

Kingdom of Cambodia
Nation Religion King

Royal Government of Cambodia
No. **16/ANKr.BK**

Sub-Degree
on
The establishment of National Social Security Fund

The Royal Government

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Kret NS/RKT/0704/124, dated July 15, 2004 regarding the Appointment of the Royal Government of Cambodia;
- Having seen Kram 20/NS/94, dated July 20, 1994, promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Kram NS/RKM/0105/003, dated January 24, 1996 promulgating the Law on the establishment of the Ministry of Labor and Vocational Training;
- Having seen Kram NS/RKM/0196/18, dated January 24, 1996 promulgating the Law on the establishment of the Ministry of Economy and Finance;
- Having seen Kram CS/RKM/0397/01, dated March 13, 1997 promulgating the Labor Law;
- Having seen Kram NS/RKM/0902/018, dated September 25, 2002 promulgating the Law on Social Security Fund and persons covered by the provisions of the Labor Law;
- Having seen Kret NS/RKT/1297/91, dated December 31, 1997 regarding the judicial statute of the public administrative establishment;
- Pursuant to the approval of the Council of Ministers at its plenary session of February 23, 2007;

HEREBY DECIDES

CHAPTER 1 General Provisions

Article 1

Institution of Public Administration, which shall be established with the mission of serving public services in social section, called “National Social Security Fund (NSSF)”. The NSSF is technically under the Ministry of Labour and Vocational Training and financially under the Ministry of Economy and Finance.

The NSSF has its central office in Phnom Penh.

Article 2

The NSSF is a public, legal and financially autonomous entity. NSSF shall be subject to the provisions of this sub-degree and act in accordance with the provisions of the law on social security fund applicable for those covered under the provisions of the Labor Law.

Article 3

NSSF shall perform as the following:

1. Manage the social security fund in accordance with the Law on the NSSF applicable for those covered under the provisions of the Labor Law.
2. Ensure that the same benefit shall be provided to all members of the NSSF in a bid to alleviate their difficulties with old age, disability, death, working risk, or any other incidences such as maternal illness.
3. Collect contribution from its members and employers.
4. Facilitate and make available health care and social services beneficial to its members.
5. Cooperate with relevant agencies to:
 - raise awareness on how to prevent working accident and professional health problems from happening
 - take any technical action on working security and hygiene.
6. Cooperate with relevant agencies to study and monitor the working risk.
7. Organize and manage Social Security Fund Investment.

Chapter 2 Social Security Fund Administration Section 1 Governing Board

Article 4

The NSSF shall be run by a Governing Board authorized to manage the organization in accordance with the provisions of this sub-degree and its internal regulations. The Governing Board consists of:

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| - Representative of the Ministry of Labour and Vocational Training | President |
| - Representative of the Office of the Council of Ministers | Member |
| - Representative of the Ministry of Economy and Finance | Member |
| - Representative of the Ministry of Health | Member |

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| - 2 Representatives of Employers | Members |
| - 2 Representatives of Workers of the NSSF | Members |
| - The Director of Social Security Fund | Automatic Member |

Article 5

The Governing Board has a mission to guide and monitor the implementation of the NSSF. The Governing Board shall have the follow duties:

- Approve the NSSF's annual budget, in particular, the benefit for each social security, administration and social and health care activities.
- Examine and approve the annual report on management and finance of the NSSF.
- Examine and approve the internal regulation, personnel statute and administrative structure of the NSSF.
- Examine and approve the NSSF's sub-entity's structure and performing tasks.
- Determine the process of recruiting, terminating, promoting, punishing and giving incentives to personnel as a request of the Director of the NSSF.
- Approve the number of official staff for the NSSF.
- Examine and approve the request on each social security contribution rate.
- Examine and approve the request on classification and benefit rate.
- Approve the NSSF's acquisition agreement.
- Schedule the programme and determine investment plan of the NSSF.
- Evaluate the NSSF's implementing outcome and taking actions for further improvement.
- Cooperate with the NSSF's technical council and to study to develop management technique and social security pension in accordance with the current economic and social situation.

Article 6

The President and Governing Board members shall be selected among high ranking officials with five years working experience and qualification in social affairs, economics or law, who have never been convicted of misdemeanor or criminal charges.

The employers and workers' representatives shall be nominated by their own organizations. They shall have enough working experience, and qualification in social affairs, economics and law and have never been convicted of misdemeanor or criminal charges.

The President and Governing Board members of the NSSF who are not the automatic members shall be appointed by this sub-degree for a 3-year mandate made by the Ministry of Labor and Vocational Training as a request from the Ministries, Institutions or Professional Organizations they represent. The mandate shall be terminated or renewed according to the request from the Ministries, Institutions and Professional Organizations they represent.

Article 7

The Governing Board shall have at least one meeting every 3 months. Though stipulated so, the Governing Board can convene a meeting at any time based on the necessity of the NSSF with invitations from the president or request from the Director of the NSSF or 5 members at least of the Governing Board.

The Governing Board shall discuss issues on the meeting's agenda only. The agenda together with other relevant documents shall be sent out to every member of the Governing Board

members and the officers in charge of finance at least 10 calendar days prior to the meeting. The Director of the NSSF shall arrange a secretary to take minutes of the meeting.

The officers in charge of finance shall have to attend the meeting but they have no right to vote.

The meeting will not be able to be conducted unless the number of members is more than 50 per cent of all. The absent member cannot be replaced. In the case of lack of quorum, the meeting shall be delayed to the next 15 calendar days and be working on the same agenda. Any decision of the Governing Board is considered as valid provided it is made by majority. In case of a tie, the president is to make the decision.

Article 8

Any decision of the meeting shall be taken as minutes which shall be sent to the ministries in charge of the NSSF, to each member and officers in charge of finance within 10 days at the latest counted from the last day of the meeting.

The minutes shall reflect the factual state of the meeting and be recorded into a list with ordinal page numbers and proper codes. The minutes shall be signed by the president and secretary of the meeting. If there is any disagreement from any member for the next Governing Board meeting, it shall be recorded in the minutes of the last meeting.

Article 9

Incentives for each Governing Board member shall be determined by the joint declaration between the Ministry of Labor and Vocational Training and Ministry of Economy and Finance, as a request by the NSSF's Governing Board.

Article 10

The NSSF's Governing Board members shall lose their status in the following cases:

- death or resignation
- mental disability certified the Ministry of Health
- bankruptcy
- that the individual receive benefit from any contract with the NSSF or provide any service to the NSSF though in a direct or indirect manner.
- being convicted by the court on charge of misdemeanor or crime
- Failure to provide contribution
- being selected as a parliamentary member or civil servant of the Government

Any member convicted by the court shall be suspended temporarily.

Replacement of members who lose their membership shall be done on the same way of their appointment.

Chapter 2 **Executive Unit of the NSSF**

Article 11

The NSSF's Director shall be appointed by the Sub-degree as a request from the Ministry of Labor and Vocational Training.

The NSSF's Director shall have the duties to organize and manage the day to day works of the NSSF.

Article 12

The NSSF's Director shall be fully authorized particularly to run the day to day implementation in accordance with the law and be the NSSF's representative to be responsible for legal issues. The authority shall be provided via the NSSF's internal regulations and the decision of the Governing Board.

Within the context of authority, the NSSF's Director shall have the following duties:

- prepare the NSSF's Governing Board meetings
- prepare relevant documents for the Governing Board to approve
- manage to implement any decision by the Governing Board and report on periodic basis to the Governing Board on activities and outcomes of the NSSF.
- be in charge of supervision and administration, technical and finance.
- plan the NSSF's annual budget for the Governing Board to check and approve
- supervise the NSSF's agencies and staff in accordance with relevant regulations, law and decisions of the NSSF
- raise proposal to the Governing Board to check and approve on recruiting, promoting, punishing or providing incentive to the NSSF's staff who are not civil servants
- submit proposal to the Minister of Ministry of Labor and Vocational Training to check and approve on recruiting, promoting, punishing or providing incentive to the NSSF's staff who are not civil servants
- be the representative of the NSSF to make complaint related to the NSSF's implementations and protect the interests of the NSSF

The NSSF's Director shall have certain or complete rights including right to provide signing authority in accordance with internal regulations and decisions by the Governing Board.

Article 13

The NSSF's accountant shall be appointed by Prakas of the Ministry of Economy and Finance with an agreement from the Ministry of Labor and Vocational Training. The accountant shall be directly under the NSSF's Director.

Article 14

The implementation of provision "The Law on National Social Security Fund for any individuals covered under the labor law's provision" which is observed within any enterprises shall be inspectors or monitors of the NSSF and if necessary, there shall be cooperation with labor inspectors or monitors and relevant organizations.

Appointment and defining the roles of the inspectors or monitors shall be done or set out by the Prakas of the Minister of Ministry of Labor and Vocational Training in accordance with the request from the NSSF's Governing Board.

Article 15

The NSSF's permanent staff include civil servants under the Ministry of Labor and Vocational Training or other Ministries or officers who are selected according to the request from the NSSF's Director. All officers shall receive salaries and incentives which are set out by public functions from their own original organizations.

The NSSF shall be able to select contracted individuals and workers. Those individuals shall be under the provisions of the NSSF's internal regulations and any decision by the Governing Board in accordance with the Labor Law.

The NSSF's staff shall be under the regulations on any individual who is approved by the Governing Board. The Governing Board shall set incentives for individuals as well as the procedures of its payment mentioned in the regulations.

Article 16

The NSSF's management structure shall be set by the Prakas of the Ministry of Labor and Vocational Training in accordance with the request from the NSSF's Governing Board.

Chapter 3 **Financial Management** **Part 1** **Accounting Works**

Article 17

The NSSF shall control the accounting in accordance with the public accounting principles and accounting rules set by the Ministry of Economy and Finance.

Official accounting date shall start from January 01 to December 31 within the same year.

Annual financial report shall be approved by the Governing Board by March 31 of the following year.

The financial report shall be agreed by the Ministers of Ministry of Economy and Finance and of Ministry of Labor and Vocational Training within 15 days' period after the Governing Board Meeting.

Article 18

18.1 The NSSF's Director shall act as its principle organizer who has the following duties:

- check cash and income
- organize payment and issue expense orders

The principle organizer shall be able to transfer principle organizer right or to set up income excises with an agreement from the accountant.

18.2 Financial management and accounting supervision shall be implemented in accordance with the NSSF's internal regulations directly under the accountant's responsibilities. The accountant shall take oaths before undertaking the position. The accountant shall have to attend the Governing Board meetings as a consultant but s/he has no right to vote.

18.3 The accountant shall have the following duties:

- collect income
- make payment
- keep and manage the use of the NSSF's fund and resources
- keep accounting paper and controlling accounting books

18.4 The accountant shall be able to transfer some rights to his or her representative.

Article 19

At least by September 30 every year, the Governing Board shall approve on the the NSSF's annual budget planning and development programme in accordance with the request from the Director. The programmes and plans shall be submitted to the Minister of Ministry of Labor and Vocational Training and the Ministry of Economy and Finance for approval.

Part 2 **Sources of Fund**

Article 20

The NSSF's sources of fund are the following:

1. Initial fund given by the Government for the establishment of the NSSF
2. Public interventional transfer stated in the national budget including support for the implementation and capital support
3. Contribution from the NSSF's members and employers shall be kept for financing each department of the NSSF
4. Fine from late payment of contribution or submission of payroll list as well as its interest
5. Profit from investments
6. Donation and gifts
7. Other sources the NSSF shall legally receive

Part 3 **Expenses**

Article 21

The NSSF's expenses include the following:

1. Expense on benefits for each department of the NSSF
2. Expense on administration of the NSSF
3. Expense on health care activities and social affairs
4. Expense on investment for the NSSF's benefits

Form and procedure of the above expenses shall be written in details in Prakas of the Ministry of Labor and Vocational Training with agreement from the Ministry of Economy and Finance in accordance with the request from the NSSF's Governing Board.

Part 4 **Reserved Fund**

Article 22

Minimum reserved fund for working risks shall be equivalent to the past annuity expense and 1/2 of other incentive expenses during the last two years.

Reserved fund for pension and other social securities shall be determined by Prakas of the Ministry of Labor and Vocational Training after receiving the request from the NSSF's Governing Board.

Contribution rates stated in Article 25 of this sub-degree shall be reviewed if the reserved fund for each section goes lower than minimum level after receiving comments from the NSSF's Governing Board.

The reserved fund for each section, investment of the fund and profit from this investment shall be recorded in separate accounting books.

Part 5 Operational Fund

Article 23

There shall be operational fund to cover expenses of all sections of the NSSF. The fund shall not be less than 2 times the amount of monthly average expense of the NSSF ins the last year.

Part 6 Social Security Analyses

Article 24

The NSSF analyzes its finance for the social security at least once in three years. In the case that the analysis suggests a danger caused by financial imbalance in any section of the NSSF, there shall be a request to review the contribution rates or the retirement age to ensure the sustainability of the NSSF.

The Government shall provide the support to the NSSF for sustainability when it faces budget deficit.

Chapter 4 Contribution and Social Security Benefits

Part 1 Contribution

Article 25

Contribution rates for each section of the NSSF stated in provision of the law on National Social Security Fund applicable for those covered under provision of the labor law shall be determined by Prakas from the Ministry of Labor and Vocational Training with agreement from the Ministry of Economy and Finance in accordance with the request from the NSSF's Governing Board.

Part 2 Benefits

Article 26

Benefit rates for each section of the NSSF stated in provision of the law on the National Social Security Fund applicable for those covered under provision of the labor law shall be determined by Prakas from the Ministry of Labor and Vocational Training with agreement from the Ministry of Economy and Finance in accordance with the request from the NSSF's Governing Board.

The forms of requesting benefits shall be determined by Prakas from the Ministry of Labor and Vocational Training with an agreement from the Ministry of Economy and Finance in accordance with the request from the NSSF's Governing Board.

Chapter 5 Administration

Part 1 Technical Administration

Article 27

27.1 Within 15 days after the Governing Board's annual meeting, the NSSF's Director shall send annual budget plan and development programme to the Ministers of Ministry of Labor and Vocational Training and of Ministry of Economy and Finance for approval. The Minister of Ministry of Economy and Finance shall have one month starting from the date of receiving the document to prepare his recommendations to the Minister of Ministry of Labor and Vocational Training. The Minister of technical administration shall have 2 months starting from the date of receiving the document which is sent by the Director of the NSSF for approval on the documents.

27.2 Agreement letter from the Ministry of Labor and Vocational Training shall be sent to the president of the NSSF with copies to the Ministry of Economy and Finance. The NSSF's Director shall send information to the Governing Board as soon as possible.

In the case that the minister of Ministry of Labor and Vocational Training has not responded within the set timeframe, the annual budget plan and development programme shall be considered approved.

If the minister of Ministry of Labor and Vocational Training does not agree on the annual budget plan and development programme, the Chairman of the Governing Board shall arrange a Governing Board meeting soon after to discuss and take actions to the denies.

The NSSF's development programme and expenses shall not be done if there is complaint raised by the Head of technical administration.

Regular expenses shall be done by divided into 12 when there is complaint from the Head of technical administration. However, expenses for benefits which are provided to the staff shall be done.

Article 28

The minister of Ministry of Labor and Vocational Training shall have objective comments to the documents including annual budget plan, development programme and the minutes of the Governing Board meeting. The minister of Ministry of Labor and Vocational Training shall have one month to raise complaint.

The NSSF's Director shall inform the Governing Board about the idea of the complaint from the minister of Ministry of Labor and Vocational Training. The Governing Board shall discuss the complaint as soon as possible and take actions to the complaint. If the Governing Board denies the complaint, they shall clarify the reasons and inform immediately on the matter in writing to the minister of Ministry of Labor and Vocational Training.

Article 29

29.1 The minister of Ministry of Labor and Vocational Training shall delete or delay the decision from the Governing Board or the NSSF's Director if the decision:

- is opposite to the NSSF's objectives
- is against the laws and regulations
- is opposite to the procedures of the meeting stated in Article 7.

19.2 The deletion or delay shall be decided by Prakas from the minister of Ministry of Labor and Vocational Training with clarification of personal reason or according to the complaint from relevant parties. The deletion or delay shall be informed in writing to the NSSF's Director. The NSSF's Director shall forward this notice to the NSSF's Governing Board at the earliest time possible.

Article 30

The minister of Ministry of Labor and Vocational Training shall propose the inspection or checking in the NSSF's works if it finds necessary in accordance with terms stated in the law and provisions.

Section 2 **Financial Administration**

Article 31

31.1- During 15 days after the Governing Board meeting, the NSSF's Director shall have to write the annual financial report to the Minister of Ministry of Economy and Finance and the Minister of Ministry of Labor and Vocational Training. It shall take one month of the date the documents are sent to the Minister of Ministry of Labor and Vocational Training for any comments to the Minister of Ministry of Economy and Finance. It shall also take two months of the date of receiving the document submitted by the NSSF's Director to The Minister of Ministry of Economy and Finance for its approval.

31.2 The approval letter, properly signed by the Minister of Ministry of Economy and Finance or a representative, shall be sent to the NSSF's Director with a copy to the Minister of Ministry of Labor and Vocational Training. The NSSF's Director shall immediately inform the Governing Board of this information.

In case there is no reply on this annual financial report by the Minister of Ministry of Economy and Finance in the above set period, this report shall be regarded as being approved.

In case of any disapproval of the report by the Minister of Ministry of Economy and Finance, the Chairman of the Governing Board shall quickly invite the Governing Board members to the meeting in order to seek the disapproval solving measure.

This report shall not be decided to be approved if the disapproval is not solved yet.

Article 32

The below decision of the Governing Board or the NSSF's Director shall ask for permission from the Minister of Ministry of Economy and Finance and the Minister of Ministry of Labor and Vocational Training via the officer in charge of finance which includes:

- Decision on sale or transfer of real estates
- Decision on the exception of credit with money surpassing the limitation of Prakas of the Ministry of Economy and Finance.
- Decision on loan agreement and bail agreement or similar letters.

Article 33

An official in charge of finance nominated by the Prakas of the Minister of Ministry of Economy and Finance must be nominated to accompany the NSSF. This official holds responsibility as mentioned in the sub-degree No.81 dated November 16, 1995 on the formation of financial checkup on the budget expense at the Ministry, local unit, provinces and administrative public units.

The principal organizer's management of the NSSF must be under the control of the Financial Inspection of the Ministry of Economy and Finance. The accountant's management must be under the control of the central accountant of the national treasury and under the control of the Financial General Inspectorate. The Minister of Economy and Finance can manage the double check, inspection and control of the NSSF when he/she thinks necessary and complying with the conditions and modality stated in laws and other provisions in force.

Chapter 6 Other Provisions

Article 34

34.1 The beneficiary of the NSSF's members to receive the "surviving benefits" shall be determined as below:

- a-** Husband or wife who are married with the certificate of marriage, before working accident or before husband's wife's death with working accident, who is the member of the NSSF
- b-** Son reaching the age of 18, not yet married and having the following status:
 - The child of spouse who got married with legal certificate of marriage. In case of divorce or husband's or wife's death, the child of next marriage has the same right as that of the child of the first marriage.
 - The adopted child of the NSSF's members. The adopted child's status shall be determined complying with the law in force.

The age of the child in charge can go as high as 21 years for one who is under professional training or is studying at the private or public educational institutions, recognized by the capacity authority and holding the accurate education certificate and the disabled child or the one with chronic disease who is not able to do any work with wage.

b- Parents or elder people who are under the direct supply of the members of the Social Security Fund.

34.2- The beneficiary of the Social Security Fund to receive "the benefit for people under sponsorship protection" shall be noticed by the Prakas of the Ministry of Labor and Vocational Training on the organization of pension benefit.

34.3- The revenue right for surviving and pension of the people under sponsorship protection of the spouse shall expire in the case which the spouse engages in new marriage.

Article 35

The NSSF holds the prerogative of public power in collecting incomes, debt payment and property protection. This prerogative can be applied when an enterprise or establishment becomes bankrupt or is liquidated by the court after the date of verdict issuance. The procedure of the debt collection of the NSSF shall be determined by a Prakas of the Ministry of Labor and Vocational Training.

Competent authorities along exits shall prohibit those who have not paid the debt to the NSSF as ordered by the court's warrant from leaving the territory of the Kingdom of Cambodia.

Article 36

The NSSF's fund is to be kept an account in the National Treasury or the National Bank of Cambodia or other commercial banks by Prakas of the Ministry of economy and finance.

After agreement from the Minister of labour and vocational training and economy and finance, the NSSF's Governing Board can decide to use the exceeded money (money which remains from reserved money) for investment.

Article 37

The State guarantees the NSSF's Debt which was only agreed beforehand by the Minister of economy and finance.

Article 38

Steps, coverage, procedure and actual date for the implementation of each section of the NSSF are to be determined by Prakas of the Ministry of labour and vocational training.

Chapter 7
Transitional Provisions

Article 39

After coming into effective of this Sub-degree, the Department of Social Security of the Ministry of Labour and Vocational Training is to be changed to the National Social Security Fund. The Director of the Department of Social Security of the Ministry of Labor and Vocational Training accept the post of Director of the NSSF until the new Director is nominated.

Chapter 8
Final Provisions

Article 40

All provisions contrary to this Sub-degree shall be null and void.

Article 41

Minister of the office of the Council of Ministers, Minister of the Ministry of Labour and Vocational Training, Minister of Economy and Finance, Minister, secretary of state of all

ministries and relevant institution have the duty to implement this sub-degree from signed date.

Phnom Penh, March 02, 2007

Prime Minister

Hun Sen

Receiving Place

Ministry of Royal Palace
Secretariat General of Constitutional Council
Secretariat General of Senate
Secretariat General of Assembly
Secretariat General of Government
Cabinet of Excellency Prime Minister
Cabinet of Vice Prime Minister
Article 41
Document