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Administration and Public Sector

Prakas No. 1500 (MEF) dated 25 December 2013 on the Organization and Functioning of the Departments and Entities under the supervisory of the General Department of Budget of the Ministry of Economy and Finance. (L&R/Adm/Khmer/2013) (Royal Gazette, Year 14, No. 07 dated 27 January 2014)

The General Department of Budget has the mission to manage national budget, financing and cooperation and State's liabilities for the purpose of efficient, effective and sustainable allocation and usage of national budget. To support this mission, there are five departments under the supervisory of General Department of Budget:

- The Department of General Affairs
- The Department of Budgetization
- The Department of Investment
- The Department of Financial Affairs
- The Department of Cooperation and Management of Liabilities

The detailed functions and duties of these Departments are provided for in the Prakas. The entry into force of this Prakas replaces (abrogates) three previous Prakas which are:

1. Prakas No.975 (MEF) dated 27 December 2001 on Organization and Functioning of the Department of Investment and Cooperation;
2. Prakas No.155 (MEF) dated 14 March 2005 on Organization and Functioning of the Department of Budget;
3. Prakas No.156 (MEF) dated 14 March 2005 on Organization and Functioning of the Department of Financial Affairs;

Banking and Finance

Prakas No. T5.014.002 (NBC) dated 08-Jan-2014 on the Use of LIBOR Rate Instead of SIBOR rate.

From the date of the signature of this Prakas, LIBOR rate in dollar US shall be used instead of SIBOR rate for all operation relating to SIBOR rate at the National Bank of Cambodia (NBC). All Prakas or regulations, which are contrary to this Prakas, are abrogated.

Prakas No. T5-014-068 (NBC) dated 24-Feb-2014 on Overseas Money Transfer by Banking and Financial Institutions via National Bank of Cambodia.

The purpose of this Prakas is to define the procedures and fee on overseas fund transfer of banking and financial institutions through the National Bank of Cambodia (NBC). This Prakas is applied to banking and financial institutions licensed by the NBC. Banks and financial institutions can transfer foreign currencies through the NBC. However, they are not allowed to export USD Notes abroad without intervention from the NBC. The fee for fund transfer will be charged based on the amount of money to be transferred.

Under this Prakas, the following Prakas and Announcement will be abrogated:

- Prakas No. B.998-4411 Prokor dated 19 August 1998 on the Overseas Fund Transfer of the Commercial Banks through the NBC.
- Announcement No. B.5.07-186 SCN dated 04 April 2007 on the Procedure to Overseas Fund Transfer.

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ABOUT US

BNG Legal is a leading law firm with offices in Phnom Penh and Yangon providing comprehensive legal services to foreign and local clients.

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We facilitate business, investment and trade between Cambodia, Myanmar and the rest of the world through innovative and cost-effective legal services.

Superior knowledge of local protocol, local procedure, and local people is necessary for any business to succeed in Cambodia, Myanmar and throughout Southeast Asia.

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CAMBODIAN LAW BLOG

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BNG Legal believes expanding access to legal information is crucial to rule of law. To that end, several of our legal professionals write a blog discussing recent developments in the legal landscape.

LEGAL DATABASE

The laws and regulations in our database are based upon the Official Gazettes, law compendiums and other collections from the ministries and institutions of the Royal Government of Cambodia. These are available to the public through our partner site, www.bnglaw.net.

- Announcement No. B.5.08-561 SCN dated 11 June 2008 on Service Charges of the Overseas Fund Transfer through the NBC.
- Additional Announcement No. 511-0289 SCN dated 17 October 2011, as well as any content that contrary to the spirit of this Prakas.

This Prakas is effective as of the date of signature, 25 February 2014.

Civil and Procedure

Prakas No.138 (MoSVY) dated 23 January 2014 on The Guide to Implement Relative Inter-Country Adoption Procedure.

This Prakas covers the adoption of a child of Cambodian nationality, having permanent residence in Cambodia, by a foreigner of Cambodian origin who is the child's relative permanently reside in another country and the adoption of whom is recognized by the law of that country.

Under this Prakas, the prospective adoptee shall meet all the following conditions:

- Having Cambodian nationality who permanently resides in Cambodia;
- Having age under 18 years old;
- Living in an orphanage or other place supervised by Ministry of Social Affairs, Veterans and Youth Rehabilitation (MOSAVY);
- Being under guardianship for minor or parental power holder(s) having extremely difficult situation; and
- Being grandchild, great grandchild, niece or nephew of the adopter or who is child, grandchild, great grandchild, niece or nephew of his/her spouse.

Prospective adopter shall meet all conditions as follows:

- Being foreigner who permanently reside in another country;
- Being spouse of foreigner of Cambodian origin who is child relative;
- Having full authorization for adoption by competent authority in the receiving country;
- Full adoption is recognized by law in the receiving country;
- Adopter has only one child.

Other latest legal framework on this issue of inter-country adoption can be consulted in our December 2013 Newsletter, available through <http://bnlegal.com/index.php/our-library/>.

Prakas No.139 (MoSVY) dated 23 January 2014 on The Guide to Implement Inter-Country Adoption Procedure for Child who Needs Special Care and Child with Special Needs.

This Prakas covers the adoption of a Cambodian child who needs special care, having permanent residence in Cambodia, by the adopters who are married couple permanently residing in another country. Child who needs special care is defined in article 6 of the Prakas. It refers to a child of serious physical disability or mental disability or who has a chronic disease. Besides, child with special needs refers to a child under the age of 18 with emotional and behavioral crisis or child under the age of 18 with at least one sibling under 8 years old. Other conditions of the child who needs special care and child with special needs are as follows:

- Having Cambodian nationality who permanently resides in Cambodia;
- Having age under 18 years old;
- Living in an orphanage or other place supervised by MOSAVY; and
- Being under guardianship for minor or parental power holder(s) having extremely difficult situation.

Finally, the adopter who may adopt child who needs special care and child with special needs shall meet the conditions following the content of the law on Inter-Country Adoption.

Other latest legal framework on this issue of inter-country adoption can be consulted in our December 2013 Newsletter, available through <http://bnlegal.com/index.php/our-library/>.

Prakas No. 81 (MoJ) dated 09-August-2013 on the Procedure of Registration of Matrimonial-Property-Contract.

The purpose of this prakas is to allow married couples or persons who will get married to register the contract concerning their property relations prior to or following their marriage in order to clarify their property relations.

This prakas applies to matters pertaining to Civil Code and the Law on implementation of the Civil Code regarding the following matters:

- Registration of matrimonial property contract;
- Registration of change of matrimonial property contract;
- Deregistration of matrimonial property contract; and
- Procedure to issue certificate documents.

The Department of Civil Affairs of the Ministry of Justice (MOJ) is responsible for the registration of matrimonial property contract. There are six types of registrars established for the case management of the matrimonial property contracts. The documents in the registrars are then required to be kept for ten years, except for registrars regarding the application and the registration of matrimonial property contract which are required to be kept permanently.

Any change, correction, deregistration of those contracts shall be made in writing.

Customs & Import-Export

Prakas No.063 (MOC) dated 18 Feb 2014 on Revision of Procedures and Formalities of Inspection of Export-Oriented Garment and Textile Products by Cambodia Import Export Inspection and Fraud Repression Directorate-General (CAMCONTROL)

According to this new Prakas, CAMCONTROL's inspection of export-oriented garment and textile products shall be carried out in accordance with the Principle of Trade Facilitation through risk management & shall create a relevant mechanism properly in accordance with technical and scientifically specific manner and accordance to the existing legal instrument to ensure granting Everything But Arms/Generalized System of Preference (EBA/GSP) trade preferences to Cambodia.

Facilitate procedure for requesting permission for re-export of raw materials or finished products from Central level to branches of CAMCONTROL.

Tobacco

Notification No. 001/14(NACD) dated 25-Feb-14 on Taking Measures to Prevent, Stop the Consumption, Exploitation and Importation of SISHA Products and E-Cigarette in the Kingdom of Cambodia.

Recently, the National Authority for Combating Drugs, after received approval and advice from the Royal Government of Cambodia, issued a notification taking measures to Prevent, Stop the Consumption, Exploitation and Importation of SISHA Products and E-Cigarette in the Kingdom of Cambodia as following:

- To take immediate actions to put an end to the use and exploitation of all forms of the SISHA and E-Cigarette products by removing and confiscating those products. Removal and confiscation of SISHA and E-Cigarette products shall not affect other legitimate business at all.
- To put an end to and to restrain all circulation, trafficking activities and imports of SISHA and E-Cigarette products in all forms and to widely disseminate the prohibition of using these products to young generation and the prohibition of their import to business operators and the population.
- All ministries, institutions, members of the National Authority for Combating Drugs, Provincial-Municipal Drug Control Committees, and all relevant competent authorities at all levels shall provide reports on the result of implementing this notification to the National Authority for Combating Drugs in order to do a summary report to the Royal Government.
- This Notification is effective as of the date of signing.

International Agreements

Royal-Kram No.NS/RKM/0114/001 (King) dated 09 January 2014 on the Promulgation of Law on the Approval on the Agreement on Protocol and Second Protocol to Amend the Agreement on Trade in Goods under the Framework Agreement on Comprehensive Economic Cooperation Among the Governments of the Member Countries of the Association of Southeast Asian Nations and the Republic of Korea. (L&R/Ina/Khm/Eng/2014) (Royal Gazette, Year 14, No.05 dated 19 January 2014)

The principal objective of this Royal Kram is to adopt the second protocol in order to amend the agreement on trade in goods under the framework agreement on comprehensive economic cooperation among the governments of the member countries of the association of Southeast Asian nations and the republic of Korea. This protocol is created in order to establish the terms and conditions for the acceleration of tariff reduction and/or elimination for tariff lines placed in the Normal Track and Sensitive Track.

The Agreement shall be amended by inserting a new article 6 bis and also by replacing a new article 17 of the agreement.

The article 6 bis provides some conditions and instruction in order to accelerate the Tariff Commitments. On the other hand, the article 17 bases on conditions, procedures and conditions to entry in force of the amendments. It is important to notice that the amendments of any articles of the Agreement may be made by mutual agreement upon in writing by the Parties.

Royal Kram No. NS/RKM/0114/004 dated 9 January 2014 on Promulgated the law on the Adoption of ASEAN Agreement on the Movement of Natural Persons. (L&R/Ina/Khm/Eng/2014) (Royal Gazette, Year 14, No.07 dated 27 January 2014)

This Agreement marks the advanced step toward the ASEAN Economic Community (AEC) 2015. The scope of this agreement covers all measures applying on temporary entry or temporary stay of natural persons within State Members. Those natural persons are defined by the agreement, including Business visitors, Intra Corporate Transferees, Contractual Suppliers and any other person who may be specified in the Schedules of Commitments for the temporary entry and temporary stay of natural person of the Member States. Moreover, this agreement shall apply to measures regarding citizenship, residence or employment on a permanent basis.

The above agreement is created to provide, into its scope, the rights and obligation additional to those set out in the ASEAN Framework Agreement on Services and its Implementing Protocols in relation to the movement of natural persons between Member State. Moreover, it is for objectives to elimination of trade restrictions in ASEAN, to ensure the movement of natural persons engaged in the conduct of trade in goods, services and investment between Member States, to establish streamlined and transparent procedures for applications for the temporary entry or temporary stay of natural person, and also to protect the integrity of Member States' borders, the domestic labor force and permanent employment in the ASEAN territory.

Therefore, in order to assure the transparency of procedures and in executing the mentioned agreement, Member States shall take necessary measures that could allow the Member States and the public to be aware about immigration formalities which pertain to the operation of this agreement and also about any affectations or consequences enable to cause to temporary entry or temporary stay.

Member States shall, after receiving a complete application for an immigration formality from a natural person of another Member State, notify the applicant of the receipt of the application, the status of the application and any decisions concerning the application.

However, this agreement has its restrictions. It will not be applied if it is used for discrimination between Member States or for restriction to the freedom in circulating of natural person. Furthermore, this agreement will not be applied if its execution case a bad consequence to security in Member State.

We can find Cambodia's Schedule of Movement of Natural Persons Commitments in the attached document.

Royal Kram No. NS/RKM/0114/003 dated 09 January 2014 on Promulgated the Law on the Adoption of the Protocol to Amend certain ASEAN Economic Agreement related Trade in Goods. (L&R/Ina/Khm/Eng/2014) (Royal Gazette, Year 14, No.07 dated 27 January 2014)

On the 1st of October 2012, the Royal Government of Cambodia delegated full power to H.E CHAM PRASIDH, Senior Minister, Minister of Commerce and Minister in charge of the ASEAN Economic

Minister, to sign, on behalf of the Royal Government of Cambodia, Protocol to Amend Certain ASEAN Economic Agreements Related to Trade in Goods. The signature of this amending Protocol is endorsed by this Royal Kram dated 09 January 2014.

This amending Protocol covers various areas such as the ASEAN Trade in Goods Agreement (ATIGA), the issue concerning the ICT products, and the Priority Integration Sectors (PIS) regulated under different framework.

In accordance to this amending protocol, The ASEAN Trade in Goods Agreement (ATIGA) shall be the main mechanism for the ASEAN Free Trade Area (AFTA). Therefore, for products not covered by the ATIGA, any other agreed mechanism may be used.

In regard to ICT product and service, all ASEAN members shall enter into negotiations which shall be directed towards accelerating of their commitments relating to ICT products, ICT services and investments under the ASEAN Trade in Goods Agreement, the ASEAN Framework Agreement on Services and the ASEAN Comprehensive Investment Agreement.

This amending Protocol also imposes ASEAN member to eliminate import duties on Priority Integration Sectors (PIS) products as specified in the ASEAN Trade in Goods Agreement.