

## Practical Procedures for Employment Separation in Cambodia

### Introduction: Separation is costly. What is a healthy turnover rate?

Retention is one of the biggest challenges that companies face today. Retention is measured by turnover and is calculated by the number of people leaving a company during a specified period of time by the average total workforce. Retaining employees or employee retention is an important HR measurement and gives insights into management and HR Practices of the company. Are policies effective, are management practices driving innovation and creativity of the workforce such that they are contributing and feeling valued by the company. Generally, any company wants to retain employees as long as possible, in other words, have a low turnover rate. But the question that comes is; "What is a healthy turnover rate?"

A company with a high retention rate (low turnover) will not benefit from innovation and new ideas and perspectives and new experience and talent. A company with a low retention rate (high turnover) means the company will not benefit from their investment in recruitment, training and development and management inputs and lose their internal know-how, intelligence and experience. When turnover is high, a vicious and expensive cycle of recruitment, induction, training starts and both internal as well as external relationships with customers may suffer. *We can say in summary that companies need to prioritize employee planning from succession planning to training & development so that they retain talented employees and ensure they grow with the organisation. It is healthy to have some turnover and benefit from new and fresh perspectives. An employer always needs to think strategically about how to retain employees.*

Based on the latest HRINC Annual Compensation Surveys conducted by HRINC Cambodia the *average turnover rate amongst large companies in Cambodia is around 19 percent*. The HRINC Annual Compensation survey also shows that Sales, Marketing and Operations are the top 3 functions that the companies face the highest turnover.



In the same survey, respondents were asked to describe the reasons why employees separate from the company. Separation is looked at from the **employee** as well as the **employer** perspective. Separation on the count of the employee occurs when the employee chooses to resign from the company for their own reasons discussed below. Separation on the count of the employer is generally considered to be termination of employment which can be for a variety of different factors discussed below.

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<sup>1</sup> Picture from smarttalent.net  
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## Reasons why separation occurs? What is driving turnover?

### Separation initiated by employees

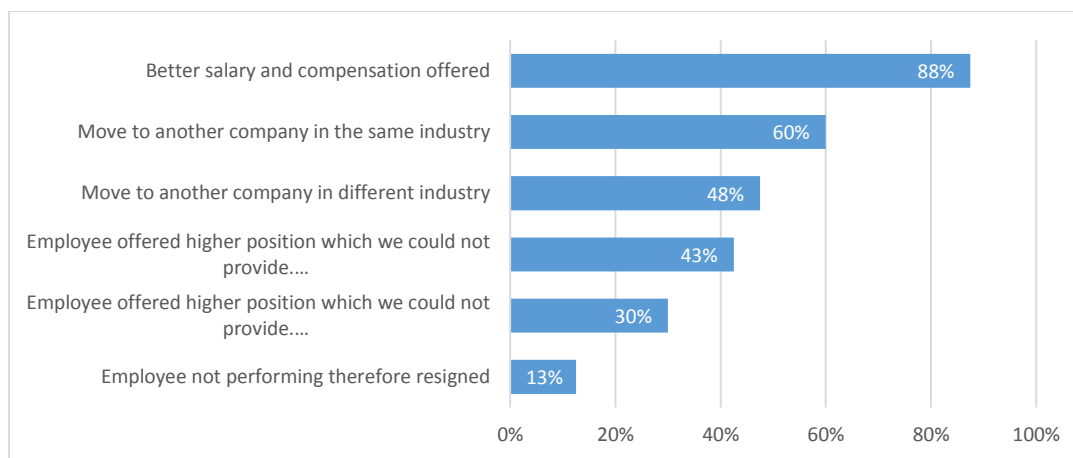
The most common reason for the employee resigning according to employers in Cambodia's is an offer of better salary and compensation elsewhere. Better compensation offered in particular by new and emerging sectors, such as financial services in Cambodia, remains a significant challenge in retaining employees and managing HR today. A variety of studies and efforts are made by employers to remain visionary, creative and innovative in compensation including studying the market rates for positions and participating in HRINC annual salary surveys, understanding the supply and demand of talent and other economic and social developments having an impact on compensation strategies and design. Compensation planning is still relatively new and technically a difficult subject for HR Professionals and require a rounded skills and knowledge set which include technical, business and economic know-how to influence top management in redesigning compensation strategies.



In real practice, companies don't focus only on the money or cash provided. Other factors also require attention such as such as management leadership style, company culture, training development, authority & empowerment, working environment, non-monetary benefits and so on. These areas can also contribute to separation initiated by employees. HRINC clients regularly invest in engagement, satisfaction and organisation health surveys as a useful tool for the company to understand deeply about their challenges and opportunities and initiative creative strategies to address turnover and build world class organisation. An HR Audit is also increasing important to look at underlying compliance and HR practices and Management.

The figure below shows the most common reasons for an employee initiating separation with the company.

Figure 1: Reasons for the employee resigning, % of respondents



Source: HRINC Consulting Annual Compensation Surveys<sup>2</sup>

<sup>2</sup> HRINC Cambodia HR Consulting Division is the only provider of annual compensation surveys in the Cambodia market. More information on our surveys can be found on [www.hrinc.asia](http://www.hrinc.asia) or contact [salarysurvey@hric.com.kh](mailto:salarysurvey@hric.com.kh).  
[www.hrinc.asia](http://www.hrinc.asia)

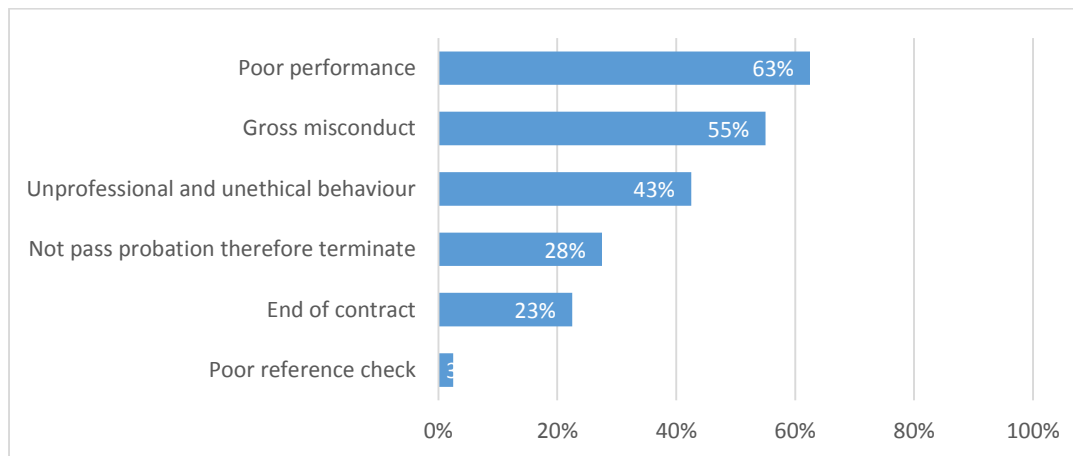
### Separation initiated by the company

In the event of business downturn where employer initiated separation can be considered to be “separation” due to downsizing or restructuring, most other types of company initiated separation are considered termination. The most common reason for the company terminating employment in Cambodia is poor performance, followed by gross misconduct and unprofessional & unethical behavior.

The emergence and high rate of termination due to gross misconduct and unprofessional and unethical behavior, stress the importance for companies to review their business and HR management practices. HRINC clients regularly review their HR practices in particularly by investing in an HRINC HR Audit which enables management to see not only “what” they have, but importantly “how” they are implementing policies and practices. Investing in skills and productivity development in all types of industries in Cambodia, will remain a top priority in medium term to long term.

The figure below shows the most common reasons for an employer to initiate separation; in other words, company termination of the employment contract.

*Figure 2: Reasons for the company to terminate employment, % of respondents*



*Source: HRINC Consulting Annual Compensation Surveys<sup>3</sup>*

<sup>3</sup> HRINC Cambodia HR Consulting Division is the only provider of annual compensation surveys in the Cambodia market. More information on our surveys can be found on [www.hrinc.asia](http://www.hrinc.asia) or contact [salarysurvey@hric.com.kh](mailto:salarysurvey@hric.com.kh).  
[www.hrinc.asia](http://www.hrinc.asia)

## Legal Procedures of Employment Separation and Termination in Cambodia

When we talk about separation of employment in Cambodia, it can be initiated by both the employee and employer.

First, we need to be clear on the type of contract that the company uses or that the employee is contracted by. In the Cambodia Labor Law, there are two types of employment contracts: First, a Specific Duration Contract (maximum of 2 years) or referred to as FDC<sup>4</sup> and second, an Unspecific Duration Contract or referred to as UDC. The legal termination procedure for each type of employment contract carries with it different legal and compliance responsibilities which we will discuss below.

### The Specific Duration Contract

For Specific Duration Contract, there are two types of termination that can occur. The first is: termination of employment on the specified expiry date and second, termination before the specified expiry date of the contract.

1. **In case of termination of employment by expiry** (neither employer nor employee terminate the finish contract), the labor law requires the company to follow the following procedure:
  - 1.1. Provide notice as to the ending of the contract in line with the law. This is specified in Table 1.
  - 1.2. At the termination date, the employer is required to make the following end of contract payments:
    - 1.2.1. Pay last unpaid wages plus
    - 1.2.2. Compensation for unused annual leave and other benefits plus
    - 1.2.3. Severance pay (equal to the stated amount in Collective Bargaining Agreement or at least equal to 5% of total wages including bonus and overtime as well as other benefits (gross) that the employee has received during the period of the contract.

*Table 1: Notice period for Specific Duration Contract in Cambodia*

Length of Employment: FDC	Notice Period
Less than or equal 6 months	0 day
More than 6 months to 1 year	10 days
More than 1 year	15 days

*Note: if the notice period is not provided, the contract is extended for a length of time equal to its initial duration or redefined as a contract of unspecified duration if its total length exceeds the limit allowed in article 67*

2. **In case of termination of employment before expiry** (before the contract is finished), the labor law requires the company to follow the procedure below:
  - 2.1. If the *employer terminates the employee before the contract was finished*, they need to give prior notice the same as the table above, Table 1. And the employer need to pay last unpaid wages plus compensation for unused annual leave and other benefits and plus severance pay up until the last date of work. Moreover, employer needs to pay compensation that the worker should have received until the end of the contract as well as to pay compensation for prior notice.
  - 2.2. If the *employee resigns before the contract was finished*, the prior notice is the same as the table above but the employers can claimed for compensation equal to the damage to the damage they suffered from this termination. In reality this is not very easy to do in practice.

<sup>4</sup> Fixed Duration Contract is the same as Specific Duration Contract  
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## The Unspecified Duration Contract

For Unspecific Duration Contracts, there are also two types of termination of the contract: these are termination by the employer or by the employee.

1. **In case of termination of the unspecified duration contract by employer**, the labor law requires the company to follow the procedure below
  - 1.1. The employer gives prior notice according to the law – see Table 2.
  - 1.2. The employer pays last unpaid wages plus compensation for unused annual leave and other benefits plus indemnity.
  - 1.3. For indemnity, it is equal to 7 days of wages and fringe benefits if the employee has worked in the enterprise form 6 to 10 months consecutively and to 15 days of wages and fringe benefits if the employee has worked in the enterprise for longer than 1 year. Time fractions of a year of 6 months or more shall be count as an entire year. The maximum of indemnity could not exceed 6 months of wage and fringe benefits.

*Table 2: Notice period for Unspecified Duration Contract in Cambodia*

Length of Employment: UDC	Notice Period
Less than 6 months	7 days
More than 6 months to 2 years	15 days
More than 2 years to 5 years	1 month
More than 5 year to 10 years	2 months
More than 10 years	3 months

2. **In case of In case of termination of the unspecified duration contract by employee**, the labor law requires the company to follow the procedure below:
  - 2.1. Employee must give prior notice the same as the table 2.
  - 2.2. The employer pays last unpaid wages plus compensation for unused annual leave and other benefits.

## Concluding thoughts

Separation, termination and turnover are costly processes to go through – not only financially but emotionally for teams, management and the entire organisation. It is important that HR professionals design policies and systems that mitigate the need for termination by understanding clearly why termination or separation happens. If there is a frequency with which “professional conduct or unethical behavior occurs”, company HR and operational policies need to be designed, to mitigate the ease with which such incidences occurred. It is important to remember that management approach and company policies can contribute to bad behaviors and practices if they are not well articulated, introduced to employees or enforced. It is important for HR managers to understand clearly, why termination or separation is occurring.

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*This article is not considered legal advice and employers or business owners pursuing a separation process should seek legal advice.*