

TABLE OF CONTENTS

- ADMINISTRATION & PUBLIC SECTOR
- AGRICULTURE, FISHERY & FORESTRY
- BANKING AND FINANCE & CAPITAL MARKET
- CONSTITUTIONS
- EDUCATION, YOUTH & SPORT
- ENVIRONMENT
- GENERAL BUSINESS
- JUDICIARY
- INTELLECTUAL PROPERTY
- NGOs, HUMAN RIGHTS & PRESS
- TRANSPORTATION

A No 65B, St 111
PO Box 172
Phnom Penh
Cambodia

T +855 23 217 510
+855 23 967 450

F +855 23 212 840

E cambodia@bnglegal.com

W www.bnglegal.com

ADMINISTRATION AND PUBLIC SECTOR

Prakas No. 682 (MEF) dated 23 June 2015 on the Organization and Functioning of Large Tax Payer Department

Large Tax Payer Department (LTPD) is a department of the General Department of Taxation (GDT) in charge of large tax payers. LTPD's duties are:

- to manage and collect tax from large tax payer under the real regime as below:
 1. Qualified Investment Project (QIP)
 2. Branch of Foreign Company
 3. Any enterprises with annual turnover from a thousand million Khmer Riel (approximately 250 000 USD)
- to register and to provide service to large tax payer
- to supervise tax declaration of large tax payer
- to arrange and to implement audit schedule in order to collect tax, prevent tax evasion and strengthen the law on taxation
- to arrange and to implement audit for refund schedule based on refund system
- to arrange and implement the bad debt collection
- to register and manage tax agent
- to collect registration tax on government's contract and transfer share of large tax payer
- to arrange monthly report of the department for GDT
- to handle other duties assigned by General Director of GDT

LTPD is led by one Director and assisted by a deputy Directors. Offices under LTPD are led by a Chief and assisted by deputy chiefs. There are nine offices under LTPD:

- 1st Audit Office
- 2nd Audit Office
- 3rd Audit Office
- 4th Audit Office
- Debt Office
- Audit Schedule, staff and admin and finance office
- Excise Tax Management Office
- Tax Filing Office
- Tax Payer Service and Registering Office

Sub-Decree No. 95 (RGC) dated 23 July 2015 on the Upgrade of Economic and Finance Institute to be a General Department under the Management of the Ministry of Economy and Finance

Economic and Finance Institute is promoted from a department under the General Secretariat of Ministry of Economy and Finance (MEF) to be a General Department of MEF. Economic and Finance Institute acts as secretariat of MEF on training and capacity strengthening of civil servants in economy and finance specialization and has missions as below:

- Conducting training on economic and financial management including financial management by information technology to officer of MEF and relevant ministries.
- Researching and collecting information on implementation and relevant program for economic and financial management for strengthen and improve the training program in order to improve the knowledge to officer of MEF and relevant ministries.
- Managing and developing information technology system for supporting and building human resource capacity relevant to economic and financial management.
- Communicating with other departments of MEF and other ministries to evaluate the efficiency and defining the research and training requirement.

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.

- Initiating, facilitating and implementing the cooperation on research and training with other institution and national and international education institution to modernize the research and training program and to improve the knowledge of economic and financial management. Publishing and disseminating the research result and other important documents relevant to economic and finance problem.
- Arranging and facilitating the transfer and the share of knowledge from national and international consultant and professional to officers, trainers and professor.
- Reporting on researching and training activities to officers to Minister of MEF.

Economic and Finance Institute is lead by a general director as a principal and some assistant general director as a vice principals.

Economics and Finance Institute has 3 departments:

1. Human Resource, Administrative and Finance Department
2. Training Department
3. Research and Development Department

Decision No. 59 (RGC) dated 22 July 2015 on the Establishment of a Technical Working Group under the Committee on Financial Sector Development

Royal Government of Cambodia (RGC) decides to establish a Technical Working Group(TWG) under the Committee on Financial Sector Development in order to enforce the strategy on development of financial industry. This TWG is headed by a president, a vice president, a permanent vice president and 26 members.

The duties of TWG are mentioned below:

- Performing tasks assigned by Committee on Financial Sector Development;
- Working with technical assistance team to enforce the strategic plan for developing the finance industry to be successful;
- Assisting the Committee on Financial Sector Development to follow up and monitor the daily implementation of relevant organization;
- Reviewing and following up the implementation of the Financial Sector Development Strategies (2011-2020);
- Preparing and updating the development strategy, if necessary;
- Coordinating between Ministry of Economy and Finance, National Bank of Cambodia, Ministry of Commerce, other Ministries and development partners on:
 1. Financial management for the development of financial sector;
 2. The review of the implementing of financial management which is using and
 3. Loan for developing financial sector
- Regularly reporting to the Committee on Financial Sector Development on the progress of strategic plan for development of financial industry.

This team has to conduct at least 3 meeting per year and/or necessary need and have to report on the progress of strategic plan for development of financial industry. Technical team can invite other officer in other ministries, development partner, private sector and relevant parties to attend the meeting.

Prakas No. 6747 (MOI) dated 12 March 2015 on the Modification of Article 4 of Prakas No. 927 dated 12 March 2009 on the Law on Organization and Functioning of the People Office.

The Prakas aims to modify the Article 4 of the Prakas No. 927 of the “Law on Organization and Functioning of the People Office” for well preparing and advising the administration work in the city, district and commune. Therefore, the citizen’s representative must be chosen and selected from the person who is well-known person with good reputation in that city, district and commune. The following conditions and qualification as mentioned below must be satisfied by the citizen’s representative:

- Should be Cambodian nationality
- Should be between 35 years to 65 years old
- Should be a permanent residents in that city or districts
- Must have 5 years experiences in the administration works, civil society or private sector
- Should hold a high school diploma or bachelor degree
- Should not belong to any political party in the Kingdom of Cambodia

AGRICULTURE, FORESTRY & FISHERY

Sub-Decree No. 102 (RGC) dated 04 August 2015 on the Uniform, Sign and the Symbol of Forestry Administration Officers

The Sub-Decree determines the uniform, sign, and the symbol of the officials for using while performing their roles in relevant to the forests and wildlife in Cambodia. The uniform, sign and the symbol of the Forestry Administration Officers are varied by their status and sex.

Noticeably, the Sub Decree defines that it is punishable by law against those who frauds the uniform, sign and the symbol of the Forestry Administration Officers.

BANKING AND FINANCE & CAPITAL MARKET

Instructive Circular No. 011 (MEF) dated 16 July 2015 on the Registration of Financial Trust.

Ministry of Economy and Finance (MEF) issues this Instructive Circular No. 011 in order to detail the procedure and requirement related to the qualification of Trustor, Trustee, and the balance of Trust, the trust registration and Annual Trust Balance.

Trustee is a natural person or legal entity who protects and manages the trust that has been registered with MEF as a legal entity. Trustee can be a natural person or a banking institution, a microfinance institution, a microfinance operation, an association or an NGO and international NGO.

Trustor refers to development party that provides the financial trust to Trustee for Banking Development and Microfinance sector in order to provide the interest to beneficiary.

In case of the relevant Trustee is Unable to define or the capacity definitive to create the financial trust, the MEF will be instead to complete its duty.

The Balance of financial trust registration is a financial trust of trustor that provide without interest. The procedure to calculate is equal the financial Trust + Profit accumulate.

For the Annual Trust Balance calculation, it equal the financial trust in early period + Profit in period.

Prakas No. 830 (MEF) dated 17 July 2015 on the Rules and Procedure on Implementation of Mission Allowances inside and outside the country for Sub-National Administration

This Prakas aims to set out the rules and procedures on implementation of mission allowances in both domestic and oversea mission for sub-national administration in compliance with Article 9 and Article 23 of the Sub Decree No. 216 on Mission Allowances inside and outside the country for National and Sub-National Administration that was issued on the 22 July 2014.

Allowances for mission both inside and outside the country are detailed as provided in Chapter 3 of this Prakas. Further, each official cannot be allocated the mission allowances for more than 10 days per month for both inside and outside country. The mission allowance includes pocket money, food, accommodation, transportation, souvenirs, and other expenses. However, souvenirs are not provided for missions such as the participation of meeting, conference, seminar, training or study visit.

Any mission located 20 kilometers from the border area into territory of Thailand or Vietnam is considered as inside country mission and the officials on that mission are entitled only to same mission allowance for domestic mission.

Prakas No. B13.015.218 (NBC) dated 04 July 2015 on the Establishment of Financial Stability Commission.

National Bank of Cambodia (NBC) has decided to create a Financial Stability Commission composed of a Vice-Governor of NBC as Chairman and vice-Chairman and members from management and officials of NBC. The working group under this Financial Stability Commission is empowered to fulfill the following tasks:

- Setting and implementing policy for ensuring financial stability in order to ensure the prosperous economic development;
- Setting necessary measures for supporting the mission of NBC in managing the liquidity and the financial-related risks;

- Monitoring the intermediation between agents in the financial market, the objective of the monetary policy and the impact on the financial sector, and
- Analyzing and monitoring the financial stability.

Joint Prakas No. 717 (MEF) dated 08 July 2015 on the Public Service Fee and the Transactional Fine of the Ministry of Industry and Handicraft

Upon the revision of the public service fee established by the Ministry of Industry and Handicraft (MIH), some public service fee has been increased. For instant, the filing fee for Patent is from 240,000 riels (approximately 60 USD) to 320,000 riels (approximately 80 USD); the filing fee for Industrial Design is from 240,000 riels to 280,000 riels (approximately 70 USD) and other increasing fees including filing fee of Utility Model, Integrated Circuit, and other public services which is relevant to the MIH.

Further, the Joint Prakas also sets the fine for any infringement relevant to the law on Management of the Factory and Handicraft, Law on Management of the Cambodia Standard, Law on the Chemical Weapon Prohibition, and Law on Management of the High Acid Use.

In case of necessity, this public service fee is subject to be changed and this Joint Prakas comes into force from the date of signature.

CONSTITUTIONS

Decision No.156/004/2015 (CC) dated 12 August 2015 on Case No. 257/004/2015 dated 28 July 2015 Concerning with the 13 National Assembly Members from the CNRP Party on the Complaint on the Law of the Association and Non-Governmental Organization against the Cambodian Constitution

As per the request of the National Assembly Members from the CNRP Party to examine the constitutionality of the Law on the Association and Non-Governmental Organization against the Cambodia Constitution, and upon the examination by the Constitutional Council, it is decided that the Law of the Association and Non-Governmental Organization is constitutional.

Decision No.155/003/2015 (CC) dated 27 July 2015 on Case No. 256/003/2015 dated 06 July 2015 Concerning with the Request from President of Senate on the Interpretation of Article 91 New of Constitution of the Kingdom of Cambodia

As per the request of the President of Senate to interpret the article 91 New of the Constitution of Kingdom of Cambodia as it has the same meaning with the article 136-1 new, article 141 new of Cambodia Constitution and article 15 new, 18 new of the amendment law on the Organization and the Functioning of the Constitutional Council, the Constitutional Council agrees to examine and interprets that the National Assembly members of both parties have the rights to ask for amendment of the law or create a draft law but has no rights to ask for reducing the public interest income or to put additional burden on the Cambodian people.

EDUCATION, YOUTH & SPORT

Prakas No.2429 Ministry of Education, Youth and Sport (MoEYS) dated 30 July 2015 on Creation and Management of Community Learning Center

Ministry of Education, Youth and Sport (MoEYS) issue the Prakas in order to determinate the condition and procedure of creation of Community Learning Center. Natural person, public or private entities are able to request for opening this center. The general conditions are,

- Human resource infrastructure,
- Management structure,
- Studying program,
- Skill occupation;
- Skill Teacher;
- Equipment; and
- Center structure, etc.

The required documents for establishing this type of center include:

- The requesting letter;
- Management and Community support structure;
- Background of Management committee, support committee and skilled teacher;

- Studying program;
- Report of location, land, building and equipment;
- Action plan; and
- Condition and rule of recruiting skill teacher.

Instructive Circular No.38 (MoEYS) dated 11 August 2015 on Prevention of the Political Activities or Dissemination at Public and Private Education Establishment

This instructive circular is issued in order to prevent any political activities or dissemination at public and private education establishments. To disseminate any information at this establishment, the relevant person (any agent) and legal entity (any community and organization) needs to request for the approval from relevant authority or the Ministry of Education, Youth and Sport (MoEYS) (article 52 of law on education).

The MoEYS prohibits the dissemination between any political party (article 34 of law on education) and will be subject to punish from KHR 1 million to KHR 5 million for any crime and from KHR 10 million to KHR 20 million for first repeat the same violation activities and 2 twice multiply for keeping the next repeat violation activities. The license is subject to a suspension or withdrawal in the case of the next repeat violation activities.

ENVIRONMENT

Sub-Decree No 113 (RGC) dated 27 August 2015 on the Management of Trash and Solid Waste in Urban Area

The RGC has issued this sub-decree for the purpose of managing trash and solid waste in urban area with effectiveness, transparency, accountabilities, and to ensure cleanness and public welfare.

According to the sub decree, the RGC delegates the authority of trash management to local authorities, including municipal administration and city/district administration. Waste managing includes the sorting, collecting, transporting and recycling of trash and solid waste as well as monitoring over the dumpsite.

In respect of providing public services relating to trash management, the local authorities can either provide such service themselves or retain private sector therefor. However, the contract which the local authorities enter with the private sectors cannot exceed 10 years.

Lastly, the Sub-Decree, in order to impose the waste management policy, prescribes certain penalties for example: - Individual, who throws trash improperly, shall be fined 20,000 Riel (approximately 5USD), and the act of burning the trash in public shall be fined from 50,000 Riel to 1,000,000 Riel (approximately from 12.5USD to 250 USD). More of these offenses can be found on the Sub-Decree (Article 39 to Article 49).

GENERAL BUSINESS

Prakas No. 221 (MOC) dated 13 August 2015 on the Procedures For Implementing the Project of the Invoice for Self-Declaration of Origin of Goods

The purpose of the implementation of Project of the Invoice for Self-Declaration of Origin of Goods is to facilitate the regional and international trade. However, certain criteria should be fulfilled by the Company in order to use the Invoice for Self-Declaration of Origin of Goods:

- is either a producer or exporter having the base production or legal location in the Kingdom of Cambodia;
- is well understanding of the rules of origin of trade agreement;
- having experiences in using certificate of rules of origin for export purposes;
- able to use information technology to do Online Registration;
- is not in the black list of competent authorities.

Each producer or exporter must file the application to use the invoice for self-declaration of origin of goods by online registration or at the Department of Export-Import of the Ministry of Commerce.

The Ministry of Commerce has issued Notification No.2641 dated August 14, 2015 to confirm emphasis the participation of this project to all producers and exporters in Cambodia.

Prakas No. 222 (MoC) dated 13 August 2015 on the Establishment of the Supervisory Committee on the Use of Invoice for Self-Declaration on the Origin of the Goods

Ministry of Commerce (MoC) decides to establish a Supervisory Committee on the Use of Invoice for Self-Declaration on the Origin of the Goods. The purpose of this establishment is to encourage and promote the implementation of the procedure on the origin of the goods by using invoice for self-declaration, and to facilitate the trading of the goods originated from ASEAN and Cambodia in accordance with the ASEAN Economic Community and to facilitate the global trade.

This Committee is chaired by a Secretary of State of MoC and has vice-chairmen and members from various ministries and institutions.

JUDICIARY

Royal Decree No NS/RKT/0715/726 (King) on the Establishment of the Provincial Court of Thbong Khmum and the Prosecution of the Provincial Court of Thbong Khmum

The Provincial Court of Thbong Khmum and the Prosecution of the Provincial Court of Thbong Khmum is established since 28 July 2015.

The Provincial Court of Thbong Khmum and the Prosecution of the Provincial Court of Thbong Khmum shall be competent in accordance with laws and regulations in force except any court case that the Provincial Court of Kampong Cham and the Prosecution of the Provincial Court of Kampong Cham had already taken action before the establishment of the Provincial Court of Thbong Khmum and the Prosecution of the Provincial Court of Thbong Khmum in accordance with Royal Decree No NS/RKT/0614/804 dated 24 June 2014.

Royal Decree No NS/RKT/0614/804 dated 25 June 2014 and other regulations contrary to this Royal Decree No NS/RKT/0715/726 shall be abrogated and shall be replaced by this Royal Decree.

Royal Decree No NS/RKT/0715/698 (King) dated 08 July 2015 on the Creation of Committee to Evaluate the Criteria for the Integration of Grade and Degree of Judges and Prosecutors

This Royal Decree lists down the composition of the committee to evaluate the criteria for the integration of grade and degree of judges and prosecutors in accordance with article 108 of Law on the Status of Judges and Prosecutors.

The roles and duties of the committee are as follows:

- Organizing and determining actual grade and degree of judges and prosecutors to be integrated into the framework of grade and the new degree of judges and prosecutors
- Preparing the draft of royal decree of this integration for the Minister of Justice to inform the King and the President of the Supreme Council of Magistracy
- Accomplishing other tasks to ensure the integration of judges and prosecutors into the framework of grade and the new degree in accordance with the Law on the Status of Judges and Prosecutors.

INTELLECTUAL PROPERTY

Instructive Circular No. 07 (RGC) dated 06 August 2015 on the Recognition of Exclusive Rights of the Use of Mark.

According to the Royal Kram No. 002 dated 09 September 2004 on the Accession of Cambodia to the Protocol of the World Trade Organization in the Kingdom of Cambodia and the Royal Kram No.006 dated 07 February 2002 on the Law Concerning Marks, Trade Names and Acts of Unfair Competition, the Royal Government of Cambodia would like to instruct to all Companies, Businessmen and the public on the recognition of Exclusive Rights of the use of mark as below:

1. The exclusive rights of the use of mark on the product in the Kingdom of Cambodia must apply in accordance with the Law Concerning Marks, Trade Names and Acts of Unfair Competition and Sub-Decree No. 64 dated 12 July 2006 on the implementation of Law Concerning Marks, Trade Names and Acts of Unfair Competition
2. Exemption for the Exclusive Rights: if the product is imported for the purpose of non-commercial, humanity interests, diplomatic missions, Science research, Sample product for show, Agriculture Development, Public Investment etc....

3. Ministry of Commerce will release one new Prakas on the detail Procedure on the recordal of Exclusive Rights.

NGOs, HUMAN RIGHTS & PRESS

Royal Kram No. NS/RKM/0815/010 (King) dated 12 August 2015 Promulgation the Law on Association and Non-Governmental Organization (NGO)

Law on association and NGO gives definitions of local association, local NGO, foreign association or foreign NGO and divides association into two types (local and foreign associations) and divides NGO into two types (local and foreign NGO).

I. Registration of association and local NGO:

Setting up local association or local NGO requires at least 5 founding members, who are natural persons, and should be 18 years old and never hold management position of local association or NGO that is deleted from the list.

Local Association or NGO needs to register with the Ministry of Interior (MOI) along t with the following documents as mentioned below:

- Two (2) application forms
- One (1) Certificate of residence of headquarter of association and local NGO from chief of commune or Sangkat
- Two (2) CV of each founding member, attached with photo of 4x6
- Statute of the association, signed by the chairperson of local association or NGO

Statute of the local association or NGO must be in compliance with the Constitution and Laws in force of Cambodia and must indicate the following points such as:

- Objectives
- Measure to choose, stop, dismiss, change or remove director or CEO
- Measure to change name or sign or amendment of MAA
- Financial sponsor
- Measure to govern funds
- Measure to cancel the above measure

MOI shall examine the proposal of local association or NGO and decide on the proposal within the period of 45 working days.

In the case that all conditions are not complied then MOI shall inform the local association or NGO to provide necessary documents within a period of maximum 45 working days. For this case, MOI decides the registration within 15 working days from the date of receipt of the necessary documents.

In the case that MOI does not comply with the 45 days or if not been able to decide about the registration within 15 days as mentioned above, local association or NGO is automatically considered as legally registered entity and MOI must register the local association or NGO.

MOI can refuse the proposal of registration of local association or NGO whose objective and destination affect or caused threat to the security, brings about instability and public order or cause damages to national security, national unity, culture, tradition of Cambodian society. In case of rejection of the registration by the MOI based on the reason provided such local association or NGO can file a complaint with the court to reinstate or re consider the registration.

Local association or NGO becomes a juristic person from the date of the registration. MOI needs to copy the registered documents of local association and NGO to relevant ministries. Local association or NGO, which in not yet registered, is not allowed to do any activity in Cambodia. Local association or NGO must then send Cambodian bank account statement to MOI and Ministry of Economy and Finance (MEF) within 30 days from the registration date. Local association or local NGO must send a letter to MOI in the case of amendment or change of address or change of management position or director or change of bank statement within 15 days from the date of change, attached with changed document.

II. Registration of foreign association and foreign NGO

Foreign association or foreign NGO who wishes to do activity in Cambodia needs to get registered at Ministry of Foreign Affairs and International Cooperation (MFAIC) in the form of MOU signature. Required documents are:

OUR LIBRARY

BNG Legal prides itself on maintaining up-to-date with the latest laws and regulations. Our Legal Research Department devotes significant time and resources to finding, compiling, and translating all available laws, which we make available to our clients, free of charge.

For the benefit of our clients and the general public, we regularly publish timely and succinct guides to major topics in Cambodian law.

- Letters from chairperson of association or foreign NGO whose headquarter is permanently at foreign country, requesting the representative attached with 1 CV and requesting 1 letter to open an office in Cambodia
- One certificate of address of the office in Cambodia from chief of commune or chief of Sangkat
- Letter issued by original authority, allows association or foreign NGO to conduct its activities
- One supporting letter for association or foreign NGO issued by public authority of Cambodia
- One certificate indicating the amount of funds to perform the project of association or foreign NGO of 6 months of operation, of the foreign office
- One letter promising to provide a bank statement of association or foreign NGO in Cambodian bank

MFAIC shall examine the content of document and decide to approve or not approve the MOU with foreign association or foreign NGO at the latest within 45 working days.

The validity of MOU is 3 years based on project of foreign association or foreign NGO. The renewal of MOU shall be done within 90 days before the expiration date.

Foreign association or foreign NGO must send the bank account statement to MFAIC and MEF within 30 days after the registration. Also needs to send a letter to MFAIC and MEF all changes of office, representative or any change of bank statement within 15 days from the date of change, attached with the old documents.

TRANSPORTATION

Decision No. 64 (RGC) dated 17 August 2015 on the Termination of Contract Between Royal Government of Cambodia and Cosmos Group Company

After some reaction from the international communities against the International Ship Registry of Cambodia (ISROC) who acted irresponsibly toward the misconduct of foreign ship wearing Cambodian flag, the Royal Government of Cambodia decided to terminate its agreement with Cosmos Group Company who is in charge of ISROC. The agreement, dated January 3rd, 2003, was originally made for the purpose of delegating Cosmos Group Company the competence to register a foreign ship under Cambodian nationality as well as other registration procedure, including ship mortgage etc.

Decision No. 65 (RGC) dated 17 August 2015 on the Task Delegation to Ministry of Public Work and Transportation for Further Managing the Cambodian Ship Registration

Upon termination of the agreement, dated January 3rd, 2003 between RGC and Cosmos Group Company, the RGC has delegated the power to the Ministry of Public Work and Transportation to examine the possibility of founding a committee who shall control foreign ships which are wearing Cambodian flag until the expiration of ship certificate and resolve any disputes arisen from the termination of agreement. For the time being, we do not have a Registry for sea-going ship yet.

