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Agriculture

Royal Kram No. NS/RKM/0613/008 dated June 09, 2013 on Promulgation of the Law on Agricultural Communities. (L&R/Agr/Khm/2013) (Royal Gazette, Year 13, No. 47, dated June 27, 2013).

This Prakas requires all individuals and legal entities to receive a license/permit before they can operate their agricultural fertilizer business in Cambodia. This law establishes Agriculture Communities, Unions of Agriculture Communities, and the Alliance of Agriculture Communities. This law encourages Cambodian nationals working in agricultural, agro-industrial, and agribusiness productions to participate in and to improve the Agriculture Community. The highest Competent Authority in this matter is the Ministry of Agriculture, Forestry and Fisheries (“MAFF”).

According to this law, an agriculture community is a private legal entity, functioning as an establishment for agricultural economy. Members of the agriculture community must be physical persons, and the membership is open to any person on voluntary basis. The law requires one agriculture community to have at least fifteen members, all of which must be of Cambodian nationality. The application for registration of an agriculture community is to be submitted to the Municipal or Provincial Agriculture Office which will issue a Registration Certificate within twenty working days, upon receipt of complete documents. The law also stipulates the rights and obligations of members and of the Agriculture Community, the functioning of the agriculture community, and also stipulates the basically required clauses in the agriculture community’s statute (or memorandum of the Agriculture Community).

A Union of Agriculture Communities is the association of two or more agriculture communities with similar economic activities or which are within the same operational framework. Unlike an agriculture community, a Union of Agriculture Communities is not limited to the administrative boundary of a province. There are three levels which are: unions at national level, unions at regional level, and unions at local level. The law leaves room to the MAFF for issuing a Prakas on how to establish and register a Union of Agriculture Communities.

The Alliance of Agriculture Communities is the highest ranking organization. It has the Agriculture Communities and Unions of Agriculture Communities as members. Their membership is automatic. It must also be registered at the Department of Agriculture Community Development of the MAFF. The MAFF must issue another Prakas on statute and internal rule of the Alliance of Agriculture Communities.

Criminal & Procedure

Royal Kram No. NS/RKM/0613/007 dated June 03, 2013 on Promulgation of the Law on Fire Prevention. (L&R/Cri&Pro/Khm/2013) (Royal Gazette, Year 13, No. 44, dated June 15, 2013).

This Law is aimed to provide measures of fire prevention and fire extinguishment to protect lives, properties, environment, security, public order, and social safety. It contains 8 chapters and 33 articles, which stipulate the following:

1. The important role of the Ministry of Interior (MOI) in requesting, deciding on principles, providing trainings and taking necessary measures on fire prevent, and extinguishment by working with relevant authorities. The authorities include the Police Unit, and General Commissariat of National Police;
2. The Government is required to pay damages for any firefighter injured in the line of duty;
3. The civil and criminal sanctions for the damages caused by the officers who neglect or mis-perform their duties during fire extinguishment, individuals who pose obstacles in fire extinguishment or mislead the fire information, and the legal entity who is negligent.

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The Law came into effect from the date of signature, except for Article 8 and Articles 14-19 which will come into effect one year after the signature date.

Royal Kram No. NS/RKM/0613/009 dated June 09, 2013 on Promulgation of the Law on Amendment to Article 245, Article 368, Article 372 and Article 382 of the Criminal Procedure Code. (L&R/Cri&Pro/Khm/ 2013) (Royal Gazette, Year 13, No. 44, dated June15, 2013).

This Royal Kram aims to amend Article 247 on closing order, Article 368 on Time Limit for Opposition Motion, Article 372 on Opposition Motion Made by Civil Party or Civil Defendants, and Article 382 on Time Period For Appeal by Convicted Person, Civil Party and Civil Defendants.

New Article 247 Closing Order

This new article aims to provide other circumstances regarding the extinction of criminal actions that the investigating judge may also issue a non-suit order.

Further, in case of many facts that are related to investigating case, the investigating judge shall issue a non-suit order for the fact which was already investigated, and the investigating judge shall continue to probe other existing facts. The investigating judge may issue a non-suit order to anyone who is not found guilty or who did not commit or participate in the crime.

In case of issuance, the non-suit order having the ground of unidentified offender or the decease of the offender, the investigating judge may file a motion to criminal court requesting to confiscate any material, fund, income or property if those things are related to the offense. The decision on confiscation shall be made upon the public trial with the present of prosecutor and relevant parties if any. The written judgment on confiscation shall make it available to the place where the judgment issue and shall make public announcement via media mean.

Any interested parties or any persons who claims to be the legal owner of the properties may file an utter appeal against that judgement within one month of judgment, or two months after the date of the public announcement in the media if the person was not at trial.

New article 368 on Time Limit for Opposition Motion

This amendment is related to the right of convicted person to file motion against a default judgment. Procedurally, a motion against a default judgment must be submitted within fifteen days from the date of the default judgment if the judgment was delivered in person. If not delivered in person, then fifteen days from the date the person received knowledge of the conviction.

The convicted person shall be assumed to be aware about the judgement when all related procedure about the notification are fully implemented following the provision stated in Book Seven on Citations, Summons and Notification and Title Four on Writ of notification of the court decision.

New article 372 on Opposition Motion Made by Civil Party or Civil Defendants

This article is related to the right of a civil party to file a motion against a default judgement. Procedurally, the motion must be submitted within 15 days from the date of notification of the default judgment, if that judgment was delivered by hand to the civil party, or the date the civil party got actual knowledge about the judgment if it was not delivered by hand.

The new article adds that, the civil party shall be considered well knowledge about the judgement when all related procedure about the notification are fully implemented following to the provision stated in Book Seven on Citations, Summons and Notification and Title Four on Writ of notification of the court decision.

New article 382: Time Period for Appeal by Convicted Person, Civil Party and Civil Defendants

This article sets the time period for filing an utter appeal by convicted person, civil party, and civil dependants. The complaint shall be made within one month:

- where the judgment is non-default, the time period shall be calculated from the day of pronounced judgment.
- where the judgment is deemed to be non-default, the time period for an appeal shall be calculated from the day the writ of notification was made regardless of the means.

For default judgment, the time period for filing appeal shall be calculated from date of filing the motion.

Finance

Royal Kram No. NS/RKM/0613/006 dated June 03, 2013 on Promulgation of the Law on Amendment to Article 3, Article 29 and Article 30 of the Law on Anti-Money Laundering and Financing of Terrorism. (L&R/Fin/Khm/2013) (Royal Gazette, Year 13, No. 44, dated June 15, 2013).

On 3 June 2013, Laws to amend articles 3, 29, and 30 of the Anti-Money Laundering and Financing of Terrorism was promulgated. This Law envisions multi-country cooperation by regulating criminal activity that funds terrorism in Asia Pacific.

The new article 3 intends to clarify and add more content to the definition of “property” and “predicate offense.” The new article 29 defines seven offenses such as money laundering, the denial to provide information, the failure to report on operating report, the abuse of obligation to provide information and to disclose information, the abuse of professional confidentiality, the additional offenses for legal entity, and the financing of terrorism. If convicted, the penalty ranges from 6 days to 20 years imprisonment and a fine from US\$25 to US\$10,000 according to the severity of the offense. The new article 30 governs the measures towards the property of the felon such as the freezing and the retention of the personal property, the confiscation of property, the combination of the property, and the freezing of the funds involved.. Any third party opposing the above measures must demonstrate to the court that s/he is the legitimate owner of the properties, and those properties are not involved in the offense or recipients of the fruit of the offense.

Instructive Circular No. 09 dated June 11, 2013 on Preparation of the draft on law on Financial Management for 2014 (L&R/Fin/Khm/2013) (Royal Gazette, Year 13, No.46, dated June 23, 2013).

This circulation provides the guidelines to prepare the draft of the Financial Management Law 2014. They include the principles for preparation of this draft law, framework of economic and public finance policy for 2014, computation and budget allowances for 2014, and the procedure and technique for preparing 2014 budget.

This circulation also intends to provide a framework for macro-economic and public finance policy. It also seeks to provide procedures on budgeting incomes and expenses where it is an essential base for ministries, institutions, and the local office of state to prepare an annual work plan. The work plan should reflect the program, priorities, targets and objectives of policy according to its sector in order to achieve the government objective for growth, employment, equality and effectiveness. This is to ensure the sustainable growth of 7% and poverty reduction more than 1% annually. Also to ensure the political and macro-economic stability, which is the key to achieving the ultimate goal of social harmony and comfort for Cambodians.

Notification No. 1087 (GDT) dated June 20, 2013 on the date to submit the tax return or pay tax where the date is on weekend or public holiday of civil servants, employees or workers

This Notification is aimed to improve the tax collection and the services provided. It is to inform to all tax payers and the public of the date to submit tax returns.

The deadline due for filing monthly tax return and yearly tax return is set on 15th of the month, on the 31st of March, respectively. Effective from this notification, the deadline will be extended on the next working day if it falls on weekend or public holiday.

Immigration & Naturalization

Sub decree No. 286 dated May 31, 2013 on Forms and Procedures of Acquisition of a Citizenship through Marriage (L&R/Im&Na/Khm/ 2013) (Royal Gazette, Year 13, No. 48, dated June 30, 2013).

This sub decree is aimed to provide a safeguard to foreigners who marry Khmer citizens to exercise their right to claim for Khmer nationality. It contains four chapters and eleven articles, which stipulates about the forms and procedures of the acquisition of a khmer citizenship by marriage. This sub decree becomes effective on the date of signature.

After fulfilling the condition of living together for a period of three three years after the registration of the marriage certificate, required by Article 5 of Law on Nationality (October 9, 1996), a foreign man or woman that marries a Khmer wife or husband may file for Khmer nationality after fulfilling the below requirements:

1. The application form shall be submitted to the Ministry of Interior.
2. The interest person shall resident in Cambodia at the time of the application and submit the below documents:

- Application Form (2 copies)
- His/her spouse's agreement letter (2copies)
- His/her own CV (2 copies and 10 photos (4 X 6))
- Residential confirmation Letter and Attitude confirmation Letter issued by chief of commune or Sangkat of his/her residence. (1copy)
- A valid criminal record issued by the competent authority of his/her country and certified by his/her embassy (1copy)
- Marriage Certificate (2 copies)
- Valid Passport (2copies)

3. The interested person shall pay the administrative fee, determined by joint Prakas between Ministry of Interior and Ministry of Economics and Finance.

4. The procedure of receiving and checking the application and procedure for filing complaint against him/her by his/her spouse who is Khmer nationality is determined by Prakas of Ministry of Interior.

5. The acquisition shall be determined by Royal decree in accordance with proposal from the Prime Minister after having suggestion from the Minister of the Ministry of Interior.

6. The foreign man/woman who acquired the citizenship shall take an oath before the Supreme Court.

Sub decree No. 287 dated May 31, 2013 on Forms and Procedures of Acquisition of a Citizenship through Naturalization (L&R/Im&Na/Khm/ 2013) (Royal Gazette, Year 13, No. 48, dated June 30, 2013).

This sub decree set out the conditions for foreigners who wish to acquire Khmer citizenship through naturalization. This sub decree reflects the Law on Nationality 1996 and the Law on Amendment to the Law on Investment 2003.

This sub decree outlines the required documents to be submitted by the eligible foreigner to Ministry of Interior for review. Then upon the request from Minister of Interior, the Prime Minister will forward this proposal to the King of Majesty for granting the Royal Decree . Further, the foreigner shall take an oath at the Supreme Court. Finally, the Royal Decree shall hand over to the applicant by Ministry of Interior.

This procedure also requires the applicant to pay the administrative cost following the Joint Prakas of Ministry of Interior and Ministry of Economy and Finance. This sub decree consists of four chapters and eleven articles and shall take effect from the signed date.

Sub decree No. 288 dated May 31, 2013 on Forms and Procedures for the renunciation of Citizenship (L&R/Im&Na/Khm/ 2013) (Royal Gazette, Year 13, No. 48, dated June 30, 2013).

This sub decree also reflects the Law on Nationality 1996. It provides the right to Cambodians to relinquish Khmer nationality voluntarily.

The applicant shall fill the application form issued by the Ministry of Interior along with other required documents outlined in this sub decree. The applicant must be at least eighteen years of age at time of application and obtaining the certification of other nationality from receiving country. The process will be forwarded to the Prime Minister after reviewing from Ministry of Interior. And finally, the King of Majesty shall grant the Royal Decree of renunciation upon the proposal requested from Prime Minister.

For processing this renunciation, the applicant is required to pay the administrative cost following the Joint Prakas of Ministry of Interior and Ministry of Economy and Finance.

This sub decree consists of four chapters and ten articles and shall take effect from the signed date.

International Agreements

Royal Kram No. NS/RKM/0613/010 dated June 09, 2013 on Promulgation of the Law on Ratification of Agreement on maritime transportation between the governments of the member countries of the association of Southeast Asian Nations and the government of the People's republic of China; Asian Framework agreement on the facilitation of inter-state transport; and Protocol 6 Railway Border and Interchange Nations. (L&R/Ina/Khm/2013) (Royal Gazette, Year 13, No. 46, dated June

With the purpose of enhancing on Economic Cooperation between China, other Asean countries, and Cambodia, the Cambodian government issued a Royal Kram No. NS/RKM/0613/010 on Promulgating the Law on ratification to: the agreement on maritime transportation between the governments of the member countries of the association of Southeast Asian Nations and the government of the People's republic of China; Asian Framework agreement on the facilitation of inter-state transport.; and Protocol 6 Railway Border and Interchange Nations.

The agreement on maritime transportation between the governments of the member countries of the association of Southeast Asian Nations, and the government of the People's republic of China contains 16 articles. This applies to the international maritime cargo and passenger transport between ports of the member countries of Asean and China. The advantages of this agreement are the treatment in ports, which is granted in regard to: the access to ports open to international maritime traffic; the stay in ports and departure therefrom; the use of port facilities for cargoes and passengers transport as well as regarding the access to any services and other facilities available in ports; and the collection of fees and port charges.

It recognizes the certificates of registry/nationality and other's ship documents held by vessels of the other contracting party and issued by the competent authorities of the flag state. The re-measurement in the ports of the other contracting party shall not be done if the ship has a valid tonnage certificate. Additionally, all the dues and charges based on the tonnage of the vessels shall be collected and calculated in accordance with the above-mentioned certificates. Nevertheless, this agreement limits the contracting parties not to exercise criminal jurisdiction on board vessels of the another contracting party passing through their territorial sea. Criminal jurisdiction can exist, unless the consequences of the crime extend to the contracting party, or disturb the peace of the contracting party/good order of its territorial sea; suppression of illicit traffic in narcotic drugs or psychotropic substances or the assistance of the local authorities has been requested by the vessel's master or diplomatic agent of the contracting party. This agreement comes into force when the last written notification is received after each member country of Asean completes its internal legal procedures, and notification is given to the secretary-general of Asean. However, this agreement is valid for 5 years, and can be renewed for successive periods of 1 year.

For the Asian Framework agreement on the facilitation of inter-state transport, it is aimed to create an integrated and efficient logistic and multimodal transportation system for cargo movement between logistics bases and trade centers within and beyond Asean. This agreement applies to inter-state transport, but cabotage is not covered by this agreement. The contracting parties of this agreement may enjoy the grant of rights, roads transport permits, mutual recognition of inspection certificates, and driving licenses. Regarding to the driving licenses, the contracting state parties may recognize unless it was issued by contracting party for the purpose of inter-state transport in accordance with the agreement on the Recognition of Domestic Driving Licenses issued by Asean countries signed at Kuala Lumpur on July 9, 1985. Also, the motor vehicles travelling to the territory of other contracting parties shall comply with the compulsory motor vehicle insurance required in the host contracting party. However, inter-state transport of dangerous goods is not permitted under this agreement unless there is a special permit from the contracting party in the territory the transport is undertaken. The inter-state transport of prohibited and/or restricted goods shall not be permitted as well. Additionally, the Asean protocol on enhanced dispute settlement mechanism, done at Vientiane, Lao PDR on November 29, 2004 and any amendment thereto, shall apply to dispute arising under this agreement. This agreement comes into effect 30 days after the deposit of the second instrument of ratification or acceptance and no reservation may be made to this agreement.

The Protocol 6 Railway Border and Interchange Nations covers the connecting and transit services on railway lines carrying goods in trains linking the territories of the contracting parties. The obligations of the contracting parties are to provide facilities on their duly designated railway border and interchange stations for the movement of goods in transit; to provide adequate, personnel, and facilities for railway rolling stock inspection and standardised railway rolling stock inspection system at border crossings; and to improve cross border facilitation of trains. In addition, the inspection of rolling stock is provided by the each contracting party to attend the running of trains and rolling stock over its line. The examiners should possess the qualification as well as the facilities for the movement of rolling stock on their railway route. This shall be provided by the contracting state to ensure the efficient system for rolling stock monitoring. This protocol is an integral part of the agreement and come into force upon the deposit of instrument of ratification or acceptance by all contracting parties with the secretary-general of Asean.

Royal Kram No. NS/RKM/0613/011 dated June 09, 2013 on Ratificating to the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety. (L&R/Ina/Khm/ 2013) (Royal Gazette, Year 13, No. 48, dated June 30, 2013).

With an aim of conservation and sustainable use of biological diversity, taking also into account risks to human health, by providing international rules and procedures in the field of liability and redress relating to living modified organisms. The Cambodian government has ratified the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety.

This supplement protocol contains 21 articles, which stipulates about the damage resulting from living modified organisms in conjunction with the response measures of contracting state parties. It applies to damage resulting from living modified organisms, any authorized use of the living modified organism, unintentional and illegal transboundary movements, a transboundary movement of living modified organisms, and the damage that occurred in areas within limits of the national jurisdiction of Parties. Also, the contracting state parties may use criteria set out in their domestic law to address damage that occurs within the limits of their national jurisdiction. Domestic law shall also apply to damage resulting from transboundary movements of living modified organisms from non-parties. However, this supplementary protocol also provided an exemption for contracting state parties in the event of an Act of God or force majeure and, or an act of war or civil unrest. As this supplement protocol applicable to damage regarding to living modified organisms, it also requires the contracting state parties to provide in their domestic law, and for the rules and procedures that address damage and establish responsible measurements for the civil liability.

Regarding the entry into force, the Cambodian government shall implement this supplement protocol after 90 days from the date of deposit of the fortieth instruments of ratification, acceptance, approval or accession by states or regional economic integration organizations that are Parties to the protocol. Similarly further laws and regulations will be issued by the Cambodian government in the future.

Military & Police & Weapon

Sub decree No. 289 dated May 31, 2013 on Management of Private Security (L&R/Mi&Po/Khm/ 2013) (Royal Gazette, Year 13, No. 48, dated June 30, 2013).

This sub decree aims to establish and manage the activities of Private Security Entity for ensuring the public order and social security. There are two types of private security. The first is created by private security company and the other is created internally by other entities for its own security purpose.

The private security company shall request the approval from Ministry of Interior for permission for operating business. The Ministry shall have General Commissariat of National Police as security for reviewing the application. The Capital/Provincial Administration shall permit any entities to create its own security upon the request from Provincial/Capital Police Commissariat. Further this sub decree outlines the obligation of private security company and any private entities to fulfill and comply with the requirement. The administrative cost for this application shall be determined by Ministry of Interior and Ministry of Economic and Finance.

In addition, the sub decree indicates the sanction if there is an offense committed by private security companies or other private entities. The sanction include a written warning, business suspension, and permit cancellation. Further, it shall stop the security business and fine it in the amount of 20,000,000 riel to any private security company operating without permission from Ministry of Interior. Further, it stops the security activity created by other entities without permission from Capital/Provincial Administration.

However, The private security company that runs their business, and other entities that already recruited their own security prior to this sub decree have to fulfill all the requirements within six months after this sub decree came into force.

This sub decree consists of seven chapters and twenty-one articles and shall take effect from the signed date.