The Board shall follow such procedure as may be prescribed by regulations.
- (3) All costs incidental to any proceedings before a Board, shall, subject to such regulations as may be made in this behalf, be in the discretion of the Board.

(4) An order of the Board shall be enforceable as if it were a judgment of a Court.

**Article 72. Appearance by legal practitioners, etc.**

Any application, appearance or act required to be made or done by any person to or before a Board (other than appearance of a person required for the purposes of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorized in writing by such person or with the permission of the Board, by any other person so authorized.

**Article 73. Benefit not admissible unless claimed in time**

A Board shall not direct the payment of any benefit to a person unless he has made a claim for such benefit in accordance with the Sub-Decree: Provided that if the Board is satisfied that there was reasonable excuse for not making a claim for the benefit within the prescribed period, it may direct the payment of the benefit as if the claim had been made in time.

**Article 74. Reference to High Court**

A Board may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

**Article 75. Appeal**

- (1) Save as expressly provided in this section, no appeal shall lie from an order of the appellate boards set up by or under this Sub-Decree.
- (2) An appeal shall lie to the High Court from an order of an appellate board set up by or under this Act if it involves a substantial question of law.
- (3) The period of limitation for an appeal under this section shall be sixty days from the date the order is made.

**Article 76. Stay of payment pending appeal**

Where the Organization has presented an appeal against an order of the Board, that Board may, and if so directed by the High Court shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

**Article 77. Punishment for false information**

Where any person, for the purpose of causing any increase in payment or benefit under this Sub-Decree, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorized by or under this Sub-Decree, or for the purpose of avoiding any payment to be made by himself under this Sub-Decree, or enabling any other person to avoid any such payment

- (a) makes or causes to be made any false statement or false representation; or
- (b) makes in writing or signs any declaration, form, report, certificate or other document required by this Sub-Decree which is untrue or incorrect in any material particular, shall be punishable with imprisonment for a term which may extend to two years, or with a fine not exceeding ten million Riel, or with both.

**Article 78. Punishment for failure to pay contributions, etc.**

If any person

- (a) fails to pay contribution which under this Sub-Decree he is liable to pay; or
- (b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution; or
- (c) in contravention of the law reduces the wages or any privileges or benefits admissible to an employee; or
- (d) in contravention of the law dismisses, discharges, reduces or otherwise punishes an employee; or

- (e) fails or refuses to submit any return required by the Sub-Decree, or makes a false return; or
- (f) obstructs any Inspector or other official of the Organization in the discharge of his duties; or
- (g) is guilty of any contravention of or non-compliance with any of the requirements of this Sub-Decree or the rules or the regulations in respect of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to two years, or with fine not exceeding ten million, or with both.

**Article 79. Court's order in respect of contributions due and payable to the Organization**

(1) Upon any person being found guilty of any offence under paragraph (a) of Article 105, the Court before which the person is found guilty shall order such person to pay to the Organization the amount of any contributions, together with any interest credited thereon, due and payable to the Organization and certified by the authorized officer of the Organization to be due from such person prior to the date of such finding of guilt.

**Article 80. Trial for more than one offence**

Notwithstanding the provisions of any written law to the contrary, any person may be charged with and tried at any one trial for any number of offences not exceeding thirty-six and such offences shall, for the purposes of the law for the time being in force relating to criminal procedure, be deemed to form part of the same transaction.

**Article 81. Copy of entry to be prima facie evidence**

In any legal proceeding, a copy of an entry in the accounts of the Organization duly certified under the hand of an authorized officer of the Organization shall be prima facie evidence of such entry having been made and of the truth of the contents thereof.

**Article 82. Prosecution**

- (1) No prosecution under this Sub-Decree shall be instituted except by or with the previous sanction of the Director-General or of such other officer of the Organization as may be authorized in this behalf by the Minister.
- (2) Prosecutions in respect of any offence under this Sub-Decree or any regulations or rules made there under may be conducted by any officer authorized in writing in that behalf by the Director-General.

**Article 83. Contributions, etc., due to Organization to have priority over other debts**

There shall be deemed to be included among the debts which, under any written law relating to insolvency in force in the country, are in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Sub-Decree the liability where for accrued before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be.

**Article 84. Exercise of powers and functions of the Organization**

All powers and functions which may be exercised by the Organization under this Sub-Decree shall be exercisable by the Director-General or by any officer of the Organization authorized by him or by an authority authorized by the Minister.

**Article 85. Duty of Governing Body to review benefits**

Without prejudice to the provisions, when substantial changes in the general level of earnings result from substantial changes in the cost of living, the Governing Body shall examine the situation on the basis of an actuarial valuation and shall make recommendations to the Minister to adjust the Scheme of Social Insurance in order to maintain the real value of certain cash benefits. The recommendations of the Governing

Body, which shall be accompanied by the actuarial report and shall take account of Government social policy, may include

- (a) a proposal for a new scale of wage classes and of contributions;
- (b) proposals for changes in the rates of specified cash benefits including the rates of pensions already in payment; and
- (c) an extension of benefits.

**Article 86. Benefit for two or more successive accidents**

Where an employee sustains permanent disablement as a result of two or more successive accidents, he shall not for the same period be entitled to receive disablement benefit for permanent disablement in excess of the daily rate for permanent total disablement.

**Article 87. Benefit not assignable or attachable**

The right to receive any payment of any benefit under this Sub-Decree and the amount of contributions payable under this Sub-Decree shall not be transferable or assignable. No cash benefit or contributions payable under this Sub-Decree shall be liable to attachment or sale in execution of any decree or order of any court.

**Article 88. Employer not to reduce wages, etc.**

No employer by reason only of his liability for any contributions payable under this Sub-Decree shall, directly or indirectly, reduce the wages of any employee, discontinue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Sub-Decree.

**Article 89. Employer not to dismiss or punish employee during period of temporary disablement**

- (1) No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement.
- (2) No notice of dismissal or discharge or reduction given to an employee during the period specified in section (1) shall be valid or operative.

**Article 90. Facilities for physical or vocational rehabilitation**

- (1) An employee suffering from or claiming to suffer from permanent disablement may be provided by the Organization, free of charge, facilities for physical or vocational rehabilitation.
- (2) Facilities under section (1) shall be of such nature and scale and shall be provided to such employee and on such conditions as may be specified by the Organization.
- (3) An employee suffering from or claiming to suffer from permanent disablement may, if his condition so requires, be provided, free of charge, with prosthetic, orthotic or other appropriate appliances as may be determined by the Organization and such appliances may be renewed, when necessary, free of charge.
- (4) An employee who has to undergo physical or vocational rehabilitation or who is or is to be fitted with prosthetic, orthotic or other appliances may be paid or reimbursed, as determined by the Organization, expenses reasonably incurred or to be incurred by him on travelling or maintenance in connection with such measures, or the fitting of prosthetic, orthotic or other appliances.

**Article 91. Recovery and write-off of benefit**

- (1) Where any person has received any benefit or payment under this Sub-Decree when he is not lawfully entitled thereto, the Organization shall take steps to recover the value of the benefit or the amount of such payment in accordance with this Sub-Decree.
- (2) The value of the benefit or the amount of such payment may be written off by the Governing Body if it is satisfied that it is not possible to recover the value of the benefit or the amount or part of the amount of the payment made.

## FINAL PROVISIONS

**Article 92:** The Ministry of Labour and Vocational Training shall fix the specific date of implementation of the benefits stated in this Sub-Decree.

**Article 93:** Provisions contrary to this Sub-Decree shall be null and void.

**Article 94:** The Minister in charge of the Council Ministers, the Ministry of Labour and Vocational Training, the Minister of Economy and Finance, other relevant Ministers and Secretaries of State shall have tasks to comply with the Sub-Decree from the date of its being signed.

Phnom Penh,

2005

Prime Minister

CC:

*The Ministry in charge of Royal Palace*

*The Secretariat General of the Senate*

*The Secretariat General of the National Assembly*

*The Secretariat General of the Constitutional Council*

*The Cabinet of the Prime Minister*

*As stated in article 36*

*File and chronicle*

**ANNEX 6: PRAKAS DATED JANUARY 15, 2005  
ON THE RESPONSIBILITIES OF EMPLOYERS TO REGISTER  
WITH THE NATIONAL SOCIAL SECURITY FUND**

**The Ministry of Labour and Vocational Training**

**Article 1. Application to Industry**

This Sub-Decree shall apply to all industries having ten or more employees, and the Minister in charge of social security may vary this number from time to time. In this Article, "employees" include any employee employed by the immediate employer.

**Article 2. Registration of Industries**

- (1) The principal employer of every industry shall furnish to the appropriate social security office a declaration in Form I (hereinafter called the Employer's Registration Form).
- (2) The employer of every industry, either on the first or a subsequent occasion after the day on which the Sub-Decree comes into force, shall furnish to the appropriate office as early as possible, but not later than 30 days after the date on which the Law becomes applicable to the industry, the Employer's Registration Form duly completed and signed in respect of such industry.
- (3) The appropriate office may in special cases extend the time specified under paragraph (2) within which an employer may furnish the Employer's Registration Form.
- (4) If, after having furnished the Employers' Registration Form to the appropriate office as required under paragraphs (2) and (3), there is a change in any of the particulars required to be furnished, the employer shall inform the appropriate office of such a change within 30 days of its occurrence.
- (5) The appropriate office shall promptly allot a Code Number to an industry in respect of which an Employer's Registration Form is received if it is satisfied that the industry is one to which the Sub-Decree applies. The Employer's Code Number shall be communicated to the employer who shall enter it on all documents prepared or completed by him in connection with the Sub-Decree and in all correspondence with the appropriate office.

**Article 3. Submission of Employees' Registration Form on or before date the Sub-Decree comes to force**

- (1) The principal employer of every industry shall complete a list of employees employed in that industry in Form 2 (hereinafter called the Employees' Registration Form) and, after giving the declaration on the Employees' Registration Form, shall send it to the appropriate office on or before such day, being a day preceding the day the Sub-Decree comes into force, as the Minister may decide: Provided that the Organization may grant such further time as it thinks fit for submission of the Employees' Registration Form in any case or class of cases. The principal employer of every industry either on the first or subsequent occasion after that day shall furnish to the appropriate office as early as possible, but in any case not later than 15 days, the Employees' Registration Form containing a list of new employees recruited during the previous calendar month, and after signing the declaration he shall forward it to the appropriate office within 15 days of the close of the calendar month to which the form relates.
- (2) **Submission or Cessation of Employment Form**  
Every principal employer shall complete Form 3 (hereinafter called the "Cessation of Employment Form") containing a list of persons who either ceased to be employees or left his employment during the said month, and after signing the declaration such employer shall

forward it to the appropriate office within 15 days of the close of the calendar month to which the form relates.

### FINAL PROVISIONS

**Article 4:** The Ministry of Labour and Vocational Training shall fix the specific date of implementation of the benefits stated in this Sub-Decree.

**Article 5:** Provisions contrary to this Sub-Decree shall be null and void.

**Article 6:** The Minister in charge of the Council Ministers, the Ministry of Labour and Vocational Training, the Minister of Economy and Finance, other relevant Ministers and Secretaries of State shall have tasks to comply with the Sub-decree from the date of its being signed.

Phnom Penh,

2005

Prime Minister

CC:

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*The Cabinet of the Prime Minister*

*As stated in article 36*

*File and chronicle*

**ANNEX 7: PRAKAS DATED JANUARY 15, 2005  
ON THE RESPONSIBILITIES OF EMPLOYERS TO PAY CONTRIBUTIONS TO  
THE NATIONAL SOCIAL SECURITY FUND**

**The Ministry of Labour and Vocational Training**

**Article 1. Contributions**

(1) The contribution payable in respect of an employee shall be paid to the Organization. The contributions shall be paid at the rates specified in the First Schedule. The Minister, in consultation with the Minister of Finance, may amend, add to, vary or revise the rates of contributions specified in the First Schedule.

(2) A month shall be the unit in respect of which all contributions shall be payable under this Sub-Decree. The contributions payable in respect of each month shall ordinarily fall due on the last day of the month, and where an employee is employed by an employer for part of a month the contribution in respect of such month shall fall due on the last day of employment by such employer in that month. Where two or more contributions are paid in respect of the same insured person for the same month, they shall be counted as a single monthly contribution.

(3) In computing the average of assumed wage for the purpose of calculating the rate of benefit payable under this Sub-Decree, two or more monthly contributions paid in respect of the same insured person for the same month shall be treated as a single monthly contribution corresponding to the aggregate of the different assumed monthly wages to which the different contributions correspond.

(4) Contribution shall be payable by the principal employer for each month in respect of the whole or part of which wages are payable to the employee and not otherwise.

(5) Contributions where industry or employee is not registered Contributions shall be payable in respect of employees from the month they enter into employment and such contributions are payable even though the industry to which this Sub-Decree applies or the employees or both have not been registered with the Organization.

**Article 2. Time for payment of contributions**

(1) An employer who is liable to pay contributions in respect of any employee shall pay such contributions not later than the last day of the month immediately following the month in respect of which those contributions fall due.

An employer shall pay the contributions in the manner to be determined by the Organization and each payment of monthly contributions shall be accompanied by such Form as may be prescribed or approved by the Organization.

(2) An employer who fails to pay contributions within the period specified in (1) shall be liable, in addition, to pay interest at the rate of six per cent (6%) per annum in respect of each day of default or delay beyond the end of such period:

Provided that if the amount of interest so calculated is less than 100 Riel, the interest payable shall be 100 Riel in respect of each month or part of a month; and if the amount of interest exceeds 100 Riel, the interest payable shall be calculated to the next highest multiple of 100 Riel in respect of each month or part of a month: And provided further that the Governing Body may authorize the Organization to remit in part or in full any interest due.

**Article 3. Employers to furnish returns and maintain registers in certain cases**

(1) Every principal and immediate employer shall submit to the Organization or to such officer of the Organization as it may direct such returns in such form and containing such particulars relating to persons employed by him or to any industry in respect of which he is the principal or immediate employer as may be specified by the NSSF.

(2) Where in respect of any industry the Organization has reason to believe that a return should have been submitted under section (1) but has not been submitted, the Organization may require any person in charge of the industry to furnish such particulars as it may consider necessary for the purpose of enabling the Organization to decide whether the industry is an industry to which this Sub-Decree applies.

(3) Every principal and immediate employer shall maintain such registers or records in respect of his industry as may be required by the Sub-Decree.

#### **Article 4. Determination of contributions in certain cases**

(1) Where in respect of an industry no returns, particulars, registers or records are submitted, furnished or maintained in accordance with the provisions of Article 3 or any Inspector or other official of the Organization referred to in section (1) of Article 3 is obstructed by the principal or immediate employer or any other person, in exercising his functions or discharging his duties under Article 3, the Organization may, on the basis of information available to it, by order determine the amount of contributions payable in respect of the employees of that industry.

(2) The order made by the Organization under section (1) shall be sufficient proof of the claim of the Organization for recovery of the amount determined by such order as a debt due to the Organization.

(3) Any order made under this section shall be served either personally or by registered post.

#### **Article 5. Refund of contributions erroneously paid**

Where any contribution to the Organization has been paid in error by or in respect of a person who was not liable to contribute thereto or where any contribution paid to the Organization exceeds, owing to error, the amount due, the Organization shall, on being satisfied that such contribution or excess was paid in error, refund the same without interest to the employer according to the amount of the employer's contribution paid in error to the Organization.

#### **Article 6. Preparation of contribution schedule**

The employer shall prepare a contribution schedule in such form as may be prescribed approved by the Organization in respect of every employee who is in his employment. A contribution schedule prepared shall be valid for one contribution period. A "contribution period" means a period of one calendar month. Every employer shall, on or before the expiry of the contribution period, prepare in respect of all employees a fresh contribution schedule for the next contribution period in such form as may be prescribed or approved by the Organization.

#### **Article 8. Under-payment contribution schedule**

If consequent upon the payment of contribution due in respect of any month, additional contribution or contributions are due to be paid, the employer shall prepare and submit a contribution schedule in such form as may be prescribed or approved by the Organization to the appropriate office.

#### **Article 9. Return of contribution schedule**

An employer being in possession of a contribution schedule in such form as may be prescribed or approved by the Organization shall send it to the appropriate office so that it reaches the appropriate office at the time contributions are paid.

#### **Article 10. Recovery of contributions**

Any contribution payable under this Sub-Decree may be recovered as a debt due to the Organization.

## FIRST SCHEDULE<sup>8</sup>

Monthly Wage	Assumed Monthly Wage	Monthly Contribution
Less than 50,000	50,000	880
50,001 – 100,000	75,000	1,320
100,001 – 150,000	125,000	2,200
150,001 – 200,000	175,000	3,080
200,001 – 250,000	225,000	3,960
250,001 – 300,000	275,000	4,840
300,001 – 350,000	325,000	5,720
350,001 – 400,000	375,000	6,600
400,001 – 450,000	425,000	7,480
450,001 – 500,000	475,000	8,360
500,001 – 550,000	525,000	9,240
550,001 – 600,000	575,000	10,120
600,001 – 650,000	625,000	11,000
650,001 – 700,000	675,000	11,880
More than 700,000	725,000	12,760

## FINAL PROVISIONS

**Article 11:** The Ministry of Labour and Vocational Training shall fix the specific date of implementation of the benefits stated in this Sub-decree.

**Article 12:** Provisions contrary to this Sub-Decree shall be null and void.

**Article 13:** The Minister in charge of the Council Ministers, the Ministry of Labour and Vocational Training, the Minister of Economy and Finance, other relevant Ministers and Secretaries of State shall have tasks to comply with the Sub-decree from the date of its being signed.

Phnom Penh,

2005

Prime Minister

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*As stated in article 36*

*File and chronicle*

<sup>8</sup> A contribution rate of 1.76% was used for this table. The table should be amended prior to submission to the Ministry according to the Prakas which stipulates the contribution rate.

**ANNEX 8: PRAKAS DATED JANUARY 15, 2005  
ON THE RESPONSIBILITIES OF EMPLOYERS TO REPORT ACCIDENTS AND  
MAKE CLAIMS TO THE NATIONAL SOCIAL SECURITY FUND**

**Article 1. Report of accident by an employer**

(1) Every employer, immediately after the receipt of the notice of an accident or occupational diseases, shall complete, in triplicate, the accident report in Form 4 to which the notice relates, send the original copy of the report, duly completed, to the appropriate office and the second copy to the Insurance Medical Practitioner and retain the third copy:

Provided that where no Form 4 is sent by the employer, the Organization may in its discretion accept any other evidence relating to an employment injury:

Provided further that in the case of an employee who sustains personal injury other than personal injury of a minor nature caused by a commuting accident the employer shall send the accident report in Form 4 together with the police report in relation to the accident.

(2) The report in Form 4 shall be sent

- (a) immediately or otherwise as speedily as may be practicable under the circumstances if the injury has resulted in death or if the injury is serious, that is, it is likely to cause death or permanent disablement;
- (b) in any other case within forty-eight hours after the receipt of the notice under Article 1 or the time when the accident comes to the notice of the employer or any official under whose supervision the employee was employed at the time of the accident or any other person designated for the purpose by the employer as the case may be;
- (c) the second copy of the report in Form 4 shall ordinarily be sent through the employee for producing to the Hospital or Insurance Medical Practitioner at the time of the first medical examination or treatment;
- (d) where, for any reason, it is not practicable for the employer to send the second copy of the report through the employee, the employer shall, as an interim measure, give a letter of identity in such form as may be prescribed by the Organization, and the hospital or Insurance Medical Practitioner shall accept provisionally such letter of identity in place of the report in Form 4; the employer shall as soon as practicable thereafter send directly to the hospital or Insurance Medical Practitioner the second copy of the report in Form 4 in respect of the accident to which the letter of identity relates.

Every employer shall preserve the third copy of the report in Form 4 for a period of five years from the date of its completion.

**Article 2. Report of occupational disease by an employer**

(1) Every employer, immediately after the receipt of the notice under Article 2, shall complete, in triplicate, the report of the occupational disease to which the notice relates in such form as may be prescribed by the Organization, and shall send the original copy of the report to the appropriate office and the second copy to the hospital or the Insurance Medical Practitioner and shall retain the third copy:

Provided that where no such report is sent by the employer, the Organization may in its discretion accept any other evidence relating to an employment injury caused by an occupational disease.

(2) The report under paragraph (1) shall be sent

- (a) to the appropriate office within forty-eight hours after the receipt of the notice under Article 5;
- (b) the second copy of the report shall ordinarily be sent through the employee for production to the hospital or Insurance Medical Practitioner at the time of the first medical examination or treatment;

- (c) where, for any reason, it is not practicable for the employer to send the second copy of the report through the employee, the employer shall, as an interim measure, give a letter of identity in such form as may be prescribed by the Organization, and the hospital or Insurance Medical Practitioner shall accept provisionally such letter of identity in place of the second copy of the report; and the employer shall as soon as practicable thereafter send directly to the Insurance Medical Practitioner the second copy of the report to which the letter of identity relates.
- (3) In the case where an employer has knowledge of an employee suffering from an occupational disease specified in the Third Schedule to the Act, the employer shall report such occupational disease in such form as may be prescribed by the Organization as if he has been duly notified under Article 1.
- (4) Every employer shall preserve the third copy of the report for a period of five years from the date of its completion. .

**Article 3. Employer to arrange first-aid**

Every employer shall arrange for such first-aid and medical care and transport for obtaining such aid and care as the circumstances of the accident may require till the injured employee is seen by the hospital doctor or Insurance Medical Practitioner and such employer shall be entitled to reimbursement in respect of expenses thereby incurred by him but not exceeding such scale of expenses as may be specified by the Organization from time to time.

**Article 4. Employer to furnish further particulars of accidents**

Every employer shall furnish to the appropriate office such further information and particulars of an accident or an occupational disease and within such time as the said office may, in writing, require.

**Article 5. Evidence of temporary disablement**

Every employee, claiming disablement benefit for temporary disablement, shall furnish evidence of temporary disablement in respect of the days of his temporary disablement by means of a medical certificate given by an Insurance Medical Practitioner or any government doctor in the appropriate form:

Provided that the Organization may in its discretion accept any other evidence of temporary disablement if in its opinion the circumstances of any particular case so justify, and it contains such particulars and is attested in such manner as may be specified by the Organization.

The medical certificate shall be filled in ink or otherwise as may be specified by the Director-General, and shall contain a concise statement of the disablement which in the opinion of the Insurance Medical Practitioner renders a person temporarily incapable of work. The statement of the disablement in the medical certificate shall specify the nature thereof as precisely as the Insurance Medical Practitioner's knowledge of the condition of the injured person at the time of the examination permits.

**Article 6. Directions by the Organization**

Every claimant for and every beneficiary in receipt of disablement benefit shall comply with every direction given to him by the appropriate office which requires him either

- (a) to submit himself to a medical examination by such medical authority as may be appointed by that office for the purpose of determining the effect of the relevant employment injury or the treatment appropriate to the relevant injury or loss of faculty; or
- (b) to attend any course of physical or vocational rehabilitation provided by any institution maintained by any government, local authority or any public or private body recognized for the purpose by the Organization and considered appropriate by it in his case.

**Article 7. References to medical boards and appeals to appellate medical board**

(1) The case of any employee for permanent disablement benefit shall be referred by the Organization to a medical board for determination of the disablement question, and if, on that or any subsequent reference, the extent of loss of earning capacity of the employee is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.

(2) If the employee or the Organization is not satisfied with the decision of the medical board, the employee or the Organization may appeal in the prescribed manner and within the prescribed time to the appellate medical board constituted in accordance with the provisions of the Sub-Decree.

(3) Where an employee, having submitted his application for reference to the medical board for determination of the disablement question in accordance with the law, dies before being examined by a medical board, the Organization may in its discretion, subject to any available medical evidence to its satisfaction, refer such a case to the medical board for determination of the disablement question.

**Article 8. Reference to a Medical Board**

(1) A reference to the Medical Board for determination of the disablement question may be made if a request to that effect is made by the disabled person, his employer or a recognized trade union within 12 months of

- (a) the date of the final certificate for the spell of temporary disablement resulting from the employment injury or, where there is more than one such spell, the date of the final certificate for the first spell of temporary disablement following the employment injury; or
- (b) the date of occurrence of employment injury itself in case where no temporary disablement results from such injury:

Provided that such reference may be made by the appropriate office after the expiry of the period described as aforesaid if it is satisfied that the applicant was prevented by sufficient cause from applying in time for making the reference:

Provided further that in the event of the claim for temporary disablement being rejected by the Organization but afterwards allowed by the Social Security Appellate Board in respect of injuries resulted in permanent disablement, limit of 12 months will apply from the date on which the Board allows such claim.

(2) A reference to the Medical Board for determination of disablement question may be made by the appropriate officer at any time, but not more frequently than once in six consecutive months, if in the opinion of the Director-General or any other officer authorized by him in this behalf the circumstances of any particular case so justify.

**Article 9. Report of Medical Board**

The Medical Board shall, after examining the disabled person, send its decision on such form as may be specified by the Organization, to the appropriate office. The disabled person shall be informed in writing of the decision of the Medical Board and the benefit, if any, to which the disabled person shall be entitled.

**Article 10. Constitution of Medical Board and Special Medical Board**

Medical Boards for the purposes of the Sub-Decree and Special Medical Board shall be constituted by the Minister and shall consist of such persons (not less than two in number), have such jurisdiction and follow such procedure as the Minister in consultation with the Organization may, from time to time, decide. For the purposes of the Sub-Decree, one or more Appellate Medical Boards shall be constituted by the Minister. Each such Appellate Medical Board shall consist of such persons (not less than two in number), have such jurisdiction and follow such procedure as the Minister in consultation with the Organization may, from time to time, decide.

**Article 11. Appeal against decisions of the Medical Board**

Where an employee or the Organization, on being dissatisfied with the decision of the Medical Board on an invalidity or a disablement question, intends to appeal against such decision to the Appellate Medical Board, the appeal in the form specified by the organization, shall be lodged with the Appellate Medical Board within 90 days of communication of the decision appealed against: Provided that the Appellate Medical Board may entertain an appeal lodged after the aforesaid time limit if it is satisfied with the reasons for delay.

**Article 12. Travelling allowance, etc., for appearance before Medical Board etc.**

An employee appearing before a Medical Board or Special Medical Board or on an appeal by the Organization before an Appellate Medical Board, shall be paid travelling and other expenses (including compensation for loss of wages if any,) for such appearance on such scale and subject to such conditions as may be specified by the Organization.

**Article 13. Claim for permanent disablement benefit**

An employee who is declared to be permanently disabled by a Medical Board or an Appellate Medical Board or a Social Security Appellate Board or a Special Medical Board shall claim such permanent disablement benefit in a manner and with such Form as prescribed by the Organization.

**Article 14. Date of accrual of permanent disablement benefit**

Permanent disablement benefit shall accrue from the date immediately following the last date of temporary disablement: Provided that in the case of an employment injury caused by an occupational disease specified in the Second Schedule to the Sub-Decree, permanent disablement benefit may accrue from the date on which

- (a) notice of the occupational disease was received; or
- (b) other evidence of the occupational disease was accepted by the Organization, or a date not earlier than ninety days preceding the date on which such notice or report or other evidence, as the case may be, was so received or accepted:

Provided further that in the case where the permanent disablement is assessed provisionally and followed subsequently by a final assessment, the date of accrual of permanent disablement benefit in respect of the final assessment shall be the date immediately following the last date of provisional assessment of such permanent disablement.

**Article 15. Commutation of small periodical payments of permanent disablement benefit**

(1) An employee whose permanent disablement has been assessed as final, and the extent of whose loss of earning capacity has been assessed at not more than twenty per cent, may apply for commutation of the periodical payments of permanent disablement benefit into a lump sum.

(2) An employee whose permanent disablement has been assessed as final and the loss of earnings capacity has been assessed at more than twenty per cent shall receive a lump sum equal to ninety times the daily rate of permanent disablement for assessment of one hundred per cent loss of earnings capacity and for any less assessment a proportion of the amount according to the assessment made.

(3) Where such an application is made within sixty days of the date on which he can opt for commutation, hereinafter called "the date of possible option," the periodical payments shall be commuted into a lump sum. Where such an application is made after the expiry of sixty days from the date of possible option, the periodical payments may be commuted into a lump sum. For the purpose of this regulation, the date of possible option shall mean the date on which assessment of permanent disablement covered by paragraph (1) is communicated to him by the appropriate office.

(4) The amount of lump sum admissible under paragraph (1) shall be determined by multiplying the daily rate of permanent disablement benefit by the figure indicated in column 2 of the Schedule corresponding to the age at the last birthday of the employee on the date

from which permanent disablement benefit is payable, and periodical payments of permanent disablement benefit according to the final assessment shall cease to be payable to him from the date on which his application for commutation is received in the appropriate office.

(5) Where any periodical payments of permanent disablement benefit according to the final assessment have already been made to an employee in respect of the employment injury to which the application for commutation relates, the total amount of such payments shall be deducted from the lump sum admissible under paragraph (1).

#### **Article 16. Report of death of insured person by employment injury**

In the case of an employee's death as a result of an employment injury, if the death occurs at the place of employment, the employer shall, or if the death occurs at any other place a dependant intending to claim dependants' benefit shall, or any other person present at the time of death may, immediately report the death to the appropriate office and to the nearest dispensary, hospital, clinic or other institution where medical benefit under the Sub-Decree is available.

#### **Article 17. Dependants' benefit**

(1) If an employee dies as a result of an employment injury sustained as an employee under this Sub-Decree (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury) dependants' benefit at the rates shall be payable to his dependants as follows to his widow during life or until remarriage, to each child until marriage or until he attains the age of eighteen years, whichever occurs earlier: Provided that in the case of a child referred to as an invalid, dependants' benefit shall continue to be paid so long as he is incapable of supporting himself: to the widowed mother and parents for life.

#### **Article 18. Submission of claim for dependants' benefit**

(1) A claim for dependants' benefit shall be submitted to the appropriate office by post or otherwise in a designated Form by the dependant or dependants concerned or by their legal representative or in case of a minor, by his guardian, or where there is no such guardian, by any other person as the Organization may deem fit, and such claim shall be supported by documents proving

- (a) that the death is due to an employment injury;
- (b) that the person claiming is a dependant entitled to the claim under the Sub-Decree;
- (c) that the claimant is mentally retarded or physically incapacitated and is incapable of supporting himself;
- (d) the age of the claimant:

Provided that where the appropriate office is satisfied about the bona fides of the applicant or about the truth of the facts relating to any of the matters mentioned above, one or more of the documents may be dispensed with.

(2) The following may be accepted as proof of age: birth certificate issued by the Registrar of Births and Deaths; certified extract from an official record of births showing the date and place of birth and father's name/mother's name; statutory declaration relating to the date of birth of the claimant; such other evidence as may be acceptable to the appropriate office in the circumstances of a particular case.

(3) A marriage certificate or a statutory declaration or such other evidence as may be acceptable to the appropriate office in the circumstances of a particular case may be accepted as proof of marriage.

#### **Article 19. Date of accrual of dependants' benefit**

The dependants' benefit shall accrue from the date of the death in respect of which the benefit is payable, or, where disablement benefit was payable or wages were payable for that date, from the date following the date of death.

**Article 20. Appointment of another guardian**

If at any time the appropriate office is satisfied that a child who is in receipt of dependants' benefit is being neglected by his guardian, not being a guardian appointed under any law relating to guardianship and wardship of minors, and the child's share of dependants' benefit is not being properly spent on his maintenance, the appropriate office may direct that such share may be paid subject to such conditions as it may specify to such other person whom it deems fit and who in its opinion would utilize it for the care and maintenance of the child.

**Article 21. Submission of claim for funeral benefit**

(1) If an employee person dies as a result of an employment injury or while he is in receipt of disablement benefit under this Sub-Decree, dies, a funeral benefit of an amount of Riel 700,000 or an amount as prescribed by the Minister from time to time shall be paid to one or more of the following persons: the widow or the widower; the eldest surviving son or adopted son; the eldest surviving daughter or adopted daughter; the parent.

(2) Where there are no such persons as mentioned in section (1), any other person who actually incurs the expenditure of the funeral shall be paid the expenses of the funeral of the deceased insured person or the amount as prescribed by the Minister under section (1), whichever is the lesser:

Provided that the claim for such benefit shall be made within three months of the death of the insured person or within such extended period as the Organization or any officer or authority authorized by it in this behalf may allow:

Provided further that notwithstanding the above conditions any disagreement over the question of to whom the payment of funeral benefit should be made, the decision of the Director-General or that of an officer authorized by him shall be final.

(3) A claim for funeral benefit shall be submitted to the appropriate office by post or otherwise in a designated Form by the claimant entitled to claim or, in the case of a minor, by his guardian or, where there is no such guardian, by any other person as the Organization may deem fit, and such claim shall be supported by documents and other evidence proving the death of the deceased employee and that the person claiming is the surviving relative of the deceased employee person or that the claimant actually incurred the expenditure claimed on the funeral of the deceased employee. Where the appropriate office is satisfied about the bona fide of the claimant or about the truth of any statement relating to any of the matters mentioned in one or more of the documents may be dispensed with.

(4) A declaration of the claimant duly countersigned by any of the following may be accepted as proof for the purposes of sub-paragraphs (b) and (c) of paragraph (1): a Member of Parliament or State Assemblyman; a Magistrate or a District Officer; a village head officer in the Public Services.

**Article 22. Constant-attendance allowance**

An employee who is entitled to permanent total disablement benefit shall also be entitled to constant-attendance allowance equivalent to forty per cent of the rate of such benefit, subject to such maximum as may be prescribed by the Minister from time to time by a Prakas, if and so long as he is so severely incapacitated as to constantly require the personal attendance of another person:

Provided that the existence of the degree of incapacity qualifying an insured person for constant-attendance allowance shall be verified by a medical board or the appellate medical board or any other authority so authorized by the Minister, in such manner as is prescribed by the Sub-Decree.

**Article 23. When claim becomes due**

A claim for any benefit under the Sub-Decree shall become due on the following days:

- (a) for disablement benefit for temporary disablement for any period, on the date on which the employee is certified by the hospital doctor or Insurance Medical Practitioner as being unfit to the date he is certified fit to resume normal work, or on

- the date immediately following the last date of temporary disablement specified in the medical certificate issued in respect of such period;
- (b) for payment of disablement benefit for permanent disablement, on the date on which an employee is declared as permanently disabled in accordance with the Sub-Decree;
  - (c) for payment of dependants' benefit, on the date of the death of the employee in respect of whose death the claim for such benefit arises, or, where disablement benefit was payable for that date, on the date following the date of death;
  - (d) for funeral benefit, on the date of the death of the employee in respect of whose death a claim for such benefit arises;
  - (e) for payment of constant-attendance allowance, on the date on which the degree of incapacity qualifying an employee for such allowance is verified by a Medical Board or, in the event of appeal, by an Appellate Medical Board.

#### **Article 24. Calculation of daily rate of benefit**

(1) Daily rate of benefit shall be calculated as follows for temporary disablement and permanent total disablement: an amount equivalent to sixty per cent of the assumed average daily wage. The "assumed average daily wage" means the assumed average daily wage of the employee who sustains the employment injury resulting in such disablement. The assumed average daily wage shall be equal to one-thirtieth of the assumed average monthly wage of the insured person. Assumed average monthly wage shall be an amount equivalent to the sum of the assumed monthly wages for each of the months for which contributions have been paid or were payable during the continuous period of six months immediately preceding the month in which the employment injury occurred, divided by the number of months for which such contributions were so paid or payable:

Provided that in the event the employee person has been in employment for less than 24 days in any month, the contributions paid or payable for that month in respect of him shall not be taken into consideration for the calculation of the assumed average monthly wage.

(2) Where no contribution shall be paid or payable in respect of the employee during the continuous period of six months immediately preceding the month in which the employment injury occurred or where none of the contributions paid or payable during the continuous period of six months immediately preceding the month in which the employment injury occurred can be taken into consideration for the purpose of the calculation of the assumed average monthly wage, the daily rate of benefit admissible for temporary disablement and permanent total disablement shall be equal to sixty per cent of the average assumed monthly wage of a person employed on similar work by the same employer or any employer in the same locality divided by thirty:

Provided that for the purposes of this paragraph the average assumed monthly wage shall be equal to the sum of the assumed monthly wage of a person employed on similar work by the same employer or, if there is no such person, any other person employed on similar work by another employer in the same locality for which the contributions have been paid or were payable during the continuous period of six months immediately preceding the month in which the relevant employment injury occurred, divided by the number of months for which such contributions were so paid or payable:

Provided further that in the event such person has been in employment for less than 24 days in any month, the contribution paid or payable for that month in respect of him shall not be taken into consideration for the calculation of the assumed monthly wage.

(3) Where no contribution shall be paid or payable during the continuous period of six months immediately preceding the month in which the employment injury occurred, or where none of the contributions paid or payable during the continuous period of six months immediately preceding the month in which the employment injury occurred can be taken into consideration for the purpose of the calculation of the assumed monthly wage, or where the daily rate of benefit calculated is less than the minimum rate prescribed by the Minister from time to time by a Prakas, then in any such case the daily rate of benefit admissible for temporary disablement or permanent total disablement shall be deemed to be the minimum rate prescribed by the Minister from time to time.

**Article 25. Permanent disablement benefit**

(1) An employee who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment for such disablement: Provided that where permanent disablement, whether total or partial, has been assessed provisionally for a limited period or finally, the benefit provided under this paragraph shall be payable for that limited period or, as the case may be, for life.

(2) Daily rate of permanent partial disablement benefit shall be such percentage of the daily rate of permanent total disablement as is specified in the First Schedule as being the percentage of the loss of earning capacity caused by such permanent partial disablement: Provided that for permanent partial disablement not specified in the Second Schedule, the daily rate of benefit shall be such percentage of the rate of permanent total disablement benefit as is proportionate to the loss of earning capacity permanently caused by such permanent partial disablement:

Provided further that where more injuries than one are caused by the same accident, the daily rate of benefit for those injuries shall be aggregated but not so in any case as to exceed the permanent total disablement benefit.

**Article 26. Rate of dependants' benefit**

Daily rate of dependants' benefit shall be as follows:

- (a) for the widow, an amount equivalent to three-fifths of the daily rate of permanent total disablement benefit of the deceased insured person if he had sustained such disablement from the employment injury which resulted in his death;
- (b) for each child, two-fifths of the daily rate of permanent total disablement benefit mentioned in (a):

Provided that the total of the dependants' benefit distributed among the widow and child or children, if a parent is alive, shall be eighty-five per cent of the daily rate of permanent total disablement benefit, the share of each dependant shall be proportionately reduced so that the total amount payable does not exceed that daily rate of permanent total disablement benefit:

Provided further that if there is no parent entitled to the benefit the rate payable to the widow and children shall be the daily rate of permanent total disablement.

Provided further that if the widow remarries or dies, the daily rate of benefit for each child shall be three-fifths of the daily rate of permanent total disablement benefit mentioned in (a), and if there be more than one child, the amount payable shall be equally divided between them.

- (c) dependants' benefit shall be payable to the parent for life, at an amount equal to fifteen per cent of the daily rate of the permanent total disablement benefit.

**Article 27. Organization's power to co-operate with existing institutions or promote measures for health, welfare, etc., of employees**

(1) The Organization may, in addition to the scheme of benefits specified in this Sub-Decree, promote measures or co-operate with existing institutions for the improvement of the health, occupational safety welfare of employees and for the rehabilitation and re-employment of employees who have been disabled or injured and may incur in respect of such measures expenditure from the funds of the Organization within such limits as may be prescribed by the Minister.

(2) Measures under section (1) may include provision of artificial limbs and appliances, opportunities for gainful employment under suitable conditions and convalescent homes.

**Article 28. Persons not entitled to receive benefits in certain cases**

No employee shall be entitled to disablement benefit for temporary disablement in respect of any day on which he works and receives wages.

**Article 29. Repayment of benefit improperly received**

(1) Where any person has received any benefit or payment under this Sub-Decree when he is not lawfully entitled thereto, he shall be liable to repay to the Organization the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands.

(2) The value of any benefits received other than cash payments shall be determined by the Organization and the decision the Organization shall be final.

(3) The amount recoverable under this section may be recovered as a debt due to the Organization.

**Article 20. Payment of amount of benefit outstanding at the time of the death of the employee**

If a person dies during any period for which he is entitled to any of the cash benefits provided under this Sub-Decree, the amount of such benefit shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person:

Provided that the amount of cash benefit shall be payable up to and including the day of his death in case of disablement benefit (and constant-attendance allowance, if any) and dependants' benefit up to the last day of the month.

**FIRST SCHEDULE**

**PART I**

**List of injuries deemed to result in permanent total disablement**

<i>Serial No.</i>	<i>Description of Injury</i>	<i>Percentage of Loss of Earning Capacity</i>
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or Amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100

**Part II**

**List of injuries deemed to result in permanent partial disablement**

<i>Serial No.</i>	<i>Description of Amputation - Upper Limbs (either arm) Cases</i>	<i>Percentage of Loss of Earning Capacity</i>
1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than 8" from tip of acromion	80
3.	Amputation from 8" from tip of acromion to less than 4Vi" below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4 1/2" below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20

<i>Serial No.</i>	<i>Description of Amputation - Lower Limbs Cases</i>	<i>Percentage of Loss of Earning Capacity</i>
11.	Amputation of both feet resulting in end-bearing stumps	90
12.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
13.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
14.	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
15.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
16.	Amputation at hip	90
17.	Amputation below hip with stump not exceeding 5" in length measured from tip of great trochanter	80
18.	Amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but not beyond middle thigh	70
19.	Amputation below middle thigh to 3 1/2" below knee	60
20.	Amputation below knee with stump exceeding 3 1/2" but not exceeding 5"	50
21.	Amputation below knee with stump exceeding 5"	40
22.	Amputation of one foot resulting in end-bearing	30
23.	Amputation through one foot proximal to the meta torso phalangeal joint	30
24.	Loss of all toes of one foot through the meta torso phalangeal joint	20
25.	Loss of one eye, without complications, the other being normal	40
26.	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal	30
27.	Permanent total loss of hearing in one ear	20
<b>A: Fingers of right or left hand</b>		
<i>Index finger:</i>		
28.	Whole	14
29.	Two phalanges	11
30.	One phalanx	9
31.	Guillotine amputation of tip without loss of bone	5
<i>Middle finger:</i>		
32.	Whole	12
33.	Two phalanges	9
34.	One phalanx	7
35.	Guillotine amputation of tip without loss of bone	4
<i>Ring or little finger:</i>		
36.	Whole	7
37.	Two phalanges	6
38.	One phalanx	5
39.	Guillotine amputation of tip without loss of bone	2
<b>B: Toes of right or left foot</b>		
<i>Great toe:</i>		
40.	Through metatarso-phalangeal joint	14
41.	Part, with some loss of bone	3
<i>Any other toe:</i>		
42.	Through metatarso-phalangeal joint	3
43.	Part, with some loss of bone	1
<i>Two toes of one foot, excluding great toe:</i>		
44.	Through metatarso-phalangeal joint	5
45.	Part, with some loss of bone	2
<i>Three toes of one foot, excluding great toe:</i>		
46.	Through metatarso-phalangeal joint	6
47.	Part, with some loss of bone	3
<i>Four toes of one foot, excluding great toe:</i>		
48.	Through metatarso-phalangeal joint	9
49.	Part, with some loss of bone	3

(NOTE: Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.)

## FINAL PROVISIONS

**Article 11:** The Ministry of Labour and Vocational Training shall fix the specific date of implementation of the benefits stated in this Sub-decree.

**Article 12:** Provisions contrary to this Sub-decree, shall be null and void.

**Article 13:** The Ministry of Labour and Vocational Training, the Minister of Economy and Finance, other relevant Ministers and Secretaries of State shall have tasks to comply with the Sub-decree from the date of its being signed.

Phnom Penh,

2005

Prime Minister

**CC:**

*The Ministry in charge of Royal Palace*

*The Secretariat General of the Senate*

*The Secretariat General of the National Assembly*

*The Secretariat General of the Constitutional Council*

*The Cabinet of the Prime Minister*

*As stated in article 36*

*File and chronicle*

**ANNEX 9: PRAKAS DATED JANUARY 15, 2005  
ON THE RESPONSIBILITIES OF EMPLOYERS TO REPORT  
OCCUPATIONAL DISEASES AND MAKE CLAIMS TO THE  
NATIONAL SOCIAL SECURITY FUND**

**Article 1. Occupational diseases**

(1) If an employee who is employed in any occupation described in the Schedule contracts any disease or injury shown in the said Schedule to be related to that occupation, or if an employee who has been employed in such occupation contracts such a disease or injury within sixty months after ceasing to be so employed, the contracting of the disease or injury shall, unless the contrary is proved, be deemed to be an employment injury arising out of and in the course of employment: Provided that the period of sixty months may, at the discretion of the Organization, be further extended upon production of medical and other relevant evidence in support thereof.

**Article 2. Medical examination**

Where an employee enters into a contract of service or apprenticeship with any principal employer or immediate employer to work in any occupation specified in the Schedule or is, with his consent, transferred by his principal or immediate employer to such an occupation, he shall, if requested to do so by the employer or the Organization, submit himself for examination by a duly appointed medical practitioner; but such an employee shall not be required to submit himself for examination by a duly appointed medical practitioner otherwise than in accordance with provisions made under this Sub-Decree nor at shorter intervals than may be prescribed therein.

**Article 3. Minister may amend Schedule**

The Minister may, by notification in the Prakas, amend substitute, add or delete any disease specified in the Schedule and any occupation described therein.

**Article 4. Disease to be directly attributable**

Save as provided by Article 1 and Article 3, no benefits shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury arising out of and in the course of his employment.

**Article 5. Determination of occupational disease**

(1) Any question whether an employment injury is caused by an occupational disease specified in the Schedule may be determined by a medical board to be known as the Special Medical Board which shall examine the disabled person and send a report in such form as may be specified by the Organization in this behalf to the appropriate office stating

- (a) whether the disabled person is suffering from one or more of the diseases specified in the said Schedule;
- (b) whether the relevant disease has resulted in permanent disablement;
- (c) whether the extent of loss of earning capacity can be assessed provisionally or finally; the assessment of the proportion of loss of earning capacity and in the case of provisional assessment, the period for which such assessment shall hold good.

(2) All assessments which are provisional may be referred to the Special Medical Board for review by the appropriate office not later than the end of the period taken into account by the provisional assessment. Any decision of the Special Medical Board may be reviewed by it at any time.

(3) The disabled person shall be informed in writing of the decision of the Special Medical Board by the appropriate office and the benefit, if any, to which the insured person shall be entitled.

**Article 6. When insured person required to undergo medical examination**

An employee person who is employed or transferred to work in any occupation specified in the Schedule to the Prakas shall not be required to submit himself for medical examination unless

- (a) such examination is required by the appropriate office, or by the employer with the general or special approval of the Organization;
- (b) such examination is held not more frequently than once in any 6 consecutive months or such shorter period as may be specified by the Organization for a particular occupation or class of occupations;
- (c) the employee is reimbursed, on such scale as may be fixed by the Organization, the cost of fees, travelling, and other incidental expenses incurred by him in connection with his appearance before the duly appointed medical practitioner.

**Article 7. Constitution of Medical Board and Special Medical Board**

(1) Medical Boards for the purposes of the Prakas and Special Medical Board shall be constituted by the Minister and shall consist of such persons (not less than two in number), have such jurisdiction and follow such procedure as the Minister in consultation with the Organization may, from time to time, decide.

(2) Appellate Medical Board. For the purposes of the Prakas, one or more Appellate Medical Boards shall be constituted by the Minister. Each such Appellate Medical Board shall consist of such persons (not less than two in number), have such jurisdiction and follow such procedure as the Minister in consultation with the Organization may, from time to time, decide.

**FINAL PROVISIONS**

**Article 8:** The Ministry of Labour and Vocational Training shall fix the specific date of implementation of the benefits stated in this Sub-Decree.

**Article 9:** Provisions contrary to this Sub-Decree shall be null and void.

**Article 10:** The Minister in charge of the Council Ministers, the Ministry of Labour and Vocational Training, the Minister of Economy and Finance, other relevant Ministers and Secretaries of State shall have tasks to comply with the Sub-Decree from the date of its being signed.

Phnom Penh,

2005

Prime Minister

CC:

*The Ministry in charge of Royal Palace  
The Secretariat General of the Senate  
The Secretariat General of the National Assembly  
The Secretariat General of the Constitutional Council  
The Cabinet of the Prime Minister  
As stated in article 36  
File and chronicle*

## SCHEDULE OF OCCUPATIONAL DISEASES

Description of Occupational Diseases or Injury	Nature of Occupation
1. Poisoning by:	Any occupation involving:
(a) Lead or compound of lead:	the use or handling of, or exposure to, the fumes, dust or vapor of lead or a compound of lead or a substance containing lead
(b) Phosphorus	the use or handling of, or exposure to, the fumes, dust or vapor of phosphorus or a compound of phosphorus or a substance containing phosphorus
(c) Arsenic	the use or handling of, or exposure to, the fumes, dust or vapor of arsenic or a compound of arsenic or a substance containing arsenic or exposure to any solution containing arsenic or a compound of arsenic
(d) Mercury	the use or handling of, or exposure to, the fumes, dust or vapor of mercury or a compound of mercury or a substance containing mercury
(e) Carbon bisulphide	the use or handling of, or exposure to, the fumes or vapour of carbon bisulphide or a compound of carbon bisulphide or a substance containing carbon bisulphide
(f) Benzene or a homologue	the use or handling of, or exposure to, the fumes of, or vapor containing, benzene or any of its homologues and their amino and nitro derivatives
(g) Manganese	the use or handling of, or exposure to, the fumes, dust or vapor of manganese or a compound of manganese or a substance containing manganese
(h) Beryllium	the use or handling of, or exposure to, the fumes, dust or vapor of beryllium or a compound of beryllium or a substance containing beryllium
(i) Cadmium	the use or handling of, or exposure to, the fumes, dust or vapor of cadmium or a compound of cadmium or a substance containing cadmium
(j) Antimony	the use or handling of, or exposure to, the fumes, dust or vapor of antimony or a compound of antimony or a substance containing antimony
(k) Fluorine	the use or handling of, or exposure to, the fumes, dust or vapor of fluorine or a compound of fluorine or a substance containing fluorine
(l) Nickel	the use or handling of, or exposure to, the fumes, dust or vapor of nickel or a compound of nickel or a substance containing nickel
(m) Chromium	the use or handling of, or exposure to, the fumes, dust or vapor of chromium or a compound of chromium or a substance containing chromium
(n) Organ chlorine, organophosphate, carbonate, nitro phenol, pentachlorophenol, dimethyldithio carbonate or compounds of chlorophenoxy and dipyridyl	the use of handling of organ chlorine, organophosphate, carbonate, nitro phenol, pentachlorophenol, diethyl dithiocarbamate or compounds of chlorophenoxy and dipyridyl for the destruction of pests or vermin
(o) Nitrous fumes:	the use or handling of nitric acid or exposure to nitrous fumes
(p) Rengas wood	the manipulation of rengas wood or any process in or incidental to the manufacture of articles there from
(q) Hydrogen cyanide or hydrogen sulphide gas	the use or handling of, or exposure to, the fumes or vapor of hydrogen cyanide or hydrogen sulphide
(r) The halogen derivatives of aliphatic or aromatic hydrocarbons	the production, liberation or use of hydrocarbons of the aliphatic series or aromatic series and their halogen derivatives

Description of Occupational Diseases or Injury	Nature of Occupation
(s) Alcohols, glycols, ketones or aldehydes	the use or handling of, or exposure to, the fumes or vapor of alcohols, glycols, ketones or aldehydes
(t) Carbon monoxide gas	the use or handling of, or exposure to, carbon monoxide gas, and any process involving the use of-
(u) Diethylene dioxide (dioxane)	the use or handling of, or exposure to, the fumes of or vapor containing diethylene dioxide
2. Anthrax	Any occupation involving the handling of wool, hair, bristle, hides or skins or other animal products or residues, or contact with animals infected with anthrax
3. Glanders	Any occupation involving contact with equine animals or their carcasses
4. Leptospirosis	Any occupation involving work in rat or other rodent infested places and any occupation involving the care or handling of dogs, cattle, swine and horses or any other infected animals
5. (a) Ulceration of the corneal surface of the eye: (b) Localized new growth of the skin, papillomatous or keratotic (c) Epitheliomatous cancer or ulceration of the skin, due in any case to tar, pitch, paddy husk, bitumen, mineral oil (including the manufacture of mineral waters, fermentation in breweries and the formation of lime in lime kilns paraffin), soot or any compound, product, or residue or any of these substances; dynamite and gunpowder for blasting in subterranean galleries; blasting, illuminating gas; power of producer gas; blast furnaces, furnaces and stoves for the burning of charcoal coke and other fuel; gas engines	Any occupation involving the use or handling of, or exposure to, tar, pitch, paddy husk, bitumen, mineral oil (including paraffin), soot, organic dust or any compound, product, or residue of any of these substances
6. Chrome ulceration	Any occupation involving the use or handling of chromic acid, chromate or bichromate of ammonium, potassium, zinc or sodium, or any preparation or solution containing any of these substances
7. Inflammation, ulceration or malignant diseases of the skin or subcutaneous tissues or of the bones, or, leukemia, or anemia of the a plastic type, due to X-ray, ionizing panicles, radium or other radio-active substances or other forms of radiant energy	Any occupation involving exposure to X-rays, ionizing particles, radium, or other radio-active substances or other forms of radiant energy
8. Toxic jaundice	Any occupation involving the use or handling of halogenated hydrocarbon or nitric or amidoderivatives of benzene or other poisonous substances
9. Heat radiation cataract	Any occupation involving frequent or prolonged exposure to the glare of, or rays from, molten glass or molten or red-hot metal or frequent or prolonged exposure to radiation
10. Subcutaneous cellulites or acute bursitis arising at or about the knee (Beat knee)	Any occupation involving manual labour causing severe or prolonged friction or pressure at or about the knee

Description of Occupational Diseases or Injury	Nature of Occupation
11. Subcutaneous cellulites of the hand (Beat hand)	Any occupation involving manual labour causing severe or prolonged friction or pressure on the hand
12. Subcutaneous cellulites or acute bursitis arising at or about the elbow (Beat elbow)	Any occupation involving manual labour causing severe or prolonged friction or pressure at or about the elbow
13. Inflammation of the synovial lining of the wrist joint and tendon sheaths	Any occupation involving manual labour or frequent or repeated movement of the hand or wrist
14. Heat cramp or heat stroke	Any occupation involving excessive exposure to heat
15. Cramp of the hand or forearm due to repetitive movements	Any occupation involving prolonged periods of hand writing, typing or other repetitive movements of the fingers, hand or arm
16. Compressed air illness or its sequelae	Any occupation or process carried on in compressed-air or under water
17. (a) Tuberculosis or leprosy	Any occupation involving close or frequent contact with a source or sources of tuberculosis or leprosy infection by reason of employment: <ul style="list-style-type: none"> <li>(a) in the medical treatment or nursing of a person or persons suffering from tuberculosis or leprosy or in a service ancillary to such treatment or nursing;</li> <li>(b) in attendance upon a person or persons suffering from tuberculosis or leprosy where the need for such attendance arises by reason of physical or mental infirmity;</li> <li>(c) as a research worker engaged in research in connection with tuberculosis or leprosy; or</li> <li>(d) as a laboratory worker, pathologist or post-mortem worker, where the occupation involves working with material which is a source of tuberculosis or leprosy infection or in any occupation ancillary to such employment</li> </ul>
(b) Viral hepatitis	Any occupation involving: <ul style="list-style-type: none"> <li>(a) close and frequent contact with human blood or human blood products; or</li> <li>(b) close and frequent contact with a source of viral hepatitis infection by reason of employment in the medical treatment or nursing of a person or persons suffering from viral hepatitis, or in a service ancillary to such treatment or nursing</li> </ul>
18. Hearing impairment caused by noise	Any occupation involving excessive exposure to industrial noise of high sound pressure level in excess of 85 decibels over 8-hour period
19. Occupational dermatitis	Any occupation involving the handling of mineral oils, acids, alkalis, dusts or any other external agents capable of irritating the skin
20. Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or nerves)	Any occupation involving subjection to vibration
21. Lung cancer or mesothelioma caused by asbestos	Any occupation involving the mining, processing or handling of materials containing asbestos
22. Broncho pulmonary disease	Any occupation involving the substantial exposure to the inhalation of hard-metal dust, cotton dust, flax or hemp or sisal dust
23. Pulmonary irritation	Any occupation involving the inhalation of sulphur oxides, chlorine, phosgene, ammonia, bromine, ozone, or nitrogen dioxide

Description of Occupational Diseases or Injury	Nature of Occupation
24. Occupational asthma caused by sensitising agents or irritants	Any occupation involving the exposure to the inhalation of mineral dusts such as cement, copper, zinc, animal dusts such as bone or hair, or dusts of plant origin such as cotton, wood, flax, jute, rice husks, cork, spices, hemp, sisal, tobacco, tea, flour or gases or vapors of toluene diisocyanate or formaldehyde
25. Pneumoconiosis (silicosis, asbestosis, anthracosilicosis, stannosis, siderosis or siderosilicosis)	<p>Any occupation involving:</p> <ul style="list-style-type: none"> <li>(a) the mining, quarrying or working of silica rock or the working of dried quartzose and or any dry deposit or dry residue of silica or any dry admixture containing such materials;</li> <li>(b) the handling of any of the materials specified in subparagraph (a) in or incidental to any of the operations mentioned therein or substantial exposure to the dust arising from such operations;</li> <li>(c) the breaking, crushing or grinding of flint or the working or handling of broken, crushed or ground flint or materials containing such flint or substantial exposure to the dust arising from such operations;</li> <li>(d) sand blasting by means of compressed air with the use of quarose sand or crushed silica rock or flint or substantial exposure to the dust arising from such sand blasting;</li> <li>(e) the grinding of mineral graphite, or substantial exposure to the dust arising from such grinding;</li> <li>(f) work in a foundry or the performance of, or substantial exposure to the dust arising from, any of the following operations: (i) the freeing of steel castings from adherent siliceous substance; or (ii) the freeing of metal castings from adherent siliceous substance;</li> <li>(g) the manufacture of china or earthenware (including sanitary earthenware, electrical earthenware tiles), and any occupation involving substantial exposure to the dust arising there from;</li> <li>(h) the dressing of granite or any igneous rock by masons or the crushing of such materials or substantial exposure to the dust arising from such operations;</li> <li>(i) the use, or preparation for use, of a grindstone or substantial exposure to the dust arising there from;</li> <li>(j) boiler scaling or substantial exposure to the dust arising there from;</li> <li>(k) the working or handling of asbestos or any admixture of asbestos, or the manufacture or repair of asbestos textiles or other articles containing asbestos, or substantial exposure to the dust arising from any of the foregoing operations;</li> <li>(l) work in any mine (underground or aboveground) in which one of the objects of the mining operations is the getting of any mineral, or the working or handling of any minerals extracted there from, or any operation incidental thereto;</li> <li>(m) the manufacture of carbon electrodes for use in the electrolytic extraction of aluminum oxide, and any occupation involving substantial exposure to the dust arising there from;</li> <li>(n) exposure to the inhalation of dust containing iron and silica or hematite;</li> <li>(o) exposure to the inhalation of tin dust or fumes</li> </ul>

Description of Occupational Diseases or Injury	Nature of Occupation
26. Cancer caused by:	Any occupation involving:
(a) Aminobiphenyl:	the use or handling of, or exposure to, the fumes, dust or vapor of 4-aminobiphenyl or a substance containing 4-aminobiphenyl
(b) Arsenic	the use or handling of, or exposure to, the fumes, dust or vapor of arsenic or a substance containing arsenic
(c) Benzene	the use or handling of, or exposure to, the fumes, dust or vapor of benzene or a substance containing benzene
(d) Benzedrine	the use or handling of, or exposure to, the fumes, dust or vapor of Benzedrine or a substance containing Benzedrine
(e) Bischloro methyl ether	the use or handling of, or exposure to, the fumes, dust or vapor of bis-chloro methyl ether or a substance containing bis-chloro methyl ether
(f) Chromium	the use or handling of, or exposure to, the fumes, dust or vapor of chromium or a substance containing chromium
(g) Haematite	the use or handling of, or exposure to, the fumes, dust or vapor of haematite or a substance containing haematite
(h) Mustard gas	the use or handling of, or exposure to, mustard gas or a substance containing mustard gas
(i) 6-naphthylamine	the use or handling of, or exposure to the fumes, dust or vapor of B-naphthalene-amine or a substance containing 6-naphthylamine
(j) Nickel	the use or handling of, or exposure to, the fumes, dust or vapor of nickel or a substance containing nickel
(k) Soots, tars and oils	the use or handling of, or exposure to, soots, tars and oils
(l) Vinyl chloride	the use or handling of, or exposure to, the fumes, dust or vapor of vinyl chloride or a substance containing vinyl chloride
(m) Paniculate polycyclic aromatic hydrocarbon	the use or handling of, or exposure to, the fumes, dust or vapor of polycyclic aromatic hydrocarbon or a substance containing polycyclic aromatic hydrocarbon
(n) Acrylonitrile	the use or handling of, or exposure to, the fumes, dust or vapor of acrylonitrile or a substance containing acrylonitrile
(o) 1, 2-dibromoethane (ethylene dibromide)	the use or handling of, or exposure to, the fumes, dust or vapor of ethylene dibromide or a substance containing dibromide
(p) Wood dust	the use or handling of, or exposure to, wood dust arising from the manufacture of wood products
(q) Benz-o-pyrene	the use or handling of, or exposure to, the fumes, dust or vapor of benz-o-pyrene or a substance containing Benz-o-pyrene
(r) Formaldehyde	the use or handling of, or exposure to, the gas of formaldehyde
27. Fibrotic diseases of the lung caused by	
(a) Talc:	Any occupation involving-the use or handling of, or exposure to, dust of talc or a substance containing talc
(b) Aluminum	Any occupation involving the use or handling of, or exposure to, the fumes, dust or vapor of aluminum or a substance containing aluminium
(c) Coal	Any occupation involving the use or handling of, or exposure to, the fumes, dust or vapor of coal or a substance containing coal
(d) Paddy husk	Any occupation involving the use or handling of, or exposure to, paddy husk or dust or a substance containing paddy husk

## ANNEX 10: STATISTICS

**Table A10.1: Life table**

male	$l_x$	$d_x$	$p_x$	$q_x$	$e_x$	female	$l_x$	$d_x$	$p_x$	$q_x$	$e_x$
0	100000	2175	0.97825	0.02175	56.4	0	100000	1673	0.98327	0.01673	59.5
1	97825	1867	0.98092	0.01908	56.6	1	98327	1436	0.98540	0.01460	59.5
2	95958	1576	0.98358	0.01642	56.7	2	96891	1219	0.98742	0.01258	59.3
3	94383	1302	0.98620	0.01380	56.6	3	95672	1027	0.98927	0.01073	59.1
4	93080	1051	0.98870	0.01130	56.4	4	94645	863	0.99089	0.00911	58.7
5	92029	830	0.99098	0.00902	56.1	5	93783	725	0.99227	0.00773	58.3
6	91199	645	0.99292	0.00708	55.6	6	93058	607	0.99348	0.00652	57.7
7	90554	501	0.99447	0.00553	55.0	7	92451	503	0.99456	0.00544	57.1
8	90053	395	0.99561	0.00439	54.3	8	91948	410	0.99554	0.00446	56.4
9	89658	324	0.99639	0.00361	53.5	9	91538	328	0.99642	0.00358	55.6
10	89334	278	0.99689	0.00311	52.7	10	91211	262	0.99713	0.00287	54.8
11	89056	250	0.99720	0.00280	51.9	11	90949	218	0.99761	0.00239	54.0
12	88807	235	0.99736	0.00264	51.0	12	90731	196	0.99785	0.00215	53.1
13	88572	230	0.99741	0.00259	50.1	13	90535	191	0.99789	0.00211	52.2
14	88343	233	0.99737	0.00263	49.3	14	90344	198	0.99780	0.00220	51.3
15	88110	243	0.99725	0.00275	48.4	15	90146	210	0.99767	0.00233	50.5
16	87867	259	0.99705	0.00295	47.5	16	89935	222	0.99753	0.00247	49.6
17	87609	279	0.99681	0.00319	46.7	17	89713	233	0.99741	0.00259	48.7
18	87329	302	0.99654	0.00346	45.8	18	89481	242	0.99730	0.00270	47.8
19	87027	325	0.99627	0.00373	45.0	19	89239	251	0.99719	0.00281	46.9
20	86702	345	0.99602	0.00398	44.1	20	88988	260	0.99708	0.00292	46.1
21	86357	364	0.99579	0.00421	43.3	21	88728	268	0.99698	0.00302	45.2
22	85993	380	0.99558	0.00442	42.5	22	88460	277	0.99687	0.00313	44.3
23	85614	393	0.99541	0.00459	41.7	23	88183	286	0.99675	0.00325	43.5
24	85220	405	0.99525	0.00475	40.9	24	87896	296	0.99663	0.00337	42.6
25	84815	416	0.99510	0.00490	40.1	25	87600	307	0.99650	0.00350	41.8
26	84400	424	0.99498	0.00502	39.3	26	87293	318	0.99636	0.00364	40.9
27	83976	429	0.99489	0.00511	38.5	27	86975	327	0.99624	0.00376	40.1
28	83547	430	0.99485	0.00515	37.6	28	86648	335	0.99613	0.00387	39.2
29	83117	430	0.99483	0.00517	36.8	29	86313	341	0.99605	0.00395	38.4
30	82687	429	0.99482	0.00518	36.0	30	85972	347	0.99597	0.00403	37.5
31	82258	429	0.99479	0.00521	35.2	31	85625	353	0.99588	0.00412	36.7
32	81829	432	0.99473	0.00527	34.4	32	85272	359	0.99579	0.00421	35.8
33	81398	437	0.99463	0.00537	33.6	33	84913	367	0.99567	0.00433	35.0
34	80961	444	0.99451	0.00549	32.8	34	84546	377	0.99554	0.00446	34.1
35	80517	453	0.99437	0.00563	31.9	35	84169	387	0.99540	0.00460	33.3
36	80064	464	0.99421	0.00579	31.1	36	83782	398	0.99525	0.00475	32.4
37	79600	476	0.99402	0.00598	30.3	37	83384	410	0.99508	0.00492	31.6
38	79124	489	0.99382	0.00618	29.5	38	82974	423	0.99491	0.00509	30.7
39	78635	502	0.99362	0.00638	28.6	39	82551	435	0.99473	0.00527	29.9
40	78133	515	0.99341	0.00659	27.8	40	82116	447	0.99455	0.00545	29.0
41	77618	527	0.99320	0.00680	27.0	41	81669	459	0.99438	0.00562	28.2

male	l_x	d_x	p_x	q_x	e_x	female	l_x	d_x	p_x	q_x	e_x
42	77091	542	0.99297	0.00703	26.2	42	81210	471	0.99420	0.00580	27.3
43	76549	559	0.99270	0.00730	25.4	43	80739	483	0.99402	0.00598	26.5
44	75990	581	0.99236	0.00764	24.6	44	80256	496	0.99382	0.00618	25.7
45	75410	607	0.99196	0.00804	23.7	45	79760	511	0.99359	0.00641	24.8
46	74803	636	0.99150	0.00850	22.9	46	79249	528	0.99334	0.00666	24.0
47	74167	666	0.99101	0.00899	22.1	47	78722	547	0.99306	0.00694	23.1
48	73501	697	0.99052	0.00948	21.3	48	78175	568	0.99274	0.00726	22.3
49	72804	727	0.99002	0.00998	20.5	49	77607	590	0.99240	0.00760	21.4
50	72077	756	0.98951	0.01049	19.7	50	77017	615	0.99202	0.00798	20.6
51	71321	788	0.98896	0.01104	18.9	51	76403	642	0.99160	0.00840	19.8
52	70533	822	0.98834	0.01166	18.1	52	75761	671	0.99114	0.00886	18.9
53	69711	862	0.98764	0.01236	17.3	53	75090	705	0.99061	0.00939	18.1
54	68849	906	0.98685	0.01315	16.5	54	74384	743	0.99001	0.00999	17.3
55	67943	953	0.98597	0.01403	15.8	55	73641	785	0.98934	0.01066	16.4
56	66990	1003	0.98503	0.01497	15.0	56	72857	831	0.98860	0.01140	15.6
57	65987	1054	0.98403	0.01597	14.2	57	72026	880	0.98779	0.01221	14.8
58	64933	1108	0.98294	0.01706	13.4	58	71146	932	0.98689	0.01311	13.9
59	63825	1165	0.98175	0.01825	12.6	59	70214	990	0.98589	0.01411	13.1
60	62660	1223	0.98049	0.01951	11.9	60	69223	1053	0.98479	0.01521	12.3
61	61438	1277	0.97922	0.02078	11.1	61	68171	1118	0.98361	0.01639	11.5
62	60161	1328	0.97793	0.02207	10.3	62	67053	1185	0.98232	0.01768	10.7
63	58834	1386	0.97643	0.02357	9.5	63	65868	1262	0.98085	0.01915	9.9
64	57447	1470	0.97442	0.02558	8.8	64	64606	1354	0.97904	0.02096	9.0
65	55978	1590	0.97160	0.02840	8.0	65	63252	1471	0.97675	0.02325	8.2
66	54388	1748	0.96786	0.03214	7.2	66	61781	1611	0.97393	0.02607	7.4
67	52640	1910	0.96371	0.03629	6.4	67	60170	1756	0.97082	0.02918	6.6
68	50729	2041	0.95977	0.04023	5.6	68	58414	1888	0.96767	0.03233	5.8
69	48689	2114	0.95659	0.04341	4.9	69	56526	1996	0.96470	0.03530	4.9
70	46575	2121	0.95446	0.04554	4.1	70	54531	2074	0.96197	0.03803	4.1
71	44454	2077	0.95327	0.04673	3.2	71	52457	2128	0.95944	0.04056	3.3
72	42376	2009	0.95259	0.04741	2.4	72	50329	2169	0.95691	0.04309	2.4
73	40367	1941	0.95192	0.04808	1.5	73	48160	2205	0.95421	0.04579	1.5
74	38427	38427	0.00000	1.00000	0.5	74	45955	45955	0.00000	1.00000	0.5
75	0	0				75	0	0			

**Table A10.2: Estimated population in Cambodia and Phnom Penh City**

	1998	1999	2000	2001	2002	2003	2004	2005
C-Male	5,857,618	5,967,088	6,078,533	6,193,702	6,313,131	6,437,037	6,565,556	6,698,783
C-Female	6,274,554	6,384,294	6,495,047	6,609,280	6,727,537	6,850,016	6,976,854	7,108,140
C-Total Pop	12,132,172	12,351,382	12,573,580	12,802,982	13,040,668	13,287,053	13,542,410	13,806,923
C-M over 10	3,953,369	4,095,814	4,235,645	4,374,814	4,516,831	4,665,334	4,822,133	4,985,520
C-F over 10	4,442,674	4,580,561	4,716,634	4,852,786	4,992,032	5,137,573	5,290,965	5,450,521
C-Pop over 10	8,396,043	8,676,375	8,952,279	9,227,600	9,508,863	9,802,907	10,113,098	10,436,041
PP-Male	501,922	519,384	536,675	554,410	572,689	591,407	610,528	630,016
PP-Female	537,685	557,902	577,804	598,162	618,979	640,223	661,858	683,835
PP-Total Pop	1,039,607	1,077,286	1,114,479	1,152,572	1,191,668	1,231,630	1,272,386	1,313,851
PP-M over 10	383,122	400,609	417,461	434,181	451,004	468,219	486,012	504,423
PP-F over 10	424,682	444,252	463,342	482,404	501,593	521,122	541,188	561,843
PP-Pop over 10	807,804	844,861	880,803	916,585	952,597	989,341	1,027,200	1,066,266
PP-Total Employee	435,245	455,211	485,499	482,490	513,259	533,057	553,455	574,504
Total Employees / Pop over 10	0.5388	0.5388	0.5512	0.5264	0.5388	0.5388	0.5388	0.5388
Total Employment over 10	4,909,218	5,519,016	5,275,177	6,243,329	6,399,675	6,458,513	6,722,805	6,987,097
TP Male				6,374,613	6,540,309	6,705,411		
TP Female				6,773,706	6,933,010	7,092,826		
Total Population				13,148,319	13,473,319	13,798,237		
Data 1998 to 2005 From "Pop Projection up to 2020 CD"								
'Labour Force Survey of Cam 2001'								
Yearbook 2003 "Labour & Wage"								
Yearbook 2003 "Population & Demography"								

**Table A10.3: Estimated marriage ratio by age group**

Current Age	Percentage who have never married
15-19	87.1
20-24	44.5
25-29	16.3
30-34	9.0
35-39	6.4
40-44	5.4
45-49	5.0
Average(25-49)	8.7

**Table A10.4: Age distribution of the workers in Phnom Penh (Non-garment Industry)**

AGE	Bank	Clean	Commerce	Drink	Foot-wear	Hotel	Laundry	Product	Soft-drink	Thread Prod.	Subtotal
Under 19	1	0	0	3	359	0	0	15	0	7	385
20-24	74	225	15	73	2,516	155	27	53	25	32	3,195
25-29	47	220	28	95	726	212	14	33	35	13	1,423
30-34	38	85	21	109	104	91	9	91	25	2	575
35-39	18	146	16	47	25	51	0	87	31	4	425
40-44	12	94	25	37	12	27	0	86	34	2	329
45-49	7	50	16	17	16	23	0	95	26	2	252
50-54	1	35	25	14	3	16	0	63	33	2	192
Total	198	855	146	395	3,761	575	50	523	209	64	6,776

**Table A10.4 <continued> (Garment Industry)**

AGE	Garment	Knitting	Weaving	Subtotal	Total	Percentage (%) to the total
Under 19	4,582	2,064	1,944	8,590	8,975	10.50
20-24	31,050	6,736	2,486	40,272	43,467	50.86
25-29	17,151	1,099	387	18,637	20,060	23.47
30-34	6,520	188	115	6,823	7,398	8.66
35-39	2,793	106	19	2,918	3,343	3.91
40-44	901	2	3	906	1,235	1.45
45-49	395	2	5	402	654	0.77
50-54	134	0	1	135	327	0.38
Total	63,533	10,197	4,960	78,690	85,466	100.00

Source: Sample survey, Department of Social Security, MOLVT

**Table A10.5: Reported work injury and illness from 1999-2003**

No.	Types of Occupation	Victims			Types of Accident	Causes of Accident	Expenses (USD)
		M	F	Age			
1	Garment		1	28	Fatal	Traffic	600
2	Garment		1	25	Blinded (right eye)	Flying fragmented object	2,995
3	Garment		4	18-25	Fear of electric shock	Technical problem	80
4	Brick	1		16	Hand severed	Non-protective machine	1,100
5	Garment		1	26	Fatal	Asphyxia	80
6	Brick	1		22	Leg severed	Non-protective machine	300
7	Garment		10	18-25	Asphyxia	Overtime	200
8	Garment		6	18-25	Asphyxia	Overtime	180
9	Plywood	2			leg fracture	Traffic	2,150
10	Garment		1		Leg fracture	Traffic	200
11	Garment		15	18-25	Asphyxia	O/T	300
12	Garment		17	18-25	Asphyxia	O/T	540
13	Brick		1	16	Leg severed	Non-protective equipment	250
14	Garment	126	442	18-30	Asphyxia	Drinking water issues	24,100
15	Garment	1		26	Burn	Steam Vessel	80
16	Brick	1		18	Leg severed	Non-protective equipment	300
17	Garment		28	18-26	Asphyxia	O/T	560
18	Garment		1	22	Eye accident	Gasoline in eye	80
19	Garment	1		23	Fatal	Traffic accident	100
20	Garment	1		20	Fatal	Traffic accident	400
21	Footwear		6	18-27	Fatal	Traffic accident	300
22	Garment		7	18-26	Fatal	Traffic accident	350
23	Tobacco	1		28	Fatal	Fall from truck (slippery)	300
24	Garment		7	18-25	Injured	Fear of electric shock	140
25	Garment		199	18-27	Asphyxia	O/T	3,980
26	Plastic product	1		21	Fatal	Per. dispute	250
27	Garment		1	19	Fatal	Traffic	190
28	Garment		1	22	Wounded	Traffic	
29	Construction	1		21	Fatal	Fall from building	1,500
30	Garment		25	18-26	Asphyxia	Panic	500
31	Garment	2	33	18-27	Asphyxia	Panic	660
32	Garment		10	18-25	Asphyxia	Panic	1,000
33	Garment	18	103	18-27	Asphyxia	Panic	2,420
34	Garment	9	38	18-26	Dizzy	Food & hygiene	940
35	Garment		25	18-25	Asphyxia	hot, dust in workplace	200

No.	Types of Occupation	Victims			Types of Accident	Causes of Accident	Expenses (USD)
		M	F	Age			
36	Garment		26	17-30	Asphyxia	hot, dust in workplace	600
37	Garment	10	161	18-30	Asphyxia	hot, dust in workplace	3,692.56
38	Garment		1		Died	traffic	300
39	Garment		1		Died	traffic	250
40	Garment		1		Died	traffic	
41	Garment		125		Asphyxia	panic	2,000
42	Garment	1			Problem with hand	Machine	950
43	Garment		50		Asphyxia	panic	2,000
44	Garment		1		Slippery	slippery floor	
Sub Total		177	1,349				57,118
Total		1,526			Average Remark		37.4

Source: Department of Social Security, MOLVT

**Table A10.6: Industry distribution in Phnom Penh**

<u>Manu. Wearing, textile, fabricated</u>	27.0%
<u>Construction</u>	12.8%
Health	10.9%
<u>Transport</u>	8.2%
Others	6.3%
Private household	6.0%
Other business	6.0%
Retail, wholesale	4.3%
Finance	3.8%
Agriculture, forestry, and fishing	3.4%
Sale, repair	3.1%
Cultural	2.2%
Utility	1.7%
Manu. Wood	1.3%
Other manufacture	1.3%
Hotel	0.9%
Manu. Food	0.6%
Mining	0.0%
High invalidity rate in Thailand	
High death rate in Thailand	

**Table A10.7: Injury rates by industry in Thailand in 1998**

	# insured	Insured distribution	death case	death rate	Ratio to the average	Invalidity case	Invalidity ratio	Ratio to the average
Survey and mining	41,814	0.8%	21	0.050%	3.3**	32	0.077%	1.1*
Manu. Food	589,936	11.5%	49	0.008%	0.5	253	0.043%	0.6
Manu. Textile	631,779	12.3%	22	0.003%	0.2	395	0.063%	0.9
Forestry and wood prod	159,105	3.1%	17	0.011%	0.7	511	0.321%	4.4**
Paper, printing	103,245	2.0%	20	0.019%	1.3*	108	0.105%	1.4*
Chemical, petro	392,695	7.6%	32	0.008%	0.5	427	0.109%	1.5*
Prod from non-metal	148,967	2.9%	23	0.015%	1.0	105	0.070%	1.0
Manu. Basic metal	56,006	1.1%	9	0.016%	1.0	158	0.282%	3.9**
Metal prod	633,970	12.3%	48	0.008%	0.5	914	0.144%	2.0**
Manu. Vehicles	165,400	3.2%	11	0.007%	0.4	234	0.141%	1.9**
Other manufacture	86,962	1.7%	2	0.002%	0.1	37	0.043%	0.6
Public utilities	25,944	0.5%	27	0.104%	6.8**	19	0.073%	1.0
Constructions	345,763	6.7%	168	0.049%	3.2**	257	0.074%	1.0
Transportation communication	185,869	3.6%	111	0.060%	3.9**	72	0.039%	0.5
Trade	626,179	12.2%	115	0.018%	1.2*	126	0.020%	0.3
others	944,499	18.4%	115	0.012%	0.8	85	0.009%	0.1
TOTAL	5,138,133	100.0%	790	0.015%	1.0	3733	0.073%	1.0

\*\* denotes the discrepancy from the mean is more than 2 times (very risky industry).

\* denotes the discrepancy from the mean is more than 1 and less than 2 (riskier industry).

Source: Workmen's Compensation Fund, Social Security Office, Thailand

## ANNEX 11: SENSITIVITY TEST

### A11.1: Discount rate

**Table A11.1: Estimated contribution rate under different assumption of discount rate**

Discount rate	1%	2%	3%
Short-term branch	0.26%	0.26%	0.26%
Long-term branch	1.58%	1.34%	1.15%
Administration	0.18%	0.16%	0.14%
Total	2.02%	1.76%	1.55%

## ANNEX 12: PRICE LIST OF SERVICE OF H.M.SIHANOUK HOSPITAL

**Table A12.1: Price list of service of H.M.Sihanouk Hospital**

<b>1. OUT-PATIENT CONSULTATION</b>		
<b>SERVICE PROVIDED</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
General-surgery	3000	
Epidermic	3000	
Nerve	3000	
Pediatric	3000	
Dental-mouth	3000	
Eye	3000	
Nose, ears, larynx	3000	
Consultation - permanent	3000	
Mental illness - first occurrence	3000	
Surgery of ageing person	3000	
Surgery on children	3000	
Surgery on kidney	3000	
Pregnant	3000	
Feminine illness	3000	
Physiotherapy	3000	
Kinesitherapy	3000	
Mental illness - 2 <sup>nd</sup> occurrence	3000	
	1500	
<b>2. HOSPITALISATION</b>		
<b>ROOM TYPE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
1 bed	10000	
2 beds	5000 a bed	
3 or 4 beds	3000 a bed	
<b>EMERGENCY ROOM</b>		
2 beds (with bathroom)	15000 a bed	
2 beds (without bathroom)	10000 a bed	
3 or 4 beds	5000 a bed	
<b>ICU</b>		
ICU Medico-surgery	20000 a bed	
<b>3. STOMATOLOGY AND SURGERY MAXILO-FACIAL</b>		
<b>SERVICE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Major surgery: Fente de palais, resection osseuse osteosynthese,blocge bimaxillaire,bec de levre	507000	130
Medium surgery	390000	100
Minor surgery	195000	50
Tooth pulling (dent de sagesse)	15000	4
Jaw pulling (premolaires et molaires)	10000	2.5
Tooth pulling (incisive)	8000	1

Tooth pulling (dent de lait)	4000	
Nursing: pulp	24000 or 6000/time	
Dentinite	12000 or 6000/time	
Periodontite	24000 or 6000/time	
Detatrage	2000	
Maladies buccales	3000/time	
<b>4. EYE DISEASES</b>		
<b>SERVICE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Medium surgery with hypnotism medicine	390000	100
Medium surgery with anaesthetic medicine	19500	50
Small surgery with anaesthetic medicine	117000	30
<b>5. EAR, NOSE, AND THROAT</b>		
<b>SERVICE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Surgery with hypnotism medicine	390000	100
Medium Surgery with anaesthetic medicine	234000	60
Small surgery with anaesthetic medicine	156000	40
Cauterization (rhinite, pharyngit granuleuse)	70000	
Object lodged in ear and nose	15000	
Object lodged in throat and lung	390000	100
<b>6. GYNAECOLOGY AND MATERNITY</b>		
<b>SERVICE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Normal delivery	117000	30
Abnormal delivery (by cutting the vulva	156000	40
Ventouse, Forceps, craniotomie	195000	50
Cesarienne	468000	120
Sterilization tubaire	254000	65
Perineorrhaphie	156000	40
Avortement provogue pre 6 chemaine	156000	40
Avortement provogue 6 au 12 chemaine	234000	60
Avortement provoque from 12 weeks	390000	100
Avortement molle're	390000	100
Revision placenta no complication	156000	40
Revision placenta with complication	234000	60
Burn the uterus	195000	50
Surgery vaginal	156000	40
Hysterectomie abdominale, vaginale	507000	130
Kyste de' l'ovaire	390000	100
<b>7. CHIRURGIE ADULTE ET UROLOGY</b>		
<b>SERVICE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Abdominal operate	507000	130
Medium operate	390000	100
Small operate	117000	30
Pleurotomie ou drainage pleural	580000	15
Ponction pleurale, ascite, lombaire	580000	15
Ponction articulaire	580000	15
Suture et pansement	20000	
Chirurgie: abce's	20000	
Crete de coq	58000	15

Soint de plait	3000	
Sondage	15000	
Brachiio-palmaire	78000	20
Cruro-pedieux	117000	30
Botte platree	78000	20
Pelvi-pedieux	156000	40
Gouttere platree	39000	10
<b>8.CHIRURGIE PEDIARIQUE</b>		
<b>SERVICE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Big operation	468000	120
Medium operation	312000	80
Small operation with hypnotism medicine	234000	60
<b>9. IMAGERIE ET ENDOSCOPIE</b>		
<b>X-RAY</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Crane race et profile	12000	
Colonne dorso-lombaire F et P + 1 ? 3	22000	
Colonne cervicale F et P	12000	
Genou,main,pied F et P	12000	
Cuisee, jambe,bras, avant-bras	12000	
Bassin (F+P)	10000 (20000)	
Poumon F + P	10000 (20000)	
Abdomen sans preparation	10000	
Sinus maxillaire (Blondeau)	8000	
Transit gastro-doudenal	20000	
Lavement barite	50000	
Urographie intravieneuse	60000	
Cholecystography orale		
Cholangiographie		
Echographie	10000	
Fibroscopie oeso-gastro-duodenale	20000	
Coloscopie	40000	
Rx des os temporeaux (Schuller )	12000	
<b>10. LABORATOIRES</b>		
<b>ANALIZE CRITERIAS</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Ac HBS	10000	
Ac HBC	25000	
Ac HCV	10000	
Ag HBs	5000	
Aslo	4000	
Amylasemie	10000	
Acide Urique	5000	
Albumine + Sucre (urine)	2000	
Albumine (Sang)	6000	
Biliribine	4000	
Bicarbonat (U)	6000	
BW VDRL	4000	
Cytology du sang	15000	
Creatinemie	4000	
Cholesterol	4000	

Cholorachie (LCR)	10000	
Calcemie	5000	
CCMH,VGM,GR,HT	4000	
Compte d'adiss	10000	
Cytobact (LCR)	5000	
CK.Nac (CPK)	10000	
Culot Urinaire	4000	
Culture & Antibiogramme	10000	
Cryptococcus	10000	
Glycemie	4000	
G 6 PD	5000	
Group Maclagan	4000	
Gropupage	3000	
Hematozoaire	3000	
HDL (Cholasterol)	6000	
Ht. Plaquette	3000	
Hg. Vs	4000	
Ionogramme (U)	15000	
KOP ( Selle )	3000	
Lipidemie	7000	
LDH	10000	
LDL (Cholesterol)	6000	
Magnesium	6000	
Phosphatase Scide	6000	
Phospholipide	8000	
Protidemie	4000	
Proteine (LCR)	4000	
Pigment Biliaire	2000	
Rivalta	2000	
Sucre (LCR)	4000	
Selle (Consentration)	5000	
Trigliceride	5000	
Electrophorese (2 jours)	15000	
Etat Frais Gram	3000	
ECBU	10000	
Fer Iron	6000	
Facteur Rhumatoide	4000	
Gamma. GT	6000	
Pal	6000	
Phosphore	6000	
Selle Biliaire	2000	
Transaminase	4000	
Taux de Protrombine	15000	
TS-TC	2000	
Taux de reticulocyte	4000	
Test Grosesse	5000	
TPHA ou TP-PA	7000	
Test HIV	10000	
Widale Serodiagnostic	4000	
Ure-Sanguin (U)	4000	

<b>Parasitologie et bacteriologie</b>		
<b>ANALYZE CRITERIAS</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
Culture	6000	
Frais ou Gram	2000	
Anapath	30000	
Hemoculture	10000	
KOPI (selle)	2000	
Selle concentration	5000	
Cytologie		5
<b>11. MISCELLENNOUSE</b>		
<b>SERVICE</b>	<b>PRICE IN KHR</b>	<b>PRICE IN USD</b>
ECG	10000	
Lavage gastrique	20000	
Certificat medical		10
Funeral transport fee		Inside the city less than 100 Km=USD 5; outside the city & province 1 Km=USD 0.5

## ANNEX 13: DISCUSSIONS AND DECISIONS MADE ON THE DESIGN OF THE SCHEME

A discussion was held with the officials of the Department of Social Security and the Advisor to the Minister on matters relating to the employment injury scheme for Cambodia. A number of decisions were made after lengthy discussions on each and every matter considered.

### A13.1 Social security benefit

The Law on Social Security approved by the King on 25 September 2002 provided for the introduction of a pension scheme and a scheme to cover occupational risk. It was agreed that the strategy to be adopted for the introduction of social security protection would introduce occupational risk coverage first. This scheme will be the forerunner to the introduction and development of other schemes in the future. It was agreed that the basic administrative framework would be designed as a foundation upon which the other schemes will be developed.

The first argument forwarded for the introduction of the employment injury scheme was that it would be easily accepted by employers and employees. The experience of all of the ASEAN and Asian countries, such as Korea and Japan, served as the basis for the introduction of the scheme. The requirement concerning the management and administrative structure of the scheme is that the administration and the capacity building of staff must be carried out at low cost.

There were other arguments that the scheme could be designed to pay lump sums as is done for the Workman's Compensation Fund and that the coverage could be provided by many private insurance companies. It was ultimately agreed, however, that the government of Cambodia had made a rationale decision to introduce coverage of occupational risk through social insurance guided by the principles of the ILO Convention of 1964 and the recommendations on the Convention, which stipulate that periodical payments are to be made for long-term benefits.

### A13.2 Employers to be covered

The Law on Social Security did not define the term "employer," instead relying on the definition found in the Labour Law of Cambodia. This Labour Law was passed in 1997 and in Article 1, sub-paragraph 2, defines "employer" as follows: ***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 professional education or charitable characteristic as well as the liberal professional, association or groups of any nature whatsoever.*** It was argued that the enforcement of the Social Security Law using this definition could create certain legal problems. Furthermore, coverage in the initial stages would be restricted to certain employers. Hence, it was decided that the sub-decree would contain the definition of employer as found in the Labour Law but with additional powers to allow for flexibility in the implementation of social security coverage.

The additional powers to be given would allow the Minister to determine the employers to be covered according to geographical location, the nature of the industry, and the number of employees employed. Powers to extend or vary the coverage will also be provided while taking into account the future development of the scheme. However, new schemes will be covered by new sub-decrees formulated after due studies.

The lack of available reliable data on the rate of work-related commuting accidents and work accidents, as well as their severity and the length of disablement, was an important factor in the decision to implement the coverage on a pilot basis. The pilot project will be carried out in the capital city of Phnom Penh and adjacent districts, which have a large number of garment and footwear companies. The area covered by the municipality of Phnom Penh and adjacent districts was chosen because it has the largest number of businesses in operation and employs a large number of employees. The industries operating in the capital consist of garment factories including weaving and thread-making factories; footwear manufacturing; banks; hotels; utility companies supplying water, electricity, and telecommunication services; and the port authority. It was also decided that the construction and transport industries would be included for coverage.

The initial inclusion of some higher-risk industries was of concern, as the actuary felt that it was difficult to determine their risk rating. However, it was decided that with a wider group of industries being covered, the risk would be spread over a larger group and hence would not adversely affect the long term viability of the fund. Furthermore, exclusions of certain industries would be difficult to explain especially to worker unions, which are very vocal and ready for industrial action. It is important to satisfy the social partners in the implementation of the coverage in order to ensure their support and the success of the scheme. It also was decided that as the scheme is implemented, reliable data will be consistently gathered to provide for future changes to the rate of contribution.

After selecting the type of industries to be covered, attention was focused on the size of the enterprise to be covered. The garment factories are labour intensive and thus employ a large number of employees, while non-garment enterprises tend to employ a smaller number of employees. Statistics from the Labour Inspectorate's Office were used to determine the minimum number of employees an enterprise should have for purposes of coverage. It was decided that the minimum number of employees an enterprise should have for initial coverage is ten (10) and that, once covered, the employer will remain covered even if the number of employees subsequently decreases to less than ten (10).

Initially, the advisor to the Minister felt that enterprises with more than 50 employees should be covered. It was argued that enterprises with fewer than this number would not have the administrative capacity to comply with the requirements of the law on social security coverage. This would affect the level of compliance, as many small and medium-size enterprises rely only on the owner or manager to carry out all of the functions related to social security. The consensus was that the additional administrative work would not be burdensome, as it requires the preparation of documents only once a month and payments of contribution only once a month as well. A high employee ceiling would exclude a large number of employers, and the initial coverage consequently would be rather restricted and small. The department officers, who had a strong grasp of the actual circumstances in enterprises, agreed that the initial scheme should cover enterprises with ten (10) or more employees.

All employers will be provided with Employer Registration Forms before the actual launching of the scheme in order to allow for preparation of the administrative processes. The list of employers available from the labour inspection division could be used for the initial registration exercise.

### **A13.3 Employees to be covered**

The definition of employee under Article 4 of the Social Security Law covers all employees. Foreign and local employees employed under a contract of service are to be covered irrespective of their employment status. Permanent employees, apprentices, casual workers

who are employed for the purposes of the employer's industry, and state employees not governed by the Common Statute for Civil Servants will also be covered.

The comprehensive coverage is based on the principle that wherever a risk of employment injury exists, the employee, irrespective of the length of service, will be provided with protection. Problems concerning registration, coverage, and payment of contributions may be encountered where employees are employed and paid on a daily basis. An education program for employers and employees, coupled with a reliable enforcement strategy, could assist in reducing the problem, allowing for successful coverage of the majority of such employees. This move would also pave the way for better coverage for the pension scheme to be introduced later.

#### **A13.4 Contribution and wage categories for coverage**

All categories of employees' earned wages will be covered. The ceiling to be used for the purposes of contributions in the work injury scheme will be 700,000 Riel per month. The minimum wage for the purposes of contributions will be 50,000 Riel, and the subsequent categories will be set at intervals of 50,000 Riel. In other words, the first category will be for wages below 50,000 Riel, followed by 50,000-100,000 Riel, and the final category will be for wages above 700,000 Riel. The midpoint of the categories will be used as the reference wage for calculating the monthly payable contribution, and the assumed wage will be used for the purposes of calculating the daily benefit rate. However, the reference wage for the minimum category shall be 50,000 Riel and for the maximum category, it shall be 725,000 Riel.

A discussion was held to determine the method of calculating the payment of contribution and benefit. One method was to use the actual wage of the month for these purposes while the second was to have wage categories. The latter method was chosen. Employers do not maintain wage records well, and in many cases there is under-recording of wages—an apparent attempt to avoid paying the appropriate sales tax, as wages can be used to estimate actual production. In addition, this method would be easily understood on an administrative level by employers and by enforcement officers, who would find it easier to investigate and enforce the provisions of the sub-decree. This method could be used in the initial years of the scheme and then later changed when understanding of social security improves.

The rate of contribution to be charged shall initially be a uniform rate for all industries and occupations irrespective of the risk of the industry. This method of financing the coverage for the employment injury branch was agreed upon because of the simplicity of the administration involved and the fact that it would be easily understood and applied by employers. The lack of experience in the administration of social insurance schemes was an additional factor that supported the decision to use the uniform rate. It was agreed that this method of financing could be used for a period of time and reviewed later if the need should arise for a more sophisticated system. It was also acknowledged that the current types of industries in Cambodia do not have a high risk differential, with the exception of the construction and transport industry, and thus a uniform rate would be appropriate for the formative stage of the scheme.

#### **A13.5 Benefits and eligibility conditions**

##### **A13.5.1 Temporary disablement benefit**

The temporary disablement benefit rate will be fixed at 70% of the average assumed wage for the six-month period immediately preceding the month of accident, where only a complete month consisting of 24 days of employment would be considered for the purposes

of calculation. The benefit will be paid for the period of disablement with no limit. However, in the event the disablement is determined to be permanent, the employee will be encouraged to apply for permanent disablement as soon as he is able.

### **A13.5.2 Permanent disablement**

The rate of permanent disablement and dependents benefit will be similar to the rate of temporary disablement. The assessment of loss of earnings capacity for permanent disablement will be made by a medical board composed of at least three doctors. The medical board members will consist of doctors with medical expertise in the field in which the assessment is being made. All permanent loss of earnings capacity will be paid as pensions. However, for cases where the assessment is 20% or below, the employee will be given the option to commute the pension into a lump sum within a specific period. This will reduce the administrative cost of managing small pensions over a long period of time. The amount of the lump sum shall be calculated with the use of actuarial discount factors. This will be more equitable to all parties and fair to the injured employee. In cases where the employee has more than one accident resulting in different permanent disablements at different times, the maximum percentage payable as a lump sum shall be 20% and the remainder of the cumulative total shall be paid as a pension for life.

In cases where the assessment is more than 20%, the employee will be given an additional amount as a lump sum above the pension. The maximum lump sum shall be three months worth of assumed average wages for the case of 100% disablement. For all other cases above 20%, this amount will be proportionally reduced according to the percentage loss of earnings capacity. This is to assist the injured employee in adjusting to a lower rate of monthly income.

### **A13.5.3 Dependants' benefit**

A dependants' benefit shall be paid to the widow, widower, children, and parents of the deceased employee. The inclusion of payment to parents is a decision made by the Cabinet to ensure that parents are provided with financial coverage in the event of an employee's death. The principle of gender equality is also addressed in the treatment of entitlement to benefits. These requirements create a number of possible situations upon the death of an employee who leaves behind dependants, as follows:

- a) a widow or widower, children, and a parent or parents;
- b) a widow or widower only;
- c) a widow or widower with children;
- d) only children;
- e) children and parents;
- f) widow or widower and parents;
- g) parents only.

It was agreed that in the case where all three categories of recipients exist, the pension payable shall be divided among them as follows: the widow or widower and children will receive 85% of the total pension, while the parents will receive 15%. The widow or widower and children will proportionately share their pension, with the widow or widower receiving three-fifths and the child receiving two-fifths. If there is more than one child, the share of each recipient shall be proportionately reduced. As an example, where there is a widow and two children, the widow would receive three-sevenths and each child would receive two-sevenths of the pension.

The widow or widower will receive the pension for life until remarriage and children will receive it up to the age of 18 or marriage, whichever is the earlier. Parents will receive the

pension for life. There will be no dependence condition attached to the right to receive a pension, as the government intends to promote family values in line with the Asian value of filial responsibility to family.

However, where no parents exist, the total amount of the pension will be proportionately shared by the widow or widower and the children. If only a widow or widower exists or only children exist, their share of the total pension shall be three-fifths. In any situation where a parent exists, the parent's share shall be 15% of the pension. In situations where the children lose both parents, they shall be entitled to two pensions: the first in accordance with the wages of the father and the second in accordance with the wages of the mother.

#### **A13.5.4 Funeral Benefit**

The amount of funeral benefit to be provided to the families was discussed, and it was decided that the benefit should cover the average costs of a funeral. In addition, as many employees are from rural areas, the amount should provide for the related transport cost as well. It was also agreed that a lump sum will be paid irrespective of the wages of the employee, as this will be more equitable and easier to manage. It was agreed that a figure of 700,000 Riel would cover the cost of the funeral as well as necessary items such as the coffin, cloth, etc., transportation, and the cost of religious ceremonies that need to be performed. The Minister will be empowered to make changes to the benefit amount from time to time in accordance with any increases in the cost of living in Cambodia.

#### **A13.5.5 Medical Benefit**

The medical benefit will be provided in government hospitals, and the payment of the benefit will be made according to the rates charged by Cambodia's main hospital, which are based on a fee schedule. Out-patient care will be provided through panel clinics that are registered with the Ministry of Health at rates to be negotiated.

## ANNEX 14 SURVEY CONDUCTED ON INDUSTRIES IN CAMBODIA BY THE SOCIAL SECURITY DEPARTMENT

### A14.1 Background

An employment injury survey was conducted in 2003 on 200 selected employers in the capital city of Phnom Penh. The survey covered all large employers with more than 100 employees. Responses were received from 87 companies, mainly from those involved in garment manufacturing. The response rate was 43.5%. The data given is somewhat unreliable, as the figures provided for the period from 2000 to June 2003 could not be verified with records. This is due to the inherent weakness of developing economies, where compliance with the law is low.

The respondents were mainly from the garment, knitting, and weaving factories; they numbered 70, accounting for 80.46% of the total. Of the remaining respondents, there were five (5) footwear manufacturers and two (2) from each of the following industries: hotel, beverage, banks, commerce, services, and products. The total number of workers employed by all of the responding companies was 86,012, of which 75,974 or 88.3% were female and 10,038 or 11.7% were male.

The survey showed that 72,502 or 82.3% of the workers are below the age of 30 years. The employers reported 695 cases of traffic accidents during the survey period, with only seven (7) fatal accidents. These fatal accidents consisted of commuting accidents; no fatal industrial accidents were reported. The total cost paid by employers for all accidents, both minor and fatal, was USD 22,441. The consultant was informed that the amount paid per fatal case was in the range of USD 300 to USD 1,500. Based on an average of USD 900 per case, the total for the seven cases would be USD 6,300. The average total cost paid per accident for the 695 cases is USD 23.33. These figures are viewed to be very low in terms of the compensation provided to employees.

Employers reported on workplace injuries separately from commuting accidents. Three categories were used to report the accidents: illness, injury, and death. The definition for each category was not made clear, but it was assumed that illness referred to sicknesses, injury referred to minor industrial accidents, and fatal referred to deaths. In the injury category, there was no distinction made between minor injuries and those that resulted in permanent disablement. The length of disablement for the injuries also was not recorded.

### Reported illness and injuries

**Table A14.1: Number of reported illness and injuries**

YEAR	ILLNESS	INJURY	TOTAL COST (USD)
2000	30,202	1,512	34,957
2001	41,733	1,059	46,520
2002	47,621	1,149	53,734
<b>TOTAL</b>	119,556	3,712	135,211

As the actual medical cost incurred is not available, it is not possible to draw conclusions on the medical cost per injury.

## **A14.2 Wages in Cambodia and the percentage of the workforce receiving those wages**

**Table A14.2: Percentage of employees by wage**

<b>Wages (Riel)</b>	<b>% of Labour Force</b>
49,999 or less	12.7
50,000 – 99,999	30.2
100,000 – 149,000	17.5
150,000 – 200,000	18.8
200,000 – 299,999	12.3
300,000 – 499,999	6.6
500,000 – 749,999	1.1
750,000 – 999,999	0.6
1,000,000 – 1,999,999	0.3
2,000,000 and more	0.1
Total Labour Force	6,369,200
Industry	656,200
Trade and Service	1,202,900

Source: Labour Force Survey 2001, National Institute of Statistics

The results of the 2001 Labour Force Survey showed that the capital city of Phnom Penh's relative share of the total economically active population in Cambodia was 5.8%, or 394,600, while for other urban areas, i.e., three other major towns, it was 8.8%, or 562,700. The capital city has the largest number of garment factories in Cambodia, which employ a large number of workers. The infrastructure and financial services are also better developed in this area. All of these factors support the argument for implementing the pilot project for employment injury coverage in Phnom Penh.

## **A14.3 Accidents reported to the Department**

Employers are required by law to report all work-related accidents to the Social Security Department. However, most employers do not comply with the requirements of the law. The department is informed of the accident only when the employee is not compensated. The Labour Law does not specify the amount of compensation to be paid to an injured employee or to his dependants for fatal cases. Employers negotiate with employees or their dependants after an accident and pay the agreed sum to the party concerned.

The Sub-Decree on Occupational Health requires company doctors to report accidents to the Department of Occupational Health on a monthly basis. However, of the 280 enterprise clinics registered with the department, only 146 sent reports, and even these were not sent on a regular basis. The Social Security Law came into force from 2002, and hence all figures provided are from that year onward. It must also be noted that not all accidents are reported, as the employer may influence the doctor to withhold the information. In some cases, the doctor is not aware of the accident, as the employee is sent to the hospital and the company doctor is not informed.

The Social Security Department informed the consultant for this report that the number of enterprises that reported accidents in 2003, by industry, was 111 in the garment industry, five (5) in the hotel industry, nine (9) trade enterprises, and one (1) bank. Accidents that

resulted in disablement of less than five (5) days were classified as minor accidents, while those exceeding five (5) days were categorized as major accidents. Fatal accidents were separately classified.

The data gathered from both the social security and occupational health departments indicates a wide variation in the records of accidents. Due to under-reporting and other problems associated with non-reporting, the figures differ substantially. There is a conspicuous absence of any reports of death cases to the Department of Occupational Health. The only available explanation for this is that any fatalities may have been due to commuting accidents which occurred outside the enterprise and were not reported to the company doctor. The reports of injuries to the Department of Social Security represent only a fraction of the reports to the Department of Occupational Health.

**Table A14.3: Number of injuries reported to Department of Occupational Health and Department of Social Security**

YEAR	DEPARTMENT OF OCCUPATIONAL HEALTH		DEPARTMENT SOCIAL SECURITY			
	Minor Injuries	No. of Industries	Fatal	Injured	Asphyxiated	Total
1999	-	-	2	5	21	28
2000	-	-	0	2	601	603
2001	-	-	8	16	227	251
2002	1,407	151	3	1	238	242
2003	1,265	126	3	2	296	301

Another source that was examined was records from labour unions, which are directly involved in assisting injured workers. The records examined were from the Trade Union Workers Federation of Progress Democracy (TUWFPD). The total number of unions in the country is 17, nine (9) of which are members of this federation. The member unions represent workers in the garment, knitting, and thread-making industries, hotels, taxi porters, and other unions. The federation represents 180,000 workers in total. A second federation of unions called the Independent Association of Khmer Unions also exists. This federation was not contacted.

The federation informed the consultant that the in-house unions assist injured workers in their negotiations for compensation with the employer. The other facts gathered in the discussion with the federation were as follows:

- (a) As of January 2004, the unions inform the headquarters of any accidents. Employers generally do not report minor commuting accidents. Only serious accidents are reported.
- (b) The employer pays all of the medical costs incurred by injured employees, including the employee's hospitalization and all subsequent medical bills upon production of the bills for the treatment.
- (c) The employer also pays full wages for the period of hospitalization. No wage payments are made after treatment.
- (d) In the event that the accident causes permanent disablement, the French system of assessing the loss of earnings capacity is used to determine the percentage of the employee's capacity loss. The maximum amount payable under the system is USD 3,000.
- (e) Employers are reluctant to pay for commuting accidents, and they shift the responsibility for compensation to the third party who caused the accident.

- (f) The amount paid in the event of a fatal commuting accident has ranged from USD 800 to USD 1,500. The amount paid depends on the generosity of the employer and the negotiations.
- (g) There have been delays in payment of compensation by employers except for when the worker has been hospitalized.

### **Motor vehicle accidents**

The General Department of Transport provided information on vehicle registration and the issuance of driving licenses. All vehicles are required to be registered with the department. However, motorcycles with an engine capacity of less than 100cc are exempted from coverage. There are weaknesses in the registration system, as many vehicles are not registered. The department records show that about 200,000 motorcycles are registered, while an estimated 2,000,000 motorcycles are not registered. There is no requirement to insure against any third-party liability in the event of an accident. Despite this fact, some drivers still purchase an insurance policy to receive coverage out of concern about their individual liability in the event of an accident.

The law requires all motorcycle drivers to have a driving license, which may be obtained after they reach the age of 16. A driving license for cars and heavy vehicles is awarded to those above the age of 18 after they pass a driving test. Compliance with the driving license requirement is also low, and enforcement by the police is virtually non-existent for a variety of reasons.

The compensation liability in traffic accidents is considered a personal liability, and parents are liable in cases of accidents caused by their children. This liability can lead to financial losses and difficulties for anybody involved in accidents. The Department classifies minor accidents as those that do not require hospitalization and major accidents as those requiring hospitalization. According to the Department, 81% of all accidents involve motorcycles, 13% cars, 2.82% heavy vehicles 1.89% modified vehicles, and 1.35% three-wheelers.

The total number of accidents in 2003 that resulted in the death of pedestrians was 152, while 495 resulted in minor injuries and 367 in serious injuries. Vehicle accidents led to the death of 391 drivers, as well as 1,740 cases of minor injury and 1,338 cases of serious injury. The figures provided indicate the risk that exists on Cambodia's roads and also the impact on compensation in the coverage of commuting accidents under the employment injury scheme.

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