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BUSINESS

Prakas No. 220 dated 07 July 2014 on The Organization and Functioning of Department of Asia-Pacific

The Department of Asia-Pacific is governed and supervised by the General Department of International Trade of ministry of Commerce. This department has the following main tasks:

- Cooperation on economy and commerce with countries in region, sub-region and bilateral parties in Asia-Pacific;
- Integration of Cambodian economic such as service trade, goods trade, rules of origin, implementation of Economic development project and other trade in region, sub-region and bilateral parties in Asia-Pacific;
- Organization and coordinate in extradition related issue such as agreement, protocol with ASEAN Partners;
- Other relevant tasks as instructed.

The Department of Asia-Pacific is composed of 5 offices including: ASEAN Office, ASEAN Partners Office, Sub-Region Office, Bilateral Office and Publication and Administration Office.

Decision No 132 dated 04 September 2014 on the Establishment of Inter-Ministerial Committee for Organizing and Participating in the World Exhibition and International Trade Exhibition

The Inter-Ministerial Committee is established in order to organize and to take part in the World Exhibition and International Trade Exhibition. The Committee of 1 President (H.E Sun Chanthol), 2 Vice-Presidents and 17 members from the Ministry of Commerce, Ministry of Economy and Finance, Ministry of Industry and Handicraft, the Council for the Development of Cambodia, Ministry of Agriculture, Forestry and Fishery, and the Ministry of Culture and Fine Arts.

The Inter-Ministerial Committee is obliged to participate in the World Exhibition 2015 in Milan, Italy including other International Trade Exhibitions, to communicate with the host country, relevant Ministries, institutions, Local or international organizations and other relevant companies, to responsible for installing the national pavilion and to join other conferences or any activities organized by the International Exhibition Office.

CRIMINAL & PROCEDURES

Royal Decree No. 0614 NS/RKT/0614/808 dated 25 June 2014 on the Establishment of National Committee of Anti-Human Trafficking

Under this Royal Decree, the National Committee of Anti-Human Trafficking is composed of multiple Head of different Ministries having Minister of Interior as the president and Secretary of State of Ministry of Interior as permanent vice president and another 6 Ministers from relevant Ministries as vice-presidents.

This committee assists the government in governing and making cooperation with and seeking support from relevant ministries, institutions, UN, local partner NGOs, international partner NGOs and relevant countries for combatting human trafficking in all images, in particular on women and children occurred in or out of the kingdom of Cambodia.

The Committee of Anti-Human Trafficking is empowered to invite representatives of relevant ministry, Institution, technical officials, and other relevant NGOs to join a discussion and clarification on all issues in relation to working frame of the Committee.

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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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CAMBODIAN LAW BLOG

cambodianlaw.wordpress.com

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.

CUSTOM & IMPORT-EXPORT

Prakas No. 848 dated 08 August 2014 putting the State's Change all Duty and Tax of Imported Private Car from Abroad by Senior Officials.

If below conditions are met, import duty of senior officer's private car is levied on government:

1. Requester is a senior officer who returns from official working at least one (1) year in Cambodia embassy in abroad.
2. Used car, have any legal documents to certify at least 6 months ownership until the return date and only 1 unit for a senior officer.
3. This car has to register as government property. If the owner wants to sell or transfer to other person, he/she has to pay taxes and this car has been allowed to withdraw from government property.
4. Prior approval from Ministry of Economy and Finance.

Any provisions against with this Prakas are abrogated.

EDUCATION

Sub-Decree No.244 dated 08 September 2014 on Functional Allowance for Civil Servants of the Ministry of Education, Youth and Sport

This Sub-Decree has an aim to organize and determine functional or additional allowance of Civil Servants of the Ministry of Education Youth, and Sport.

Under this Sub-Decree, the functional allowance for education, pedagogic allowance, regional allowance, and health risk allowance of the civil servants of the Ministry of Education Youth and Sport have to be combined into educational function allowance. In the same regard, the civil servants working in the field of general administration for the said Ministry also earn one combined administrative function allowance, which includes functional allowance for general administration, pedagogic allowance, regional allowance, and health risk allowance.

With this new Sub-Decree, the functional allowance for Civil Servants of the Ministry of Education youth and Sport has been significantly increased if compare to the Law in 2001. For example, the functional payment for a lecturer at Universities has been increased from 93,800 riels to 357,000 riels.

The details of table listing new functional allowance for the Civil Servants of the Ministry of Education Youth and Sport is to be consulted with the Sub-Decree No.244 dated 08 September 2014.

FINANCE

Sub-Decree No.238 dated 26 August 2014 on the Establishment of Committee for Financial Sector Development.

Under this Sub-Decree, the Committee for Financial Sector Development has been established to ensure sustainability of financial sector development.

This Committee having Governor of National Bank of Cambodia as a president and is to assist the Committee for Economic and Financial Policy with the main duties as follows:

- To govern, coordinate, follow up and supervise the implementation of financial sector development policy;
- To prepare and update the financial sector development policy as necessary;
- To initiate and issue appropriate measures to enhance the development of financial sector to be in conformity of the rectangle strategy of the Royal Government;
- To coordinate and strengthen the cooperation with development partners for financial sector

Further, to ensure its role and responsibilities, the head of this committee will establish a "Technical Work Group" supervised by the representative of National Bank of Cambodia in order to push the implementation of "Financial Development Strategies".

The Committee for Financial Sector Development must organize a meeting at least 3 times per annum and/or as necessary to report the progress of the implementation of the financial sector development to the Committee for Economic and Financial Policy.

Prakas No. 959 dated August 29, 2014 on The Organization and Functioning of Departments and Units under the Supervision of the General Secretariat of the Ministry of Economy and Finance.

Missions, organizational structures, roles and duties of departments, secretariats and bureaus under the supervision of the General Secretariat of the Ministry of Economy and Finance are defined under this Prakas.

The General Secretariat of Ministry of Economy and Finance is entrusted a role as an executive unit for enforcement missions and keeps track on providing the service for process in the Ministry of Economy and Finance.

This Prakas lists the duties of the General Department as follows:

- To collaborate the activity of official in all class, in all positions of MEF,
- To evaluate the budget project, collect and collaborate the budget,
- To control Ministry's personnel and official,
- To organize the role and the technological function of the institutions and the human resource
- To evaluate the staff training needs and the government officials training needs
- To study and evaluate for reconstruction the Human Resource and the improvement the professional quality in the Economic and Finance
- To implement the training to the officials in all institutions of MEF
- To prepare the draft law and regulations is the competence of MEF
- To research, compile and publish the compilation of regulation is the competence of MEF
- To organize, product and improve the strategy, policy, technology, information technology and telecommunication for Supporting public financial management
- To develop the communication technology and information for rural areas;
- To report to the ministry about the mission activities;
- To fulfill other duties entrusted by the ministry

The General Secretariat composes with seven (07) departments and one (01) secretariat as below:

1. Department of administration and Finance with four (04) bureaus namely Administration Bureau, Budget Accountancy, Instrument and Public Property and Protocol Bureau.
2. Department of Personnel with five (05) bureaus namely Personnel Bureau, budget Bureau, Personnel Controller Bureau, Management Bureau in training and human resource development and Management Bureau in official's data.
3. Department of legislation with three (03) bureaus namely civil law Bureau, Public Law Bureau, and Administration and document office Bureau.
4. Department of Information Technology with five (05) bureaus namely infrastructure of Information Technology and transportation Bureau, Management Bureau of program and information technology's function , Information Technological policy Bureau, Capacity and Publication Bureau, and Administration and Cooperation Bureau.
5. Department of Impact Resettlement by development Project with five (05) bureaus namely Administration and Finance Bureau, First impact resettlement Bureau, Second impact resettlement Bureau, Third impact resettlement Bureau, and interior controlling Bureau. Urgent Computer Issue Response Bureau, Quality Warranty and Digital Autopsy Bureau, Norms Control and Risks Bureau and Key Public Infrastructure Bureau.
6. Institute of Economic and Finance with four (04) bureaus namely Research and Development Bureau, Training Bureau, Information Technology Bureau and Personnel Administration and Finance Bureau.
7. Secretariat.

INSURANCE

Royal Kram No. NS/RKM/0814/021 dated on 4 August 2014 on the Promulgation of the Law on Insurance

The law has objective to reinforce the management and inspection of insurance business, to determine the management of insurance business and transaction, and to encourage fair competition and transparency in the insurance sector. The Ministry of Economy and Finance has authorities to manage and inspect the insurance business.

There are two types of insurance: general insurance and life insurance. The general insurance is an insurance contract between insurance company and insured whereby the premium has been paid for insurance on property, liability, and health. The life insurance is an insurance contract between

insurance company and insured in which premium has been paid for insurance death or personal accident, severe disease, or general disease.

The law set out three type of compulsory insurance: liability insurance on vehicle, liability insurance at work site, and insurance for transporting the passenger. The insurance company shall be registered as public limited company in order to permit for insurance operations. The insurance company shall obtain license from the Ministry of Economy and Finance to operate insurance business as life insurance, general insurance, reinsurance, or small insurance business.

The person conducting insurance business without license shall be fined for 50,000,000 Riels to 100,000,000 Riels and stop shall operation immediately. The owner of vehicle who does not have liability insurance and use transport the vehicle on the public road shall be fined for 15,000 Riels to 1,500,000 Riels and shall be required to have insurance. The owner of the work site who open construction site or person who operate transporting passenger business without having liability insurance shall be fined for 1,500,000 Riels to 150,000,000 Riels and shall be required to have insurance.

Prakas No. 903 dated 15 August 2014 on the Establishment of Inter-Ministerial Working Group for Implementing Inter-Ministries Prakas on Insurance Liability

This Inter-Ministerial Working Group is composed of 13 members representing various ministries such as Ministry of Economy and Finance, Ministry of Land Management Urban Planning and Construction, Ministry of Tourism, Ministry of Interior, and Ministry of Public Work and Transport.

The Inter-Ministerial Working Group shall have following tasks:

- To inspect insurance stamp on vehicles and machines which requires insurance liabilities;
- To inspect documents of the owners or operators to ensure valid insurance documents and educating people and owner or operator who involve in insurance liabilities;
- To fine all vehicles which have not bought insurance and instruct the owners and operators to buy insurance within 7 days;
- To inspect at the construction to inquire for insurance certificate;
- To inspect all transportation companies;
- To disseminate to public and private company in cities and provinces to understand the insurance liabilities through organizing workshop;
- To working group from relevant ministries shall submit monthly, quarterly, semester, annual report on vehicles and construction sites to secretariat of the Inter-Ministerial Working Group;

The Prakas No. 128 dated 06 March 2012 on establishing Inter-Ministerial Working Group for Implementing Inter-Ministries Prakas on Insurance Liabilities shall be abrogated.

JUDICIARY

Prakas No. 103 dated 01 August 2104 on the Form and Procedure of the 1st Election for the selection of Members of Supreme Council of Magistracy.

This Prakas has the purpose to determine the form and procedure of the 1st election for the selection of Members of the Supreme Council of Magistracy in accordance with the provisions of Article 28 of the law on organization and functioning of Supreme Council of Magistracy.

The Election Commission for selection the members of the Supreme Council of Magistracy has composition such as: one president, one permanent vice-president and two vice-president, seven members and five secretaries that will be nominated by the decision of the Minister of the Ministry of Justice.

The Election Commission for selection of the members of Supreme Council of Magistracy has its role and responsibilities as follows:

- To instruct the form details of the election to Magistracy
- To make the candidates lists of the selection members of the Supreme Council of Magistracy
- To take the measures for checking all the lists of candidates, election, counting of ballot papers and resolve all the disputes related to the election
- To take the immediate measures to guarantee the functional of the election

The Election Commission has four Sub-Commissions and one secretariat to work as an assistant. And this election will be held at the General Secretariat of the Supreme Council of Magistracy.

Moreover, the persons who have the right to vote and the candidates of members of the Supreme Council of Magistracy are all Judges and Prosecutors that is working at the Court, prosecution and other institutes.

The Election of members of Supreme Council of Magistracy shall apply with the principal as the following:

- Surplus majority
- Individual name
- One round

In case of each candidate receive the equal voice; the female candidate will be selected. But, in case without the female candidate, the oldest candidate will be selected.

After the announcement of the result of election, all the candidates can directly raise an objection with a reasonable justification within 24 hours to the Election Commission. This Commission has 48 hours to decide on this objection. The decision of this Commission is final and binding. The Ministry of Justice shall officially announce the result of this election.

Sub-Decree No. 240 dated 29 August 2014 on the Organization and Functioning of Ministry of Justice

The Sub Decree on Organizing and Functioning of the Ministry of Justice (MOJ) is established for the mission, structure, function, obligation, quality and effectiveness of the MOJ, by working to assist the Court, Prosecutors, the Supreme Council of the Magistracy, prison and any performance related to the amnesty. It details the structures of the MOJ and each of the branches has roles as follows:

- Cabinet of the Minister: its function is to assist the Minister of the MOJ and to lead the administrative work in the MOJ, having the status as the politician based on the work under the government and National Assembly, stipulated in the Anukret No. 20/ANK/BK of 30 April, 1996 on the Organizing and Functions of Ministries and State Secretariats.
- General Secretariat: is to facilitate, and govern the administrative work, staffs, planning, statistic, finance, and information technology of the MOJ and any organ that is under the MOJ. It consists of four departments under its supervision.
- General Department Judicial Administration: is to facilitate, govern, and inspect the administrative work of the court and prosecution organ including the public, administrative procedure, finance, staffs, research, broadcasting work and other tasks to value and guarantee the amnesty procedure. It consists of four departments under its supervision.
- General Department of Prosecutor and Criminal Affairs: is to facilitate, manage and inspect the work of prosecutor, criminal affairs, amnesty affairs, research, and work related to dismissing the punishment, and preparation on the strategy for the technical development of the amnesty in the judiciary. This General Department consists of six departments under its supervision. Noticeably the criminal record certificate is issued by the Criminal office under the General Department of Prosecutor and Criminal Affairs.
- General Department of Civil Affairs: is to facilitate, and govern the civil affairs, family affairs, spouse property registration affairs, legal entity registration as stipulated by law, and preparing strategy to promote the technical work related to civil affairs in the judiciary. There are five departments under this General Department supervision.
- General Department of Amnesty Affairs: is to facilitate, conduct the international relations, govern and inspect the amnesty assistants to value and promote the amnesty strength and its effectiveness. It consists of six departments.
- Court Inspection: is to inspect all of daily activities of the organs that are under the MOJ and all levels of the Trial Courts, to make the records and evaluation after the inspection. This organ also inspects and gives the opinions on any issue concerning with the Judges, Clerks, and Bailiffs.
- Internal Audition Department: Its obligations is stipulated in the Sub Decree No. 40 on the Organizing and Functions of the Internal Audit of the Ministry and Public Institutes dated 15 February, 2005
- Financial Control Unit: is established under the Ministry of Economic and Finance, and the Unit is working to guarantee the accurate expense in the ministry, stipulated in the Sub Decree No. 81 on the Organizing and Functions of Establishing Inspection Institutes Of the Expense of the Ministry dated on 16 November 1996.

LAND & PROPERTY

Decision No.125 dated 18 August 2014 on the Establishment of Inter-Ministerial Committee to examine, to measure and to evaluate Economic Land Concession

This decision was issued by the Prime Minister on 18 August, 2014 and comes into effect to establish a committee for evaluating Economic Land Concession (“ELC”) having its role and responsibilities as follows:

- To examine measure and evaluate ELC already offered to private companies. In case those companies have not fulfilled their obligation based on ELC agreement, the state can then revoke the offered ELC.
- To report and provide consultation to the Prime Minister regarding the supervision of ELC that needs to be strengthened.

The Committee is composed of representative from different Ministers such as Minister of Land Management, Urban Planning and Constructions, Minister of Agriculture, Forestry and Fishery, Minister of Economy and Finance, Minister of Environment, etc. The President of National Authority for Land Dispute Resolution is the president of this Committee.

President, Vice Presidents and members of this committee use officials from their own ministries/institutions and their own budgets for missions of the committee. However, they can propose to government for additional budget in case of necessary circumstance.

Circular No. 07 SR dated 30 June 2014 on Organization of State Property Inventory

The circular aims to strengthen the management of state property and organization of state property inventory by implementing the following rules:

1. State property holding authority shall complete organizing the state property inventory in the first semester of the following year. The organization of the state inventory shall prepare in two forms: 1) book inventory records details of state property held every 5 years. 2) table of increase and decrease of state property in each year during the 5 years period;
2. State property holding authority shall record all state properties under its possess and use of immovable property and moveable property donated by development partner, property acquired by impact settlement of development project, property subjected to investment, property donated by donors for use as state property;
3. State property holding authority shall evaluate and determine price of all state properties;
4. State property holding authority shall request for approval in principle from Ministry of Economy and Finance before disposing any of the state property;
5. State property holding authority shall cooperate with Ministry of Land Management Urban Planning and Construction to prepare certificate of immovable property of the state property;
6. State property holding authority shall prepare up to date list of leased state property, list of economic land concession, list of mining concession, and other list of state property concession and provide to Ministry of Economy and Finance;

TAXATION

Royal Decree NS/RKT/0514/1172 dated 29 September 2014 on Appointment of HE Kun Nhim as Director General of Custom and Excise of Cambodia

HE. Kun Nhim was the Deputy General Director of the General Department of Custom and Excise of Cambodia (the “GDCE”), and on the 29 September, 2014 he was appointed as the Director General of the GDCE after the retirement of HE. Pen Siman who had been Director General of this institution from 1998 to 2014.

The major functions of GDCE are:

- International trade facilitation and protection of the national economy and trade
- Revenue collection (duties, taxes, and other charges)
- Prevention, investigation, surveillance and suppression of smuggling and other Customs offenses including drug trafficking, dumping of hazardous wastes, etc.
- Compilation of trade statistics, analysis of trade patterns, and provision of recommendations

to policy makers.

Prakas N° 962 (MEF) dated 28 August 2014 on the Registration Tax Base for the Transfer of Ownership Rights or Possession Rights on Immovable Property.

Established since 1991, the Registration Tax is levied at a rate of 4% on transfer of ownership of real property or transfer of occupancy right of land without building in the form of sale, exchange, receiving gift, putting capital in company. The Prakas N° 962 (MEF) dated 28 August 2014, the Ministry of Economy and Finance fixes the tax base for this registration tax applicable to the transfer of ownership rights or possession rights on immovable property.

This ministerial regulation aims to ensure the consistency and efficiency of the tax base in this real estate sector. As above mentioned, the tax rate for this registration tax for the transfer of ownership rights or possession rights on immovable property is 4% of real estate value which is the higher between:

1. The value of the real estate of as determined in the annexed of this Prakas
2. The value of the real estate as fixed in the transfer agreement or other legal documents

This Prakas covers only the registration tax in real estate sector. It is important to note that the registration tax is also applied to other cases such as:

- Registration Tax is levied 4% on transfer of ownership of all kind of vehicles and transportation means such as:
 - Heavy-loaded truck, medium heavy-loaded truck, vehicle and motorcycle
 - Boat, Ferry, ship
- Registration Tax is levied on legal document as follows:
 - Document on establishing company 1,000,000 Riel
 - Document on merging the companies 1,000,000 Riel
 - Document on resolving the company 1,000,000 Riel
- 0.1% of contract cost for goods or services supply contract using state budget.
- 0.1% of stock price for transferring part or whole of company's stock.

Registration Tax shall be paid by the person who receive the ownership or occupancy right of land without building and levied pro rata on the real value of the property on the day of the transfer .

TOURISM

Decision No.129 dated 25 August 2014 on the Establishment of Inter-Ministerial Committee for Organizing the World Conference on Tourism and Culture,

This committee is responsible for governing, managing and supervising the process and organization of the World Conference on Tourism and Culture 2015, which will be held from 4th to 6th February 2015.

This committee is empowered to use budget of Ministry of Tourism and other resources and even seek for supports/ sponsors from development partners or from private sectors to fulfill their tasks.

Under this decision, the Committee consists of 1 Secretariat and 4 Sub-Committees and if necessary, further Sub-Committees can also be established, but will be automatically dissolved once its duty is finished.

The Secretariat of the Committee assists the Committee in governing, managing, supervising, coordinating with relevant institutions. The 4 Sub-Committees are responsible for their relevant tasks as follows:

- Sub-Committee for organizing content and relevant meeting: for example welcoming speech to the Prime Minister of the Kingdom of Cambodia;
- Sub-Committee for Protocol, Hospitality, Transportation, Finance, and Opening ceremony;
- Sub-Committee for Organizing Spectacle of Art;
- Sub-Committee for Security, Safety, Public Order, Emergency.