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## BUSINESS

### **Prakas No. 298 on The Procedure of Issuing the Certificate of Origin Automation of Form A**

This Prakas aim at recognizing the application and issuance of certificate of origin form A by the automation system in order to facilitate the trade and in accordance with the rule of origin of the importing countries.

To get to certificate of origin through automation system:

Firstly, the producer or exporter is required to register at the address:

[www.certificateoforigin.moc.gov.kh](http://www.certificateoforigin.moc.gov.kh) of the ministry of commerce by filling some information such as company name and address, name of exported products, cost breakdown etc.

Once the registration is done, the producer or exporter have right to file the request of certificate of origin. In this stage, they are required to attach necessary documents namely Invoice, packing list, and the report from the official on the producing process. The payment is made electronically through the bank account of the ministry of commerce.

After getting the approval on the certificate origin by automation system, the applicant must print and submit it to ministry of commerce to get it officially sign.

The process will be complete unless the applicant send in 30 days after the certificate of origin have been officially signed, the original copy of all attached required documents to ministry of commerce, fail to do so, and the ministry will reject the future request of certificate of origin made by the same applicant.

### **Prakas No. 299, dated 29 December 2015, on Company Registration Online Procedure, of Ministry of Commerce**

In order to response to the development economy, the minister of Ministry of Commerce issued the Prakas on company registration online procedure in order to encourage the investor in Cambodia. Based on this Prakas, all people around the world are able to register new incorporation online from everywhere in anytime due of the payment is proceed by Bank. The website: [www.businessregistraion.moc.gov.kh](http://www.businessregistraion.moc.gov.kh). In the event of the founder/shareholder/director is unable to register directly, they can request an official to register instead of them.

In order to register the new company registration online, the require documents are the same previous requirement. However, the additional documents are required such as:

- A copy of Electricity/water bill/ lease agreement/Bank letter;
- Letter of consent.

After registration online, the company must submit the original of Memorandum and article of association and Bank statement to MoC within 30 day which counts from the issuant the incorporation certificate. The non-submitted is subjected to be rejected the approval or deleted the company registration.

All Prakas, which are contrary to the one, are repealed.

### **Prakas No. 300, dated 29 December 2015, on Re-Registration Incorporation Online, of Ministry of Commerce**

All entities registered before 04th January 2016 is required to re-register the incorporation online without payment by the website: [www.businessregistration.moc.gov.kh](http://www.businessregistration.moc.gov.kh) before or by 31st March 2016. If the company is unable to complete registration by the provided date, the company must reserve their previous company name which has 3 months validity to avoid any losing.

If the company cannot finish their re-registration online before or by 31st March 2016, the re-register incorporation online is continued until 30th July 2016 which require to pay additional official fee per registration.

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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](http://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](http://www.bnglaw.net).

After completed the re-registration procedure, the MoC will issue a new “incorporation certificate” and “registration number” with a permanent validity. Please note that the MoC will issue “the dissolution company letter” to Ministry of Economy and Finance if the re-registration incorporation online is processed after 30th July 2016.

## EDUCATION, YOUTH AND SPORT

### National Policy on the Development of Physical Education and Sports

The National Policy on the Development of Physical Education and Sports prepared by the Ministry of Education, Youth and Sport (MoEYS) is approved by the Council of Ministers on 6 November 2015. This National Policy sets the visions, the purposes, the objectives, and relevant strategies as well as action plan for the development of physical education and sports. In order to successfully implement these strategies and action plan, the National Policy on the Development of Physical Education and Sports also put in place the mechanism for monitoring, controlling and evaluating the implementation.

It is very important to institute an effective mechanism, the appropriate legal framework, the financial support, as well as the human resource training, with a clear process to execute the project.

## LABOR AND SOCIAL AFFAIRS

### Instruction No. 042/15 of MoLVT dated 27 November 2015 on Enforcement of Prakas 004 dated 05 January 2000 on Apprenticeship

The objective of this instruction is to inform the owners or directors of all enterprise/establishment employing more than 60 workers as stated in article 1 of Labor Law that the enterprise/establishment shall have apprentices in the proportion of one tenth of the number of employees working in that enterprise/establishment.

MoLVT would like to give an instruction on the procedure of applying apprenticeship as follows:

1. Enterprise/establishment who is implementing the apprenticeship in accordance with the Prakas No. 004 dated 04 January 2000 on Apprenticeship, shall continue to do it until the end of the course and can select apprentices for the following courses to perform annual obligation as the previous practices based on the inquiry of the enterprise/establishment;
2. Enterprise/establishment facing difficulties in selecting people to be an apprentice, can select workers in probationary period or workers required to equip new skills;
3. The implementation of apprenticeship's obligation shall be done every year starting from 01st January to 31st October. In case of failing to meet the due date, MoLVT will assign as officer to directly carry out the inspection at the enterprise;
4. All apprenticeship courses shall be applied for a registration at the MoLVT (Department of Training) for all enterprise/establishment located in Phnom Penh and at Provincial Department of Labor and Vocational Training for those located in Provinces;
5. The apprenticeship shall comply with the Cambodian national qualification framework of specialized training and vacation, especially soft skill (social communication) and shall improve the apprenticeship courses based on the development of new technology which are being used in enterprise/establishment in order to produce the labor productivity;
6. All enterprise/establishment shall have internal rules on apprenticeship during the training period of each course;
7. Apprentice shall wear an apprenticeship card in facilitating the labor inspectors and the guests of the enterprise/establishment;
8. All enterprise/establishment that cannot conduct the apprenticeship shall inform the MoLVT that they will pay tax instead of the apprenticeship. The tax rate shall be 1% (one percent) of the annual salary of the total number of workers employed in the enterprise/establishment;
9. All enterprise/establishment that has been recently opened shall start the apprenticeship within 3 months after the opening of the enterprise/establishment;
10. All enterprise/establishment that has not implemented the apprenticeship or has not paid the tax instead of the apprenticeship will be subjected to fine as stated in Chapter 16 of Labor Law.

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More information on apprenticeship, please contact:

The Department of Training of the MoLVT

Building No.3, Russia Federation Boulevard, Sangkat Teuk Laak 1, Khan Tuol Kork, Phnom Penh  
Tel: (012/015) 939 425  
Email: vuthy.nen27@gmail.com

### **Prakas No. 467 on Procedure for Recruitment of Young Workers/Employees at Enterprises/ Establishments**

This Prakas provides the procedure for recruitment of young workers/employees at enterprises, factories and establishments for appropriate working conditions to prevent health hazard, physical and mental growth and not affect their study in school or in other training programs. The Prakas details the criteria of recruitment and the work condition for the young worker/employees.

Young worker/employee refers to a child age from 15 years of age to less than 18 years of age by thoroughly check

- Cambodian Identification card,
- family record book/family book,
- birth certificate or certified copy of birth certificate,
- Diploma or certificate.

The employer shall also comply with the following:

- Having an employment contact with consent of the parents or guardian of the young worker/employee
- In case of suspicion of being below the legally required age, the employer shall send the documents to the Department of Child Labor and the Department of Occupational Health of Ministry of Labor and Vocational Training.
- Employer must send the list of names of young worker/employees and application form for being certified to the Department to child labor to authorize the use of young worker/employee.

Working condition for young worker/employee:

- Not to work in dangerous working conditions and the worst form of child labor,
- Have the proper vocational training,
- Not to work overtime on Sunday, public holidays and between 22:00pm and 5:00 am
- The employer must respect the regulations and other standards related to child rights.

After the young worker/employee hired, the employer, employee, shop steward, union and relevant party must follow:

- Employer must submit the documents and certified letter to the authority for review and follow up the young worker/employee,
- Provide the health check at least once a year for the young worker/employee
- In case of bad health circumstance, the employer shall stop the young worker/employee and rehabilitate the child so that child returns to proper work.
- In case of suspicion, the employee, shop steward, unions, and relevant parties shall participate in reporting to the Department of Child labor.

### **PUBLIC LAW**

#### **Decision No. 89 (RGC ) dated 12 November 2015 on Establishment of Commission to Prepare the Process of Transferring the Management on Ticket Sales to Visit Angkor**

This Commission uses the stamp of the Ministry of Economy and Finance.

Roles and duties of the Commission are:

- Preparing the process of transferring the management, the account management, list of properties and staff transferring and duties of female employees from company "Sokha Hotel" to authorities of government that will be established soon;
- Control, evaluate and negotiate with company "Sokha Hotel" regarding relevant financial obligations;
- Preparing regulations for government in order to establish administrative public institutions for managing the revenues from ticket sales at Angkor Wat. The Ministry of Tourism governs technical issues and the Ministry of Economy and Finance governs financial issues;
- Writing report on result to the Minister of Economy and Finance. In the necessary case, the Minister does a proposal to ask for advice and approval from the head of government.

The mandate of the commission to prepare the process of transferring the management on ticket sales to visit Angkor is valid till the work on preparing the process of transferring the management on ticket sales to visit Angkor ends.

**Sub-degree No. 159 (RGC) dated 16 November 2015 on the Organization and Functioning of Legal Document Center Related to Extraordinary Chamber in the Court of Cambodia Roles and Duties of Legal Document Center are as follows:**

- Keeping legal document and related to document that are the hard and soft document regarding the trial process of the extraordinary chamber s in the caourt of Cambodia;
- Being depository
- provide places for national and international researchs on law and jurisdiction related to the trial of former Khmer Rouge Leader.
- Preparing seminar and training for the public to understand the process and the achievement of the extraordinary chamber in the coiurt of Cambodia.
- Preparing all projects in the collaboration with relevant national and international partners in order to collect budget for implementing this project.
- Preparing MOU and other agreements related to the center;
- Fulfilling all duties from Minister in charge of the office of the council of ministers.

The organization and functioning of division under legal document center related to extraordinary chamber in the courts of Cambodia shall be determind by Prakas of Minister in charge of the officeof the council of ministers.

The expenses on the functioning of the legal document center related to extraordinary chamber in the court of Cambodia shall be sponsored by national budget under the budget plan of the office of the council of ministers.

Joint Prakas No. 1415 on the Public Service Fee and the Fine of the Ministry of Mining and Energy Upon the revision of the public service fee established by the Ministry of Mining and Energy (MME), certain fee has been increased by the MME. For example , the filing fee for industrial and mining license has been increased from 15 million riels (3,750USD) to 50 million riels (12,500USD).

Further the Joint Prakas also provides the fine for the expired license (5 million riels per day).

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

**Prakas No. 073/15 on the Organizing and Functioning of the Division under the Department of Ministry of the Senate-National Assembly Relation and the Inspection**

This Prakas is issued to establish and set out the duties of the Division Office under the Department of the Ministry of the Senate-National Assembly Relation and Inspection for the efficiency of the work. Under the Ministry of the Senate-National Assembly Relations and Inspection, there are four General Departments such as:

- General Department of the Administration
- General Department of the Senate-National Assembly Relations
- General Department of Inspection
- General Department of Auditions.

Under each of the General Departments, there are three offices under each Department of the General Departments which the duties of each office are provided in the Prakas No. 73.

Upon the signature, the Prakas will come into force.

Decision of Constitutional Council No.158/006/2015, dated 01 December 2015:

The decision is pertaining to the law on election of council of commune. The constitutional council has decided that the law, which National Assembly adopted on 30 October 2015, which was examined by senate and solely agreed on the form and meaning to be in proportion to the Cambodian Constitution. The decision is not subjected to be appealed.

**Inter-ministerial Prakas No. 6744 dated 12 August 2015 on the Revision of the Administrative Service of the Table Annexed to the Inter-ministerial Prakas No. 3856 dated 2 December 2013 on the Provision of the Administrative Service at Sub-national Administration.**

The Ministry of Interior and the Ministry of Economy and Finance have issued the Prakas No. 6744 dated 12 August 2015 updating the administrative services provided by the Sub-national administration authorities as well as their official fees.

For illustration, the public must get approval from the Sub-national administration authorities and pay the public service fee for administrative services such as:

- Legalization of the copied documents (business authorization, company charter, patent tax certificate, post-graduated education certificate, driving license etc.);
- Transportation authorization,
- Laisser-passer,
- Registration of qualified investment project at the Sub-Investment Committee (capital less than 2 million dollars),
- Civil status certificate (Birth, Marriage, Death)
- Movie theatre,
- Bookstore business,
- Business authorization in tourism sector, education sector etc.
- Construction permit,
- Real property ownership transfer etc.

The detail of the administrative services, the authorities, the timeframe and the official fees are prescribed in this Inter-ministerial Prakas.

## **REAL ESTATE**

### **Notice 134 Sor Chor Nor, dated 02 February 2016, Regarding the Solution for Imposing Stamps Duty Tax of Transferring Ownership and Possession Rights Over Registered and Non-Registered Immovable Properties.**

For effectiveness of stamp duty tax collection, the government has issued an instruction as following:

#### 1. Immovable properties with Tittle Deed

In case that the properties had been transferred to several subsequent owners without paying stamp duty tax, the government allows the tax burden bearer to pay the last stamp duty tax only.

Furthermore, local authorities shall cease allowing the transfer of immovable properties that do not pay the stamp duty tax.

#### 2. Immovable properties without Tittle Deed

Regarding the non-registered immovable properties, the government also allows the tax burden bearer to pay the last stamp duty tax only, although the property has been transferred several times already. Also, local authorities shall stop transferring non-registered immovable properties that have not paid the stamp duty tax.