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## **Seniority Payments in Cambodia: How is this impacting businesses in Cambodia?**

Under the new 2018 amendment of the Labour Law 1997, the manner changes in which certain categories of employee receives severance. For those employees working under unfixed duration contract, what was previously an indemnity for dismissal under the old labour law has now become a so-called “seniority payment” under the new amendment (section I). From a business perspective, seniority payments have benefits and drawbacks that companies should be aware of (section II).

### **I. A new regime for employees working under UDCs**

Cambodian law distinguishes between Unfixed Duration Contract (“**UDC**”) and Fixed Duration Contract (“**FDC**”). While employees under a Fixed Duration Contract (“**FDC**”) remain eligible for severance pay (of at least 5% of total wages due throughout the term of the contract) upon termination of employment, employees working under an UDC are now eligible for seniority payments, except in the event of serious misconduct or resignation by the employee. Seniority payments are composed of back pay for seniority accrued prior to 2019 (“**Back Pay**”) and new seniority pay from 2019 (“**New Seniority Pay**”). Back Pay must be provided upon termination of employment for seniority accrued before 2019 and is capped at six months of base wages. New Seniority Pay, by contrast, must be provided in two equal installments (of 7.5 days each) every June and December to employees whose seniority accrues from 2019 onward.

The salary to be taken into account when calculating New Seniority Pay includes wages and other fringe benefits. Back Pay, by contrast, is calculated on base wages only and excludes fringe benefits. For both Back Pay and New Seniority Pay, the probationary period is not factored into the calculation unless this is provided for under an independent probationary contract. If the probationary period is stipulated in the UDC, by contrast, it will be factored into the calculation.

## II. Pros and cons of seniority payments

The introduction of seniority payments has increased the number of payments to be made to employees and hence, the employer's liability in the event of any failure to make such payments.

However, the seniority payment regime is not an entirely burdensome obligation for companies to comply with. Companies may take advantage of it as it provides a clearer picture in terms of planning employee benefits, allocating budgets for employees, and developing tailored business strategies in response.

Indeed, from a business strategy development perspective, seniority payments can help provide a more accurate picture of workforce expenses that companies must take into account when making decisions on the pricing of their products/services for example. This is of particular importance for companies working on the basis of defined projects or programs as they can allocate budgets before starting those projects or programs. Additionally, having a clearer view of the costs for employees may facilitate the decision-making process when it comes to discretionary benefits for employees such as annual bonuses.