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## Banking

**Prakas No. Ph12.011.246 (NBC) dated December 30, 2011 on Creation of the Working Group for consultation on implementation in compliance with the Anti-Money Laundering and combating the Financing of Terrorism. (R/L/Ban/Khm/ 2012) (Royal Gazette, Year 12, No. 01, dated January 8, 2011).**

The main objective of this Prakas is to establish a working group consisting of members from the National Bank of Cambodia and other banks (commercial banks, specialized banks, etc.) in order to determine the definition and procedures for electronic financial reporting, including the cash operating report and reports on suspicious financial operations, for banking operations in Cambodia.

The working group is responsible for the evaluation and dissemination of important data, creation of a secure mechanism for forwarding and receiving electronic financial reports, creation of a standard operations analysis, and creation of a model system to combat money laundering and the financing of terrorism in Cambodia.

## Construction

**Royal decree No. NS/RKT/1211/1124 dated December 29, 2011 on Establishment of the Board of Architecture of Cambodia. (R/L/Constr/Khm/2012) (Royal Gazette, Year 12, No. 03, dated January 12, 2012).**

The main objective of this law is to regulate architects that are registered in the Kingdom of Cambodia in order to improve the architecture profession, protect the achievements of architecture and reinforce technical capacity building. The law governs Khmer and foreign architects registered in the Kingdom of Cambodia.

The term architecture, under the law, refers to the arts, sciences and technology of creating the structures of buildings and other construction. All construction must respect national identification, society and environmental protection.

This law also provides for the organizational structure of the Board of Architecture of Cambodia, including the General Secretariat, the Municipal and Provincial Architecture Boards and the Discipline Board. The Prime Minister is an honorary President for the Board of Architecture of Cambodia.

## Criminal and Procedures

**Royal Kram No. NS/RKM/0112/001 dated January 02, 2012 on Promulgation of the Law on Drug Monitoring. (R/L/Cri&Pro/Khm/2012) (Royal Gazette, Year 12, No. 07, dated January 27, 2012).**

### Objective and Purpose

On January 2nd, 2012, a new law for the control of drugs, which contains nine chapters and 125 articles, was promulgated. According to Article 1, the drug law has these objectives: "... to prevent, stop, and combat drug crime and control every lawful activities in relation to the drug, and guarantee that the actions taken by Cambodia are in accordance with the treaty and protocol of the United Nations in relation to drug control."

According to Article 2, the law "... aims at cracking down on drug cultivation, production, trafficking and distribution for illegal use, for the rehabilitation and integration [of drug users] into society as well as contributes to the public order and social security."

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#### Addictive drug classification

In Article 3, addictive drugs have been classified into four tables:

Table I – Plants and substances, which carry severe risk of harm, but which are not useful as medicine.

Table II – Plants and substances which carry severe risk of harm, but which are useful as medicine.

Table III – Plants and substances, which are dangerous, but which are useful as medicine.

Table IV – Chemical substances, which are classified in the 1988 UN Convention on Combating against the illicit trafficking of drugs and psychotropic substances, or in the application of this Convention against the illicit trafficking of drugs.

#### Anti-drug institutions

The relevant institutions are the National Anti-Drug Authority, which is the institution for the enforcement of governmental anti-drug policies, and the Ministry of Interior's Anti-Drug Department, which is in charge of gathering information that can facilitate the searches for and enforcement against all illegal drug offenses, both nationally and internationally.

Under Article 12, the authorization for any natural person to produce, fabricate, purchase, import, use or store plants, substances and ingredients as listed in the tables I, II and III above a certain quantity can be granted only by the Minister of Health for the purposes of medical, scientific, police and educational research. This authorization will be valid for not more than two years.

#### Offenses in relation to illegal drugs:

The offenses in relation to illegal drugs can be enumerated as follows:

- The illegal fabrication of drug plants
- The illegal production of drug substances
- The illegal keeping, transporting, or trafficking of drugs substances
- The illegal appropriation of drug substances
- The illegal distribution of drug substances
- The illegal coercion of others to use drug substances
- The illegal facilitation of consumption of drug substances
- The illegal consumption of drug substances

#### Penalties

The penalties for illegal drug use will range from KHR 100,000 to KHR 1,000,000 and from one to six months imprisonment.

The penalties for the distribution of drug substances will be from KHR 4,000,000 to KHR 40,000,000 and from two years to life imprisonment.

#### Anti-Money Laundering in relation to illegal drug offenses

The law also contains Anti-Money Laundering provisions, which is defined as the transformation, transfer, acquisition, possession or consumption of wealth, the concealing or falsifying the real nature or source of funds or property knowingly gained through violations of the law (Article 70). Penalties for violating this provision range from KHR 4,000,000 to the equivalent of the funds or property gained through violations of the law, and from two to five years imprisonment.

## Industry, Mines and Energy

**Order No. 001 (MIME) dated January 16, 2012 on Naming of the Factory and Handicraft. (R/L/Lu&Z/ Khm/2012) (Royal Gazette, Year 12, No. 08, dated January 31, 2012).**

This order requires the owner of a factory to declare the name of factory as part of the factory permit application process at the Ministry of Industry, Mines and Energy (MIME). The purpose of this regulation is to effectively manage and reinforce the owner's responsibility in the factory and handicraft industry.

For whatever reason, if the owner of a factory wishes to change the name of the factory, the owner must inform the Ministry of Industry, Mines and Energy at least 10 days before using of the new name.

## International Agreement

**Royal Kram No. NS/RKM/0112/002 on Promulgation of the Law on Adoption of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. (R/L/IntAgr/Khm& Eng/ 2012) (Royal Gazette, Year 12, No. 02, dated January 8, 2012).**

Recently, the Cambodian legislature promulgated the law on Adoption of the Convention on International Trade in Endangered Species of Wild Fauna and Flora that was initially brought into force at Washington, D.C., on 3 March 1973. The Royal Government of Cambodia became a ratifying member of this Convention on 10 June 1997 and became a full member, the 140th Member Party to do so, on 2 October 1997.

The fundamental principles for protection under the Convention, as stated in Appendix I, Appendix II and Appendix III, shall include all species threatened with extinction, which are or may be affected by trade. Trade in specimens of these species is subject to strict regulation in order not to prevent further threats to the survival of these species and must only be authorized in exceptional circumstances. This Convention covers all species, which any party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and requires the cooperation of other Member Parties in the control of such trade.

The trade in specimens of species as stated in Appendices I, II and III shall must conform to the provisions of Articles 3, 4 and 5 (Regulation of trade in specimens of species). The import-export and re-export of any specimen of a species shall require the prior granting and presentation of an import-export permit from the Scientific Authority and Management Authority, acknowledged by the Member Parties.

An import-export and re-export permit is valid for a period of six months from the date on which it was granted. If there are any illegal activities occurring through such trade, the Management Authority of the State of import of any specimen shall urgently take measures as mentioned in Articles 6 and 7 of this Convention. Any dispute, which may arise between two or more Member Parties with respect to the interpretation or application of the provisions of the Convention, shall be subject to negotiation between the Member Parties involved in the dispute. If the dispute cannot be resolved, the Member Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague.

## Procurement

**Royal Kram No. NS/RKM/0112/004 dated January 14, 2012 on Promulgation of the Law on Public Procurement. (R/L/Lu&Z/Khm/2012) (Royal Gazette, Year 12, No. 08, dated January 31, 2012).**

On January 14, 2012, the Law on Public Procurement was promulgated, which contains 14 chapters and 76 articles. The purpose of this law is to regulate the public procurement process regarding purchases, construction, repair, and consultancy services. This law governs all public procurement in Cambodia, except procurement under financing by development partners and procurement concerning in the areas of Public Security and National Defense.

This law classifies the procurement procedures as below:

The procurement procedure for civil works:

- Public bidding competitions involving local and international firms for large public projects.
- Bidding for small projects that will not be subject to a public competition.
- Bidding for special project that will not be subject to a public competition. This process must receive prior approval from the Ministry of Economy and Finance.

The procurement procedure for consultancy services:

The procurement process for consultancy services must be subject to a public bidding competition open to domestic and foreign consultants.

Concerning the procedure of public procurement, the procurement unit of each ministry must prepare bidding documents with the required condition and criteria for selection of bidders in order to submit to the agency conducting the bidding competition. After approval from that agency, the procurement unit must submit all relevant documents for bidding to the procurement committee for evaluation and approval. All public procurement proposals must be evaluated and approved by the Ministry of Economy and Finance, except for public procurement processes implemented

by municipal and provincial authorities. These processes are governed by a Joint-Prakas from the Ministry of Economy and Finance and the Ministry of Interior.

If there are no complaints within 10 days of acceptance of a bid, the bidder (entitled person) must submit the Deposit Guarantee Documents for the implementation of the contract as stated in Chapter 9 of this Law.

The law also governs the settlement of conflicts and complaints in the procurement process. If any bidders do not agree with the decision of an agency, the bidder may file a complaint with the Ministry of Economy and Finance. If any bidder still does not agree with the decision of the MEF, the bidder may file a complaint with a competent court in Cambodia.

The penalties for the bidder who violates the regulations governing the procurement process will range from fines of 1,000,000 Riel to 4,000,000 Riel and six months to two years imprisonment or 2,000,000 Riel to 6,000,000 Riel and one year to three years imprisonment for serious offenses. Further, a legal entity that violates Article 42 of the Penal Code in the course of committing offenses under Articles 68 and 69 of the new law will be subject to fines of 20,000,000 Riel to 100,000,000 Riel and to the additional penalties in Article 168 of the Penal Code.

## Tourism

**Prakas No. 111 (MOT) dated December 8, 2011 on Organization of the Tourism Statistics. (R/L/Tour/Khm/2012) (Royal Gazette, Year 12, No. 01, dated January 4, 2012).**

This Prakas aims to provide instructive measures, methods, and determination of legal terms for utilization in the Cambodian tourism sector. The Statistics and Press for Tourism Department at the Ministry of Tourism is the competent institution for the collection, preparation, analysis, printing and broadcasting of basic tourism data. This Prakas also establishes the Tourism Satellite Account (TSA) and Tourism Indicator. Under this Prakas, Municipal and Provincial tourism department, other relevant authorities and tourism businesses must collect monthly data and deliver such to the Statistics and Press for Tourism Department.