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BANKING AND FINANCE

Circular No 014-001 Dated September 09, 2014 on Public Service Fee for General Department of Monitoring of National Bank of Cambodia

Based on this circular, the National Bank of Cambodia (NBC) establishes one-window-service office that provides consultation and receives complaints from any banking and financial institution pertaining to service, overcharged fee, as well as any delay that exceeds the legal provision. The Circular also explains fee charged by NBC related to its public services to banking and financial institutions.

For instance, license fees for banking and financial institutions are::

- Branch of foreign commercial bank: 150 million riel (USD 37,500) per year
- Branch of foreign specialized bank: 70 million riels (USD 17,500) per year
- Commercial bank: 150 million riel (USD 37,500) per year
- Specialized Bank: 70 million riel (USD 17,500) per year
- Microfinance institution: 20 million riel (USD 5,000) per year

Fee on consulting service related to license application: from 500,000 riels to 1,000,000 riels varied with types of banking and financial institutions.

The applications fee for filing depended on types of institutions, the fees varies from 100,000 riel to 5,000,000 riel.

The circular also includes public service fee for amendment of Memorandum and Article of Association (MAA), change of directors, increase capital etc.

Joint Announcement Dated February 02, 2015 of Ministry of Economy and Finance (MEF) and National Bank of Cambodia (NBC) related to Banking Operating conducted by non licensed NGO/associations

MEF and NBC make an announcement to the public that some groups of people who presented themselves as NGO and charity association are providing loan operations in countryside by declaring themselves as micro-finance institutions. Those persons/institutions do not have proper license granted from NBC and also charge high interest rate. In doing so, it causes the debtors to fall into high risks and unable to pay off the debt. In this situation, MEF and NBC command those NGO and association to stop the activities immediately. If those NGO and association intend to continue the loan operation, it has to apply for license from NBC.

CONSTITUTION

Decision No 152/006/2014 dated December 26, 2014 of Constitutional Council: Review of Constitutionality of Amendment of Article 48 New (1) of Internal Regulation of National Assembly of Cambodia.

Upon this amendment of Article 48 New (1) of Internal Regulation of National Assembly of Cambodia, adopted on the 19th of December 2014:

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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.

We differentiate ourselves by coupling a deep understanding of the local business environment with international professionalism and integrity.

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.

Conducting daily business in Cambodia and Myanmar, BNG Legal is up-to-date with the latest procedures and requirements, helping clients efficiently and successfully complete any project.

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.

- Seating of the Members of Parliament is arranged according to the political parties from the front to the back;
- Each group shall contain at least 10 members;
- Each group shall have a president and a vice president;
- Each deputy can be a member of only one group;
- Any political party has less than 10 seats need to choose a group they prefer
- List of names of deputies of political parties shall be sent to the president of the Parliament

By this decision, Constitutional Council confirms that this amendment is in compliance with the Constitution. This decision is final and binding.

INTELLECTUAL PROPERTY

Press Release Dated March 05,2015 of Depositing the “Instrument of Accession to the Madrid Protocol for International Registration of Mark”

On March 5, 2015, Cambodia deposited the “Instrument of Accession to the Madrid Protocol for International Registration of Mark” with the Director General of the World Intellectual Property Organization (WIPO). The discussion with the top management of WIPO is details as follow:

- The implementation of the Madrid Protocol
- The follow-up digitization Projection
- The implementation of the National Intellectual Property (IP) strategy of Cambodia
- Special Projects related to IP and Branding of Origin-Based Products
- Capacity Building of Trademark Examiners
- Automation solutions
- Creating a hub for IP education and development to accelerate Technology Innovation

In regard to the accession of the Madrid Protocol for international Registration of the mark, there are benefits as follows:

- Filing in Cambodia for only 10% of basic fee of WIPO
- Filing only at the Ministry of Commerce for 111 countries
- One single application form filed in Cambodia will also be filed to 111 countries, in one language (English) and in one currency
- Reduced complexity and cost compared with filing and maintaining registration directly with multiple countries.

Madrid Protocol is the protocol that allows the trademark owners to seek protection of their marks under the Madrid Union.

The Sixth Meeting of the Intellectual Property (IP) Working Achievements in the Year of 2014 and Working Plan for 2015

The meeting is held on February 09, 2015 at the Ministry of Commerce, by the Committee of the IP Management for reviewing the Achievements in 2014 and the Working Plan for 2015. The meeting addressed the special events of the IP development such as the Bilateral Agreement of Cambodia-Japan, Cambodia-Korea for the improvement of the IP system in Cambodia, and the preparation to be a member of Madrid Agreement Concerning International Registration of Marks and the Patent Cooperation Treaty. Following that H.E Senior Minister, Minister of Commerce also noted the great effort of Ministry of Culture and Fine Arts on the examination of an application for the management right to the works of Sin Sisamouth, consisting of 73 songs applied by his wife and son. The crackdown and prevention by enforcement institutions and agencies involving IPR infringement

for example the recent crackdown on counterfeiting medicines and cosmetics of more than 5-tons and valued at 1 million dollars. These products were imported from overseas for the distribution in Cambodia and subsequently destroyed following crackdown operations at several locations in Phnom Penh.

Memorandum of Understanding (MOU) Dated January 20, 2015 on The Co-operation in Industrial Property between the Ministry of Industry & Handicraft (MIH) and The Intellectual Property Office of Singapore (IPOS)

Cambodia and Singapore reached the Agreement of the Memorandum of Understanding (MOU) on The Co-operation in Industrial Property between the Ministry of Industry & Handicraft (MIH) and The Intellectual Property Office of Singapore (IPOS) dated January 20, 2015. This MOU will allow either MIH or IPOS to be the representative of either Cambodia or Singapore to receive the patent and industrial design applications. IPOS will function as the search and examination authority for patent on behalf of MIH. MIH will recognize patent granted IPOS and industrial designs registered at IPOS while IPOS will recognize patents granted at MIH for which IPOS acts as the searching and examining authority. Whereas, the IPOS will automatically recognize the industrial designs registered at MIH.

This MOU is valid for five (5) years effective from January 20, 2015 and can be renewed or lapse by the mutual consent of both the parties.

Notification No 738 Dated 12 March 12, 2015 of Record of License Contract and Franchise Contract

The License contract and Franchise contract shall be filed with the Ministry of Commerce along with a enclosed request form and a certified Khmer translation recognized by Ministry of Commerce. The following documents must accompany the application are:

- License/Franchise contract or notarized copy thereof;
- License/Franchise contract from English to Khmer;
- Notarized Power of Attorney and Deed of Substitution;
- A copy of Principle Mark Registration or Renewal Certificate

Celebration of World IP Day and the workshop on the Mark Registration for SMEs dated April 28, 2015

On April 28, 2015, the National Committee for Intellectual Property Rights (NCIPR) of the Ministry of Commerce celebrated and organized the World Intellectual Property Day and the workshop of Mark Registration for SMEs was organized. World IP Day is celebrated to raise awareness of about patents, copyright, trademarks and designs impact on daily life” and “to celebrate creativity, and the contribution made by creators and innovators to the development of societies across the globe, and April 26 was chosen as the date for World Intellectual Property Day because it is the date on which the Convention Establishing the World Intellectual Property Organization entered into force.

H.E Ouk Prachea, Secretary of State commented on the progress in IP development in ASEAN by indicating that under IP Action Plan 2011-2015, all ASEAN Member States formulated common Guidelines of ASEAN for the substantive examination of applications for mark registration in the IP offices of all ASEAN Member States. These Guidelines are very important tools for trademark examiner in harmonizing their decisions and reduce the duration of a trademark’s registration to six months for the sake of the business community.

Recently, Cambodia acceded to the “Madrid Protocol Concerning International Registration of Marks” so that applicants can apply through the Ministry of Commerce for the registration of their trademarks to 111 countries. In addition, the public can now access to www.cambodiaip.gov.kh which is a search tool for trademarks in Cambodia and ASEAN.

LABOUR AND SOCIAL AFFAIRS

Notification No. 030/15 of the Ministry of Labor and Vocational Training (MLVT) dated February 27, 2015

Based on the MLVT observance the overtime work that cause harm to the employee health and accident during working hour, hereafter, the employer and the factory owner to respect the provisions as follows:

- In case that the owner of the factory and the employer having much workload not in common and require the extra working hour, the owner of the factory and the employer shall request the permit from the MLVT and upon the approval of the MLVT the employer can prepare the extra working hours. The extra working hours shall not exceed 2 hours and the total working hour per day shall not exceed 10 hours.
- Extra working hour is voluntary
- Though with the consent of the employee, the employer can not provide the extra working hour more that the extra working hour permitted by the MLVT

The MLVT will take actions against any acts violate this notification.

PUBLIC LAW

Joint Prakas No. 3666 Dated March 18, 2015 on Public Services Provided by Ministry of Interior

The Ministry of Interior is allowed to collect revenues from public services in the interests of national budget. This compilation of public services details the service fee, time frame, and validity according to each type of service as stipulated in the Annex Table attached with this Joint Prakas.

The Ministry of Interior is to post the notice of standard services such as Fee Table, Document Form and Procedure in the public especially at the place where the services are provided. Also, the Ministry of Interior shall set up a desk to receive a complaint which could arise unexpectedly, particularly for the case of any implementation outside of the standard set for the service or any charge beyond the set amount or any delay etc.

The Ministry of Interior shall have a duty to collect revenues and be responsible for the revenues collected to ensure proper transfer to the national budget, in which the entry of accounts on revenues shall be done and the revenues shall be recorded in Chapter, Account, Sub-account of the Budget Content, and a revenue slip shall also be made. The collection of all revenues from public service fees, as stipulated in the Annex attached with this Joint Prakas, shall be made with a receipt provided by the Ministry of Economy and Finance.

Sub-Decree No. 341 Dated December 30, 2014 on Determination of Monthly Allowance for Members of Commune-Sangkat Councils and Village Officials

This Sub-Decree covers all members of Commune-Sangkat Councils and village officials over the country.

A monthly allowances for members of commune-Sangkat councils and village officials are then defined as following:

- Chief of councils and chief of Khum-Sangkat – 400,000 riels;
- Members of Khum-Sangkat councils who is the first assistant, second assistant to chief of Khum-Sangkat – 350,000 riels;
- Member of Khum-Sangkat councils who are not in the above position- 300,000 riels;

- Chief of Village - 160,000 riels;
- Deputy chief of village - 140,000 riels;
- Members of village – 120,0-000 riels

This monthly plan is to be paid in the annual finance of Khum-Sangkat counting from January 2015. Sub-Decree No. 464 dated 11 July 2013 on the determination of monthly allowances for members of Khum-Sangkat councils and village officials is abrogated.

Prakas No. 1589 Dated December 09, 2014 on Mission Money for the Internal and Abroad for National Administration

The Ministry of Economy and Finance issue the decision regarding the rule and the procedure to implement the cash of each mission internal and abroad for the national administration. This issued decision is based on the article 9 and article 23 of the decree 216 on mission money in the country and abroad for national and under national administration on dated 22 July 2014. Those rules and procedure are the following:

- National procedure expense: The expense for travelling in the national depends on each procedure and the distance of those missions that should be based on the Principle of expense and saving. There are 3 way necessities for mission travelling. It is the personal or state way, public way and mix both way. The MEF is responsible to transfer the money to relevant ministry, institutions and national administration unit on the earliest each year. Those money bases on 25% of country mission expense that will be used for the program or deputy program. If not, the procedure and the billing processing have to base on the decree No.81 on dated 16 November 1994. The mission expense will be transferred by the real money expense. The expense report needs to be submitted to MEF by the formulae in the annex of this Decision.
- International procedure expense: The expense in ASEAN country will be based on the article 13 of the decree 216 on dated 22 July 2014. The expense out off ASEAN country will be based on article 20, 21 and 22 of Decree No.216 on dated 22 July 2014. To save the expense mission money, the following principle needs to be following:
 - Reduce the number of people
 - Use the straight airplane and the best way to save money
 - To advance deposit so far in appropriate price for saving the money in the registered company or Agency that have
 - Ask Cambodia embassy in destination country for assisting.

REAL ESTATE

Notification Dated February 26, 2015 of Ministry of Land Management, Urbanization and Construction (MLMUC) Related to Construction Site

The MLMUC has issued a notice to ensure the implementation of laws and regulations relating to construction. The notice aims to inform the public about the requirements that construction owner have to follow:

- Every construction project shall acquire Construction Permit and Construction Site Opening Letter.
- For construction project, the owner shall hire construction companies or construction worker groups who are properly registered and hold Certificates of Insurance on Construction Site.

TOBACO AND DRUG CONTROL

Decision No. 171 Dated March 04, 2010 of the Amendment of Article 1 of the Decision No. 13 dated March 04, 2010 on the International Ministerial Committee for the Education and Tobacco Usage Reduction

The Committee for the Education and Tobacco Usage Reduction is established to reduce the use of tobacco and to educate the use of the the tobacco. Upone the new amendment, the Committee now consists of 15 members while the minister of Health role as the President involving with various ministries such as the Ministry of Interior, Ministry of Commerce, Ministry of Environment and other ministries. All the article contrary is completely abrogate.