



# មជ្ឈមណ្ឌលអប់រំច្បាប់សម្រាប់សហគមន៍

## COMMUNITY LEGAL EDUCATION CENTER

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### **Suspension of Labor Contract When an Enterprise is in Serious Economic or in Particular Unusual Difficulty**

The world recession affects the Kingdom of Cambodia. Some factories and enterprises have totally closed their operation. Others temporarily cease certain activities by suspending workers from their work.

Community Legal Education Center (CLEC) in this article will discuss only the suspension in Article 71, paragraph 1 point (11) of the Cambodia Law on Labor, which provides employer the rights to suspend labor contract when the enterprise faces a serious economic or material difficulty or any particularly unusual difficulty. However the employer has to strictly follow the conditions and the suspension procedure stated in the law and other regulations to ensure workers' rights are well treated.

#### **What is the procedure?**

According to Article 71, paragraph 1, (11) of the Law on Labor, "...the suspension can be made "when the enterprise faces a serious economic or material difficulty or any particularly unusual difficulty which leads to a suspension of the enterprise operation. The suspension shall not exceed two months and be under the control of the Labor Inspector."

By this Article, the employer can suspend an employee's contract only in case (1) the company is really in such difficulty; (2) the suspension shall not exceed two months; and (3) it has to put under the control of the Labor Inspector. "Under the control of the Labor Inspector" means the employer has to request it to the Labor Inspector in advance for permission to do so. The company has to get a *prior approval of the Labor Inspector*.

Many Awards of the Arbitration Council such as Award 15/09-Charm Textile, 03 March 2009, Issue 1 have supported the interpretation. Before the suspension can begin, a company has to submit a request for a suspension with reasons to the Labor Inspector. If the Labor Inspector agrees, s/he grants the company the permission. The inspector has obligations to inspect and advise the company whether or not the suspension of the labor contract has valid reasons in accordance with the real situation of the economic difficulty in order to avoid adverse effect on both national economy and other interests of workers/employees.

#### **Can the suspension be made for over two months and for many times consecutively?**

According to Award 107/06- Now Corp, 06 November 2009 issue 1: the suspension of the labor contract which does not exceed two months can happen only once. It is spelled out in Article 71, paragraph 1, (11) of Law on Labor. The Article does not allow the employer to suspend a labor contract many times consecutively.

It is important to take note of Article 72 of the Law on Labor that the suspension of a labor contract affects only the main obligations of the contract, that are, those under which the worker has to work for the employer, and the employer has to pay the worker, unless there are provisions to the contrary that require the employer to pay the worker.

In summary, suspension of labor contract by an employer, as mentioned above, must be with precise reasons and in accordance with the procedure of the Law on Labor. If the company does not comply with it, the employer shall be obliged to pay workers/employees 100% of the wage and other benefits, even though the company has no order/job for them.