

When is the period of fixed-duration contract calculated?

Under the Labor Law of Cambodia, fixed-duration contract must not be longer than a period of 2 years. It can be renewed one or more times, as long as the renewal does not surpass the maximum period of 2 years. Further, the Labor Law requires the contract to have precise finishing date, but it fails to mention when the period of the contract is counted. (Article 67) This article discusses the commencement of period of fixed-duration contract.

The period of fixed-duration contract should be counted from the date of the contract or the date parties sign the contract. Pursuant to Article 340 of the Civil Code, a contract is formed upon the notice of acceptance being received by the offeror. Accordingly, the date the parties sign the contract is considered as the commencement date to calculate the period of the contract. The period of the fixed-duration contract in this case should start from the date of signing the contract until the specified expiry date of the contract.

Notwithstanding the foregoing, there are cases where the commencement of performance of work by the workers does not start from the date of signing the contracts. In consideration to the principle that seniority of worker is calculated based on length of continuous service of worker with the employer, in the case where the parties agree on the commencement time of the effect of the contract or the performance of the contract, it should be interpreted that the period of the contract is counted from the specified commencement time until the specified expiry date of the contract. This interpretation is also influenced by Article 329 the Civil Code of Cambodia, which provides that if the effect of a contract is subject to a specified commencement time, the contract must not come into effect until such commencement time has occurred. If performance under a contract is subject to a specific commencement time, the obligee will not require the obligor to perform the obligation prior to said commencement time.

In conclusion, the period of fixed-duration contract is calculated from the date of the contract, unless the parties expressly agree otherwise in writing regarding the commencement date of the effect and performance of the contract.

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