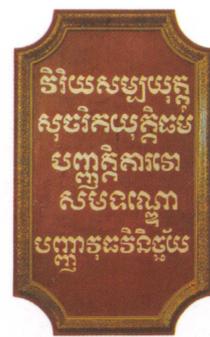
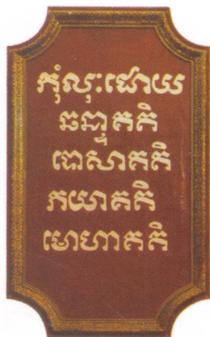




KINGDOM OF CAMBODIA  
NATION RELEGION KING



**LAW**

**ON**

# 1. The Organization of The Courts

# 2. The Status of Judges and Prosecutors

# 3. The Organization and Functioning of The Supreme Council of Magistracy

ភ្ជាប់ទំនាក់ទំនងជាមួយក្រសួងយុត្តិធម៌

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Ministry of Justice

# KINGDOM OF CAMBODIA

NATION RELIGION KING



MINISTRY OF JUSTICE

**PREFACED BY**

**H.E ANG VONG VATHANA**

**MINISTER OF JUSTICE**

Law on the Organization of the Courts, Law on the Statute of Judges and Prosecutors and Law on the Organization and Function of the Supreme Council of Magistracy are sorts of significant Organizational Law stated in the Constitution which aim at strengthening the independence of the Judicial Power and assure the well organization of the courts in improving justice service for citizen in line with rule of law. The three fundamental laws are also the main priority to create the clear and solid rules for judiciary to urge the effective enforcement and more active of legal and judicial reform which is a core part of third phase rectangular strategies of the Royal Government adopted in the first plenary session of the Council of Ministers on 25<sup>th</sup> September, 2013 under the high presidency of **Samdech Akka Moha Sena Padei Techo HUN SEN Prime Minister of the Kingdom of Cambodia.**

Based on the essence above, the Ministry of Justice of Cambodia pays highly attention to prepare these three laws, in particular, to comprehensively consider all the fundamental principles to ensure the independence of the Judicial Power according to international standards, as well as the improvement of court's process to promote the justice services to the public. Through several meetings, especially, the consultation with the Supreme Council of Magistracy and Ministries' opinions, the drafts of these three laws were approved by a plenary session of the Council of Ministers on 18<sup>th</sup> April, 2014, and were adopted on 22-23 May, 2014 by the National Assembly at mandate 5 of the second assembly meeting, and completely reviewed on form and full legality on 12<sup>th</sup> June, 2014 by the Senate at mandate 3 of the fifth meeting. Additionally, these three major laws were announced on 02<sup>nd</sup> July, 2014, by the Council of Constitution to be consistent with the Constitution and promulgated by the King on 16<sup>th</sup> July, 2014. The Ministry of Justice of Cambodia takes this opportunity to deeply thank all relevant institutions which reviewed and provided opinions to enhance these three laws.

Adoption and promulgation of these three fundamental laws at the beginning of the 5<sup>th</sup> mandate of Parliament clearly demonstrate highest attention and strong commitment of Royal Government to continue deep reform policy to enhance justice delivery and increase public confidence on this public service.

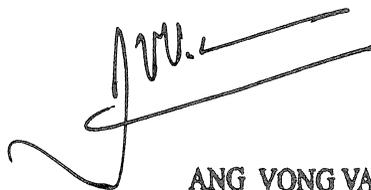
Basically, the preparation of these drafts, as well as the adopting these laws are an essential step to promote democracy and rule of law for the Kingdom of Cambodia. Furthermore, educating and disseminating the content of these laws are also important to ensure the effectiveness of law enforcement because the comprehensive dissemination of these laws will help judicial officials as well as relevant officials to fully enforce all these laws based on the legal spirit, and understanding, and the level of obeying the laws by the public will increase accordingly.

Considering the necessity and importance of the law dissemination, the Ministry of Justice which is a main institution of the Royal Government of Cambodia on justice matters has prepared to publish and disseminate these three laws to judicial officials, law enforcement officials, law professions, and relevant institutions, and Cambodians.

The Ministry of Justice strongly believes that the publication of these three laws will become a crucial instrument for training and disseminating to individuals and relevant institutions and for the contribution to improvement of the right to access the information on law and the right to access the justice of Cambodians.

Phnom Penh, December 8, 2014

**MINISTER OF JUSTICE**

A handwritten signature in black ink, consisting of a stylized 'A' followed by 'V.V.' and a long horizontal line extending to the right.

**ANG VONG VATHANA**

**Composition of Leaders Team and Civil Officers  
for Preparation and Defense of  
The Three Fundamental Laws Related to The Judiciary**

**A. Working Group for Drafting and Modifying the Drafts**

1. H.E. Ang Vong Vathana      Minister of Justice
2. H.E. Hy Sophea              Secretary of State
3. H.E. Chan Sotheavy         Secretary of State
4. H.E. Koeut Rith              Secretary of State
5. H.E. Ith Rady                 Under Secretary of State
6. H.E. Phov Samphy          Director General of Research and Judicial Development
7. H.E. Pen Pichsaly          Director General of Technical General Directorate

**B. Representatives of the Royal Government Defending the Drafts Before the National Assembly and Senate**

1. H.E. Ang Vong Vathana      Minister of Justice
2. H.E. Hy Sophea              Secretary of State
3. H.E. Chan Sotheavy         Secretary of State
4. H.E. Koeut Rith              Secretary of State
5. H.E. Ngor Sovann             Secretary of State

**Accompanied by Senior Officers and Technical Officers as follow:**

1. H.E. Ith Rady                 Under Secretary of State
2. H.E. Kim Santepheap         Under Secretary of State
3. H.E. So Chanthy              Under Secretary of State
4. H.E. Chin Malin              Under Secretary of State
5. H.E. Khiev Sophany         Under Secretary of State
6. H.E. Phov Samphy          Director General of Research and Judicial Development
7. H.E. Pen Pichsaly          Director General of Technical General Directorate
8. H.E. Sam Pracheameanith     Director of Cabinet of Minister of Justice
9. H.E. Koeut Sekano          Inspector General of Judicial Affairs
10. Ms. Pen Somethea         Deputy Director General of Research and Judicial Development
11. Mr. Soch Sophannara        Director of Department of Criminal Affairs
12. Mr. Touch Tharith         Director of Department of Civil Affairs
13. Mr. Neang Sina Vathanak     Director of Department of Legislation Affairs
14. Mr. Sar Phoumra             Director of Department of Prosecution Affairs
15. Ms. Kea Meymey             Officer of Cabinet of Minister of Justice
16. Mr. Lay Leangseng         Officer of Department of Criminal Affairs



## ROYAL KRAM

NS/RKM/0714/015

WE

**Preah Karuna Samdech Preah Bat Preah Borom Neath Norodom Sihamoni, faithful and devoted servant of the country, religion, nation and the Khmer people; protected by Buddha and Indra; unifier of all Khmer; defender of the independence, territorial integrity and peace of Kampuchea; and happiness, freedom and prosperity of the Khmer people, Preah Chau Krong Kampuchea Thipadei**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree NS/RKT/0913/903 dated 24<sup>th</sup> September 2013, on the nomination of the Royal Government of the Kingdom of Cambodia
- Having seen Royal Kram 02/NS/94/ dated 20<sup>th</sup> July 1994, which promulgated the Law on the Organization and Functioning of the Council of Ministers
- Having seen Royal Kram ChS/RKM/0498/06 dated 08<sup>th</sup> April 1998, which promulgated the Law on the Organization and Functioning of the Constitutional Council
- Having seen Royal Kram NS/RKM/0107/005 dated 31<sup>st</sup> January 2007, which promulgated the Law on the Amendment of the law on the Organization and Functions of the Constitutional Council
- Having seen Royal Kram NS/RKM/0196/05 dated 24<sup>th</sup> January 1996, which promulgated the Law on the Establishment of the Ministry of Justice
- Having seen the report of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia

## PROMULGATE

The Law on the Organization of the Courts, which was approved by the National Assembly on 22<sup>nd</sup> May 2014, during the second meeting of its fifth mandate, and which was completely reviewed by the Senate on its form and content on 12<sup>th</sup> June 2014, during the fifth meeting of its third mandate, as well as the decision of the Constitutional Council that it was consistent with the Constitution of the Kingdom of Cambodia, in decision N<sup>o</sup> 149/003/2014 KBTH.Ch dated 2<sup>nd</sup> July, 2014 in which the whole content is as follows:

**LAW**  
**ON**  
**THE ORGANIZATION**  
**OF THE COURTS**

## CHAPTER 1 GENERAL PROVISIONS

### **Article 1.-**

The purposes of this Law are to:

- Ensure the independence of the judiciary,
- Ensure impartiality and protect the rights and freedoms of citizens,
- Ensure the good functioning of court and prosecution offices,
- Enhance the effectiveness and quick proceedings of public services,  
Ensure that justice is delivered in all cases to increase confidence from citizens and contribute to strengthening social safety.

### **Article 2.-**

This law is aimed at:

- Determining the organization and the functioning of all categories and levels of courts, which are the adjudicating courts in Cambodia;
- Determining the organization and the functioning of prosecution offices attached to all levels of the courts in Cambodia;
- Determining the jurisdiction of all types and levels of courts based on specialization;
- Organizing management and administrative tasks and the functioning of courts.

### **Article 3.-**

The courts in Cambodia include:

- Courts of First Instance,
- Courts of Appeal, and
- Supreme Court.

The Courts of First Instance are the lower courts. The Courts of Appeal and the Supreme Court are the higher courts.

According to actual necessity, the establishment of any other courts or extraordinary tribunals shall be made by law.

### **Article 4.-**

All types and levels of courts have jurisdiction to exercise judicial power over all cases, including administrative cases.

### **Article 5.-**

The lower court shall be divided into specialized courts. The establishment, dissolution, and change of specialized courts shall be determined by Royal Decree.

The President of a Court of First Instance has direct power over the specialized courts of first instance in their respective courts, according to the administrative hierarchy. The President of a specialized court has direct power over the members of

his/her specialized courts, in accordance with the administrative hierarchy. The President of a Court of First Instance cannot be President of a specialized court. The President of a specialized court can only be the president of one specialized court.

The higher courts shall be divided into the specialized chambers. The establishment, removal and change of the chambers shall be determined by Royal Decree.

Each President of a higher court has direct power over the President of the specialized chamber of that higher court, in accordance with the administrative hierarchy. The President of each specialized chamber has direct power over the members of his/her specialized chamber, according to the administrative hierarchy. The President of a higher court cannot be the President of a specialized chamber. The President of a specialized chamber can only be the president of one specialized chamber.

#### **Article 6.-**

Only a judge has the right to adjudicate cases. The judge shall perform this duty independently by obeying the law strictly, honestly and in good conscience.

Justice shall be delivered on behalf of the Cambodian people, in accordance with applicable procedure and laws.

Only courts have the right to adjudicate cases and issue decisions.

#### **Article 7.-**

Court hearings shall be conducted in public except in the case that a public hearing will jeopardize public order or cause a breach of customs/traditions or except as otherwise provided by special provisions of other laws.

In all cases, judgments shall be announced publicly.

Deliberations of judges shall remain confidential.

Unless otherwise provided in other law, announcements of judgments shall be made by the President of the Trial Chamber or one of the judges who is a member of the trial chamber.

All judgment shall have reasoning.

Unless otherwise provided in other law, judgments shall be signed by the President of the Trial Chamber and undersigned by a court clerk.

#### **Article 8.-**

The Prosecutor's Office at each Court of First Instance is called the Prosecution attached to the Court of First Instance.

The Prosecutor's Office at each Court of Appeals is called the Prosecution attached to the Court of Appeals.

The Prosecutor's Office at the Supreme Court is called the Prosecution attached to the Supreme Court.

A representative of the Prosecution shall be present at all criminal hearings and trials, and other cases as determined by law.

**Article 9.-**

All levels of courts and prosecution offices shall consist of court clerks and administrative officials, as well as legal experts as assistants, if necessary.

The court clerks assist judges and prosecutors in all court and prosecution proceedings.

The duties and functions of court clerks shall be defined in the Law on the Status of Court Clerks.

The procedure and qualifications of selecting legal experts shall be determined by sub-decree.

**Article 10.-**

All levels of courts shall have an administrative unit that is under the central administration of the Ministry of Justice to support the functioning of courts and prosecution.

The administrative unit at each Court of First Instance is called the Secretariat for Administration of the Court of First Instance and has a rank equal to a Department.

The administrative unit at each Court of Appeals is called the Secretariat for Administration of the Court of Appeals and has a rank equal to a General Department.

The administrative unit at the Supreme Court is called the Secretariat for Administration of the Supreme Court and has a rank equal to a General Department.

**Article 11.-**

The Ministry of Justice has the power to supervise and review the administrative works of all courts with General Department of Court Administration as a support unit. The Ministry may issue legal rules and guidelines to ensure decent administration at all levels of courts.

In necessary, the Minister of Justice may have any court or court official inspected and report to the Supreme Council of Magistracy for examination and decision.

The higher courts have authority to examine and review the decisions of the lower courts. This examination shall be carried out in a framework of appeal proceedings, according to provisions of applicable procedure.

**CHAPTER 2****COURT OF FIRST INSTANCE AND PROSECUTION OFFICE ATTACHED  
TO THE COURT OF FIRST INSTANCE****SECTION 1****COURT OF FIRST INSTANCE****Sub-Section 1****Organization and Functioning of the Court of First Instance****Article 12.-**

A Court of First Instance is the first-level court, which is situated in Phnom Penh and all provinces of the Kingdom of Cambodia. The operations of all Courts of First Instance shall be made by Royal Decree.

The Court of First instance shall be divided into specialized courts. The Court of First Instance is a general court, which has jurisdiction to adjudicate all cases, except where a case is under the jurisdiction of a special court or extraordinary court, which is established by separate law.

**Article 13.-**

A component of a Court of First Instance includes:

- A President,
- Vice-presidents,
- Judges,
- Clerks,
- Administrative Officials, and other legal experts working at a Court of First Instance.

**Article 14.-**

Each Court of First Instance is divided in specialized courts as follows:

- A Civil Court,
- A Criminal Court,
- A Commercial Court, and
- A Labor Court.

When necessary, other Specialized Courts of First Instance may be created. Such creation and establishment shall be made by Royal Decree.

Each Specialized Court of First Instance can independently issue decisions in its jurisdiction in the name of the Court of First Instance to which it belongs.

**Article 15.-**

A component of a Specialized Court of First Instance includes:

- A President,
- Judges, and
- Clerks.

The President of each Specialized Court of First Instance, including judges and court clerks, shall be nominated by the President of the Court of First Instance. The operation of the Specialized Court of First Instance shall be defined by the President of the Court, in accordance with applicable legal instruments.

**Article 16.-**

Each Specialized Court of First Instance makes a decision by a single judge or a panel of judges pursuant to the Code of Civil Procedure or the Code of Criminal Procedure, or other applicable provisions and procedures. In the event any judge is busy or cannot perform his/her duties that judge may be replaced by another judge next ranked in the annual order by the President of the Court.

If any Specialized Court of First Instance cannot conduct a trial due to a lack of judges, the President of the Court shall nominate a judge from another specialized

court to fulfill the work. If requesting a judge or judges from another Court of First Instance, the President of the Court of First Instance shall make such request to the Minister of Justice.

#### **Article 17.-**

The president of a Court of First Instance shall take necessary supervision for the process of the court. If the President of the court cannot perform his/her work or if the position of the President of the court is vacant, the Minister of Justice shall designate a Vice-President of the court or, if there is no Vice-President choose another judge, to be Acting President to ensure regular operation of the court until the new president of the court has been officially nominated. The nomination of the President of the court shall be made as soon as possible and in no less than 30 days.

The President of the Court shall issue orders to:

- Nominate a Vice-President to perform the President's duties, if necessary.
- Nominate a Vice-President of the Court of First Instance to act as the President of each specialized court based upon relevant skills and work experience. In case of an insufficient number of Vice-Presidents, the President of a Court of First Instance may appoint a high-ranking judge or a judge with vast experience to be the President of the Specialized Court.
- Determine the replacement order of judges in each specialized court and in the panel of these specialized courts, during instances where any judge is absent or busy.
- Designate and rotate court clerks in each specialized court as necessary.

#### **Article 18.-**

If necessary, the Minister of Justice may authorize a Court of First Instance to conduct a trial outside its office, upon a request from the President of the Court of First Instance.

### **Sub-Section 2 Jurisdiction**

#### **Article 19.-**

A Court of First Instance shall have competent jurisdiction to adjudicate all cases within its territorial jurisdiction unless jurisdiction over a case has been given to another court by law.

If it is deemed necessary to ensure public interest, social safety and security, and good functioning of justice, the Minister of Justice may transfer a case from one Court of First Instance to another court.

In a case where there is a conflict of jurisdiction between Specialized Courts of First Instance, the President of the Court of First Instance shall summon the Presidents

of the relevant specialized courts within his or her authority or upon the request of the President of any specialized court to decide the question of jurisdiction. The President of the Court of First instance decides the conflict of the jurisdiction with a court order. This order is not subject to any appeal.

**Article 20.-**

The Criminal Court of First Instance shall have competent jurisdiction to adjudicate all criminal cases within its territorial jurisdiction pursuant to the Code of Criminal Procedure, except as provided by other laws.

The Criminal Court of First Instance adjudicates criminal cases with a single judge or with a panel of judges, according to the provisions of the Code of Criminal Procedure.

An investigation section of a Court of First Instance is a part of a Criminal Court and has competent jurisdiction to investigate criminal cases, in accordance with the provisions of the Code of Criminal Procedure. The President of the Court of First Instance shall designate at least two (2) judges, by order, to perform the duties of an investigating judge at the investigation division of the Criminal Court of First Instance. This order also determines a classification for task performance. In a case where there is no investigating judge, the President of the court shall choose a judge from another specialized court to be the investigating judge.

If it is deemed necessary, the investigating judge may perform duties as a judge in another specialized court upon the designation by the President of the Court of First Instance.

**Article 21.-**

The Civil Court of First Instance shall have competent jurisdiction to adjudicate all civil cases within its territorial jurisdiction and any other case within its territorial jurisdiction in which there are no provisions stating that the jurisdiction shall be given to another specialized court, in accordance with the Code of Civil Procedure.

The Civil Court of First Instance adjudicates civil cases with a single judge or with a panel of judges, in accordance with the Code of Civil Procedure.

**Article 22.-**

The Commercial Court of First Instance shall have competent jurisdiction to adjudicate all commercial cases, including bankruptcy in commercial matters, within its territorial jurisdiction, in accordance with the Code of Commercial Procedure.

**Article 23.-**

The Commercial Court of First Instance, when hearing a case where more than 1, 000, 000, 000 Riels (1 billion Riels) is in dispute, shall be comprised of three (3) judges, assisted by two (2) advisors, who are business persons or commercial law experts.

The Commercial Court of First Instance, when hearing a case where between 100, 000, 000 Riels (a hundred million Riels) and 1, 000, 000, 000 Riels (1 billion Riels) is in dispute, shall be comprised of one (1) judge, assisted by two (2) advisors, who are business persons or commercial law experts.

The Commercial Court of First Instance, when hearing a case where less than 100, 000, 000 Riels (one hundred million Riels) is in dispute, shall be comprised of only one (1) judge without any commercial experts.

A judgment of the Commercial Court of First Instance shall be rendered by a judge or three judges, in accordance with paragraphs 1 and 2 above after consultation with the commercial advisors.

The commercial advisors shall not carry out their duties on a permanent basis in the Commercial Court of First Instance. Commercial advisors shall perform their duties at the Commercial Court of First Instance upon summons from the President of the Commercial Court of First Instance.

#### **Article 24.-**

The procedure for selecting and determining the duties of the commercial advisors, shall be determined by a Sub-Decree upon request from the Minister of Justice, after the consultation with the Minister of Commerce.

#### **Article 25.-**

The Labor Court of First Instance shall have jurisdiction to adjudicate all labor cases, within its territorial jurisdiction, in accordance with the provisions of labor procedure.

#### **Article 26.-**

The Labor Court of First Instance shall adjudicate cases with one (1) judge accompanied by two (2) labor advisors; one labor advisor must be an employee and one labor advisor must be an employer.

A judgment of the Labor Court of First Instance shall be decided by one judge after the consultation with the labor advisors.

The labor advisors shall not carry out their duties on a permanent basis in the Labor Court of First Instance. Labor advisors shall perform their duties at the Labor Court of First Instance upon summons from the President of the Labor Court of First Instance.

#### **Article 27.-**

The competent Labor Court is the Labor Court of First Instance where labor dispute occurs.

Although the competence of the Labor Court of First Instance is determined in the above paragraph, employee can file a complaint with a Court of First Instance as determined by following, unless otherwise provided:

- The place where he/she resides;

- The head office or a main business site of a company; or
- The place where a representative or a person responsible for a company resides, if the company has no head office or main business site.

**Article 28.-**

The procedure for selecting and determining the duties of the labor advisors shall be determined by a Sub-Decree upon request from the Minister of Justice, after the consultation with the Minister of Labor.

**SECTION 2****PROSECUTION OFFICE ATTACHED TO THE COURT OF FIRST INSTANCE****Article 29.-**

The Prosecution Office attached to the Court of First Instance shall be comprised of the following:

- Prosecutor,
- Deputy prosecutors,
- Court clerks,
- Administrative officials, and legal experts who work at the prosecution attached to the Court of First Instance.

**Article 30.-**

The Prosecution Office is an indivisible body that is responsible for bringing criminal charges and law enforcement requests to the investigating and adjudicating jurisdictions, as well as performing other duties as determined by applicable law and provisions.

The Prosecutor and Deputy Prosecutors are representatives of the Prosecution Office attached to the Court of First Instance where they work. Deputy Prosecutors work under the direction and general responsibility of the Prosecutor attached to the Court of First Instance.

In the event the Prosecutor is busy, ill, or absent, the Prosecutor shall appoint a Deputy Prosecutor to replace him/her. If the Prosecutor is unable to perform his/her duties or if the position of Prosecutor is vacant, the Minister of Justice shall appoint a Deputy Prosecutor to be the Acting Prosecutor to ensure the regular operation of the Prosecution Office attached to the Court of First Instance until a new prosecutor has been officially appointed.

**Article 31.-**

The Prosecutor has the authority over all Deputy Prosecutors under his/her territorial jurisdiction. The Prosecutor designates and distributes work to all Deputy Prosecutors.

The Prosecutor has the right to issue an injunction ordering all Deputy Prosecutors to indict or make conclusions that he/she deems appropriate. The Deputy

Prosecutor's conclusions shall be submitted to the Prosecutor for review before a hearing or trial. If the Prosecutor does not agree with the Deputy Prosecutor's conclusion, the Prosecutor may designate other Deputy Prosecutors or nominate himself/herself to be the representative of the Prosecution during trial in the Court of First Instance.

However, during trial, Deputy Prosecutors may freely make verbal remarks that he/she considers appropriate, according to his/her conscience. No disciplinary sanctions may be taken due to his/her verbal remarks during trial that are different from written conclusions.

### SECTION 3

#### ADMINISTRATIVE SECRETARIAT OF THE COURT OF FIRST INSTANCE

##### **Article 32.-**

The Administrative Secretariat at the Court of First Instance is a support unit of the Court and to the Prosecution Office attached to the Court of First Instance to assist on:

- Personnel, administrative, and financial affairs;
- Administrative court management and technical assistance to the Court of First Instance and the Prosecution Office attached to the court;
- Budget planning to submit to the President of the Court and the Prosecutor to review and decide;
- Regularly reporting on personnel, administrative and financial affairs to the President of the Court and the Prosecutor;
- Execution of planned budget as approved;
- Public relations;
- Regular delivery of the court's judgments to the Ministry of Justice;
- Preparation and delivery of reports on personnel, administrative and financial affairs monthly, quarterly, semi-annually, and annually to the Ministry of Justice;
- Other affairs as assigned by the President of the court and the Prosecutor;
- Carrying out other works as defined by legal regulations.

The Administrative Secretariat at a Court of First Instance shall be divided into bureaus, as necessary. A bureau is led by a chief and assisted by a number of deputy chiefs as needed.

The organization and function of the Administrative Secretariat at the Court of First Instance shall be determined by Sub-Decree, upon the request from the Minister of Justice.

##### **Article 33.-**

The Administrative Secretariat at the Court of First Instance is led by a Chief and assisted by a number of Deputy Chiefs as needed. The Chief of the secretariat shall be nominated by Sub-Decree upon the request of the Minister of Justice after the

consultation with the President of the court and the Prosecutor attached to the court. Officials under the Chief of the secretariat shall be nominated by Prakas of the Minister of Justice.

The Chief and Deputy Chiefs of the secretariat shall be selected from civil servants who have at least five (5) years' experience in legal, administrative or financial affairs. A Chief and a Deputy Chief of Bureau shall be selected from officials who have at least three (3) years' experience in legal, administrative or financial affairs.

Officials at the secretariat, including the Chief, shall have their civil servant status at the Ministry of Justice.

**Article 34.-**

A general assembly of the Court of First Instance is presided by the President of the Court and the Prosecutor attached to the Court to wrap up previous work and set out administrative works of the Court for the following year. A report on the general assembly of the Court shall be delivered to the Ministry of Justice.

**CHAPTER 3**

**COURTS OF APPEAL AND GENERAL PROSECUTION ATTACHED TO  
THE COURTS OF APPEAL**

**SECTION 1**

**COURTS OF APPEAL**

**Sub-Section 1**

**Organization and Functioning of the Courts of Appeal**

**Article 35.-**

The Courts of Appeal are the courts of second degree.

The Courts of Appeal include the Phnom Penh Court of Appeals and regional Courts of Appeals. The functions of each regional Court of Appeals and determination of the territorial jurisdiction of the Courts of Appeals shall be made by the Royal Decree.

**Article 36.-**

A Court of Appeals shall be comprised of:

- President,
- Vice-President,
- Judges,
- Court Clerks,
- Administrative officials, and other legal experts who work at the Court of Appeals.

**Article 37.-**

The Court of Appeals shall be comprised of the following specialized chambers:

- Criminal Chamber,
- Civil Chamber,
- Investigating Chamber,
- Commercial Chamber, and
- Labor Chamber.

Additional specialized chambers in the Court of Appeals may be established as necessary by Royal Decree.

Each chamber independently renders its decisions within its competent jurisdiction on behalf of the Court of Appeals where it sits.

#### **Article 38.-**

Each Chamber shall be comprised of:

- The President of Chamber,
- Judges, and
- Court clerks.

The President of each chamber shall be designated by the President of the Court of Appeal.

The number of judges, court clerks and the functions of the chambers shall be determined by the President of the Court of Appeals.

#### **Article 39.-**

Each chamber of the Court of Appeals issues decisions by a panel of three (3) judges, one of whom is the President of the panel, in accordance with provisions of existing procedures.

The Court of Appeals shall adjudicate any case transferred back to it by the Supreme Court with a panel of five (5) judges, all of who were not involved in the previous hearing, according to provisions of existing procedures.

#### **Article 40.-**

The President of the Court of Appeals shall take all necessary measures to manage the functioning of the Court of Appeals. The President of the Court of Appeals shall issue orders to:

- Nominate any Vice-President of the Court of Appeals to perform the President's duties, if necessary;
- Nominate a Vice-President of the Court of Appeals to act as the President of each Chamber based on relevant professional and work experience. In case of an insufficient number of Vice-Presidents, the President of the Court of Appeals may appoint a high-ranking judge or a judge with vast experience to be the President of the Chamber;
- Determine the replacement order of judges in within the panel of each Chamber, during instances where any judge is absent or busy;
- Designate and rotate clerks in each Chamber as necessary.

## **Sub-Section 2 Competence**

### **Article 41.-**

The Court of Appeals shall have competent jurisdiction to adjudicate all cases within its territorial jurisdiction unless jurisdiction over a case has been given to another court by law.

### **Article 42.-**

The Court of Appeals shall consider both facts and law when deciding cases within its competent jurisdiction, according to existing laws.

### **Article 43.-**

The Criminal Chamber shall have competent jurisdiction to hear appeals against criminal judgments of a Court of First Instance and other cases within its jurisdiction, pursuant to the Code of Criminal Procedure.

### **Article 44.-**

The Civil Chamber shall have competent jurisdiction to hear appeals against civil judgments and opposition motions against orders of a Court of First Instance relating to civil cases and other cases within its jurisdiction, pursuant to the Code of Civil Procedure. Decisions of the Civil Chamber shall be made by a panel of three (3) judges, one of who is the President of the panel.

### **Article 45.-**

The Investigating Chamber shall have competent jurisdiction to hear appeals against cases relating to investigating affairs, orders of Investigating Judges and other cases within its jurisdiction, in accordance with the Code of Criminal Procedure. Decisions of the Investigating Chamber shall be made by panel of three (3) judges, one of who is the President of the panel.

### **Article 46.-**

The Commercial Chamber shall have competent jurisdiction to hear appeals against judgments and opposition motions against orders of a Court of First Instance related to commercial cases or other cases within its jurisdiction, in accordance with the Code of Commercial Procedure. Appeals to the Commercial Chamber of the Court of Appeals shall be heard by a panel of three (3) judges, one of who is the President of the Chamber, and accompanied by two advisors who are businessmen or commercial law experts and were not commercial advisors in the same case tried by a Court of First Instance or the Court of Appeals. Judgments of the Commercial Chamber of the Court of Appeals shall be made by a panel of three (3) judges, one of who is the President of the panel, after the consultation with the commercial advisors.

The commercial advisors shall not carry out their duties on a permanent basis in the Commercial Chamber of the Court of Appeals. Commercial advisors shall perform their duties only when summoned by the President of Commercial Chamber of the Court of Appeals.

The procedure for selecting and determining the duties of the commercial advisors, shall be determined by a Sub-Decree upon request from the Minister of Justice, after the consultation with the Minister of Commerce.

#### **Article 47.-**

The Labor Chamber shall have competent jurisdiction to hear appeals against judgments and opposition motions against orders of a Court of First Instance related to labor cases or other cases within its jurisdiction, in accordance with provisions of labor procedures. Appeals to the Labor Chamber of the Court of Appeals shall be heard by a panel of three (3) judges, one of who is the President of the Chamber, and accompanied by two advisors, one of who must be an employee and one of who must be an employer, and who were not commercial advisors in the same case tried by a Court of First Instance or the Court of Appeals. Judgments of the Labor Chamber of the Court of Appeals shall be made by a panel of three (3) judges, one of who is the President of the panel, after the consultation with the labor advisors.

The labor advisors shall not carry out their duties on a permanent basis in the Labor Chamber of the Court of Appeals. Labor advisors shall perform their duties only when summoned by the President of Labor Chamber of the Court of Appeals.

The procedure for selecting and determining the duties of the labor advisors, shall be determined by a Sub-Decree upon request from the Minister of Justice, after the consultation with the Minister of Labor.

#### **Article 48.-**

A joint chamber can be established by a decision of the President of the Court of Appeals upon his/her own initiative or upon a request from the President of any Chamber if a case falls under the jurisdiction of different chambers or if that case has received contradictory resolutions from different Chambers of the Court of Appeals. The joint chamber shall be convened upon the summons of the President of the Court of Appeals.

A decision of the joint chamber related to the competence of different chambers and a conflict of law is binding and shall be followed by all Chambers of the Court of Appeals.

If a joint chamber has been established, that chamber shall have at least five (5) judges composed of an equal number of judges from the relevant chambers. The joint chamber is presided over by the President of the Court of Appeals.

The President of the Court of Appeals issues a decision, in accordance with a decision of the joint chamber.

A decision on a conflict of jurisdiction or a conflict of law is a not subject to appeal.

## SECTION 2

### GENERAL PROSECUTION OFFICE ATTACHED TO THE COURTS OF APPEALS

**Article 49.-**

The General Prosecution Office attached to the Court of Appeals shall be comprised of the following:

- The Prosecutor General,
- Deputy Prosecutors General,
- Prosecutors,
- Court Clerks,
- Administrative officials, and other legal experts who work in the General Prosecution Office at the Court of Appeals.

**Article 50.-**

Duties of the General Prosecution Office attached to the Court of Appeals shall be given to the Prosecutor General attached to the Court of Appeals. Deputy Prosecutor Generals and the Prosecutors attached to the Court of Appeals fulfill these duties under the direction and supervision of the Prosecutor General attached to the Court of Appeals.

In the event the Prosecutor General is busy, ill or absent, the Prosecutor General attached to the appeal Court of Appeals shall assign a Deputy Prosecutor General, or may designate any prosecutor to replace her/him if there is no Deputy Prosecutor General.

If the Prosecutor General attached to the Court of Appeals is unable to fulfill her/his duty or if the position of Prosecutor General is vacant, the Minister of Justice shall appoint a Deputy Prosecutor General to be the Acting Prosecutor General to ensure the regular operation of the Prosecution Office attached to the Court of Appeals until a new Prosecutor General has been officially appointed.

**Article 51.-**

The Prosecutor General attached to the Court of Appeals has authority over all Deputy Prosecutor Generals and all Prosecutors attached to the Court of Appeals.

The Prosecutor General attached to the Court of Appeals designates and assigns the Deputy Prosecutors General and Prosecutors attached to the Court of Appeals to all work of the Prosecution Office, including court hearings.

Conclusions of the Deputy Prosecutor Generals and Prosecutors attached to the Court of Appeals shall be submitted to the Prosecutor General for review, prior to a court hearing. If the Prosecutor General attached to the Court of Appeals does not agree with that conclusion and the Deputy Prosecutor General or Prosecutor who made the initial conclusion does not follow the Prosecutor General's instruction, the Prosecutor General attached to the Court of Appeals may assign another Deputy Prosecutor General, Prosecutor or himself/herself to be the representative of the Prosecution Office during the hearing.

However, during hearings, the Deputy Prosecutor Generals or Prosecutors attached to the Court of Appeals may freely make verbal remarks that he/she considers appropriate according to his/her conscience. No disciplinary sanction may be taken against the representative in a hearing due to his/her verbal remarks that are different from written conclusions.

The General Prosecutor attached to the Court of Appeals has the right to issue an injunction ordering all the Prosecutors attached to Court of First Instance to prosecute cases, pursuant to provisions of the Code of Criminal Procedure.

### SECTION 3

#### GENERAL ADMINISTRATIVE SECRETARIAT OF THE COURT OF APPEALS

##### **Article 52.-**

The General Administrative Secretariat of the Court of Appeals is a support unit of the Court of Appeals and the Prosecution Office attached to the Court of Appeals to assist on:

- Personnel, administrative and financial affairs;
- Administrative court management and technical assistance to the Court of Appeals and the Prosecution Office attached to the Appeal Court;
- Budget planning to submit to the President of the Court of Appeals and the Prosecutor General to review and decide;
- Execution of planned budget as approved;
- Regularly reporting on personnel, administrative and financial affairs to the President of the Court of Appeals and the Prosecutor General attached to the Court of Appeals;
- Public relations;
- Regular delivery of the Court's judgments to the Ministry of Justice;
- Preparation and delivery of reports on personnel, administrative and financial affairs monthly, quarterly, semi-annually, and annually to the Ministry of Justice;
- Other affairs as assigned by the President of the Court of Appeals and by the Prosecutor General attached to the Court of Appeals; and
- Carrying out other work as defined by legal regulations.

The General Administrative Secretariat of the Court of Appeals shall be divided into departments led by a director and deputy directors, as necessary.

The organization and functioning of the General Administrative Secretariat shall be determined by Sub-Decree, upon the request from the Minister of Justice.

##### **Article 53.-**

The General Administrative Secretariat of the Court of Appeals is headed by a Secretary General and assisted by a number of Deputy Secretary Generals, as necessary. The Secretary General shall be nominated by Royal Decree, upon the request from the Prime Minister. The Minister of Justice shall consult with the

President of the Court of Appeals and the Prosecutor General attached to the Court of Appeals to make such a request to the Prime Minister. The Secretary General shall be selected from civil servants who have at least seven (7) years of experience in law, administration, or finance.

The Deputy Secretary General and department directors shall be nominated by Sub-Decree upon a request from the Minister of Justice after consultation with the President of the Court of Appeals and with the Prosecutor General attached to the Court of Appeals. The Deputy Secretary Generals and the department directors shall be selected from civil servants who have at least five (5) years of experience in law, administration, or finance.

Officials at the General Secretariat having a rank lower than department director shall be appointed by a Prakas of the Minister of Justice. A deputy department director, as well as bureau chiefs and deputy bureau chiefs shall be chosen from civil servants who have at least three (3) years of experience in law, administration or finance

The officials working at General Secretariat, including the Secretary General shall have civil servant status at the Ministry of Justice.

#### **Article 54.-**

A general assembly of each Court of Appeals shall be presided over by the President of the Court of Appeals and the Prosecutor General attached to the Court of Appeals next year. A report on the general assembly of the Court of Appeals shall be delivered to the Ministry of Justice.

**CHAPTER 4**  
**THE SUPREME COURT AND THE GENERAL PROSECUTION OFFICE**  
**ATTACHED TO THE SUPREME COURT**  
**SECTION 1**  
**SUPREME COURT**  
**Sub-Section 1**  
**Organization and Functioning of the Supreme Court**

#### **Article 55.-**

There is only one Supreme Court, which sits in Phnom Penh.

#### **Article 56.-**

The Supreme Court shall be comprised of:

- President,
- Vice-Presidents,
- Judges,
- Court Clerks,
- Administrative officials, and other legal experts who work at the Supreme Court.

**Article 57.-**

The Supreme Court shall be comprised of the following specialized chambers:

- Criminal Chamber,
- Civil Chamber,
- Commercial Chamber, and
- Labor Chamber.

If necessary, other specialized chambers of the Supreme Court may be established by Royal Decree.

Each Chamber independently renders its decisions within its competent jurisdiction on behalf of the Supreme Court.

**Article 58.-**

Each Chamber shall be comprised of:

- The President of the Chamber,
- Judges, and
- Court clerks.

The President of the Supreme Court shall designate the President of each chamber.

The number of judges, court clerks and the functions of the chambers shall be determined by the President of the Supreme Court.

**Article 59.-**

Each chamber of the Supreme Court issues decisions by a panel of five (5) judges, one of whom is the president, in accordance with provisions of existing procedures.

**Article 60.-**

The President of the Supreme Court shall take all necessary measures to manage the functioning of the Supreme Court and shall advise all Chambers of the Court to enforce the law. The President of the Supreme Court shall issue orders to:

- Nominate a Vice-President of the Supreme Court to perform the President's duties, if necessary;
- Designate a Vice-President of the Supreme Court to act as the President of each Chamber based on relevant professional and work experience. In case of an insufficient number of Vice-Presidents, the President of the Supreme Court may appoint any judge of the Supreme Court to be the President of the Chamber.

**Sub-Section 2  
Competence**

**Article 61.-**

The Supreme Court shall have jurisdiction to hear cases under its territorial jurisdiction as defined by law.

**Article 62.-**

A Plenary Chamber shall be established by order of the President of the Supreme Court to adjudicate:

- The second appeal for cassation against judgments of the Court of Appeals pursuant to applicable procedures; and
- Motions for review of final judgments pursuant to applicable procedures.

The Plenary Chamber may also be convened to decide on motions for review of a case upon request from the King, who is the chairman of the Supreme Council of Magistracy through the Minister of Justice.

The Plenary Chamber shall be convened upon the summons of the President of the Supreme Court.

The Plenary Chamber of the Supreme Court is an adjudicating body that issues decisions on behalf of the Supreme Court.

When the Plenary Chamber has been convened, that Chamber shall be composed of at least nine (9) judges, including a judge from each Chamber of the Supreme Court.

The Plenary Chamber is presided over by the President of the Supreme Court.

**Article 63.-**

A joint chamber can be established by a decision of the President of the Supreme Court upon his/her own initiative or upon a request from the President of any Chamber if a case falls under the jurisdiction of different chambers or if that case has received contradictory resolutions from different Chambers of the Supreme Court. The joint chamber shall be convened upon the summons of the President of the Supreme Court.

A decision of the joint chamber related to the competence of different chambers and a conflict of law is binding and shall be followed by all Chambers of the Supreme Court and Lower Courts.

If a joint chamber is established, that chamber shall have at least nine (9) judges composed of an equal number of judges from the relevant chambers. The joint chamber is presided over by the President of the Supreme Court.

The President of the Supreme Court issues a decision, in accordance with a decision of the joint chamber.

A decision on a conflict of jurisdiction or a conflict of law is not subject to appeal.

**Article 64.-**

The Criminal Chamber of the Supreme Court has the jurisdiction to hear all motions for cassation against criminal judgments and decisions of the Court of Appeals, pursuant to the Code of Criminal Procedure.

**Article 65.-**

The Civil Chamber of the Supreme Court has the jurisdiction to hear all motions for cassation against judgments and decisions in civil cases of the Court of

Appeals, as well as all motions for cassation against civil judgments of the Courts of First Instance and other cases, pursuant to the Code of Civil Procedure.

**Article 66.-**

The Commercial Chamber of the Supreme Court has jurisdiction to hear all motions for cassation against judgments and decisions of commercial cases of the Court of Appeals, in accordance with provisions of commercial procedure.

**Article 67.-**

The Labor Chamber of the Supreme Court has jurisdiction to hear all motions for cassation against judgments and decision in labor cases of the Court of Appeals, in accordance with provisions of the labor law.

## SECTION 2

### GENERAL PROSECUTION OFFICE ATTACHED TO THE SUPREME COURT

**Article 68.-**

The General Prosecution Office attached to the Supreme Court shall be comprised of the following:

- The Prosecutor General,
- Deputy Prosecutors General,
- Prosecutors,
- Court Clerks,
- Administrative officials, and other legal experts who work at the Prosecution Office attached to the Supreme Court.

**Article 69.-**

Duties of the Prosecution Office attached to the Supreme Court shall be given to the Prosecutor General attached to the Supreme Court. Deputy Prosecutors General and the Prosecutors attached to the Supreme Court fulfill these duties under direction and supervision of the Prosecutor General attached to the Supreme Court.

In the event the Prosecutor General is busy, ill, or absent, the Prosecutor General attached to the Supreme Court shall assign a Deputy Prosecutor General or may designate another Prosecutor to replace her/him if there is no the Deputy Prosecutor General.

If the Prosecutor General attached to the Supreme Court can no longer fulfill her/his duty or if the position of Prosecutor General is vacant, the Minister of Justice shall appoint a Deputy Prosecutor General to be the Acting Prosecutor General to ensure the regular operation of the Prosecution Office attached to the Supreme Court until a new Prosecutor General has been officially appointed.

**Article 70.-**

The Prosecutor General attached to the Supreme Court has authority over all Deputy Prosecutors General and Prosecutors attached to the Supreme Court. The

Prosecutor General attached to the Supreme Court designate and assigns the Deputy Prosecutors General and Prosecutors attached to the Supreme Court to all work of the Prosecution Office, including court hearings.

Conclusions of the Deputy Prosecutors General and Prosecutors attached to the Supreme Court shall be submitted to the Prosecutor General attached to the Supreme Court for review, prior to a court hearing. If the Prosecutor General attached to the Supreme Court does not agree with that conclusion and the Deputy Prosecutor General or Prosecutor who made the initial conclusion does not follow the Prosecutor General's instruction, the Prosecutor General attached to the Supreme Court may assign another Deputy Prosecutor General, Prosecutor or himself/herself to be the representative of the Prosecution Office during the hearing.

However, the Deputy Prosecutors General or Prosecutors attached to the Supreme Court may freely make verbal remarks that he/she considers appropriate according to his/her conscience. No disciplinary sanction may be taken against the representative in a hearing due to his/her verbal remarks that are different from written conclusions.

### SECTION 3

#### GENERAL ADMINISTRATIVE SECRETARIAT OF THE SUPREME COURT

##### **Article 71.-**

The General Administrative Secretariat of the Supreme Court is a support unit of the Supreme Court and the Prosecution Office attached to the Supreme Court to assist on:

- Personnel, administrative, and financial affairs;
- Administrative court management and technical assistance to the Supreme Court and Prosecution Office attached to the Supreme Court;
- Budget planning to submit to the President of the Supreme Court and the Prosecutor to general review and decide;
- Regularly reporting on personnel, administrative and financial affairs to the President of the Supreme Court and the Prosecutor General attached to the Supreme Court;
- Public relations;
- Regular delivery of the Supreme Court's judgments to the Ministry of Justice;
- Preparation and delivery of reports on personnel, administrative and financial affairs monthly, quarterly, semi-annually, and annually to the Ministry of Justice;
- Other affairs as assigned by the President of the Supreme Court and by the Prosecutor General attached to the Supreme Court;
- Carrying out other work as defined by legal regulations.

The General Administrative Secretariat of the Supreme Court shall be divided into departments led by a director and deputy directors, as necessary.

The organization and functioning of the General Administrative Secretariat of the Supreme Court shall be determined by Sub-Decree, upon the request from the Minister of Justice.

**Article 72.-**

The General Administrative Secretariat of the Supreme Court is headed by a Secretary General and assisted by a number of Deputy Secretary Generals as necessary.

The Secretary General shall be nominated by Royal Decree upon the request from the Prime Minister. The Minister of Justice shall consult with the President of the Supreme Court and the Prosecutor General attached to the Supreme Court to make such a request to the Prime Minister. The Secretary General shall be selected from civil servants who have at least seven (7) years of experience in law, administration, or finance.

The Deputy Secretary General and department directors shall be nominated by Sub-Decree upon a request from the Minister of Justice after the consultation with the President of the Supreme Court and with the Prosecutor General attached to the Supreme Court. The Deputy Secretary General and the department directors shall be selected from civil servants who have at least five (5) years of experience in law, administration, or finance.

Officials at the General Secretariat having rank lower than department director shall be appointed by Prakas of the Minister of Justice. A deputy department director, as well as bureau chiefs and deputy bureau chiefs shall be chosen from civil servants who have at least three (3) years of experience in law, administration, or finance.

The officials working at the General Secretariat, including the Secretary General shall have civil servant status at the Ministry of Justice.

**Article 73.-**

An assembly of the Supreme Court shall be presided over by the President of the Supreme Court and the Prosecutor General attached to the Supreme Court to wrap up the previous work and set out administrative targets of the Supreme Court for the following year. A report of the assembly of the Supreme Court shall be delivered to the Ministry of Justice.

## **CHAPTER 5 INCOMPATIBILITY**

**Article 74.-**

The functions of prosecution, investigation, and adjudication shall be separate. A judge who acts as representative of the prosecution or is an investigating judge of a case cannot try or decide that case; otherwise that judgment shall be annulled.

**Article 75.-**

A judge cannot participate in a case with another judge or judges who is/are spouse(s), parental link up to fourth degree, or a relative by marriage up to the third degree, and cannot be a judge of behalf of the prosecution or a representative of the prosecution. This principle shall be also applicable to a judge at the Court of Appeals or Supreme Court whose spouse, parental link up to the fourth Decree or relative by marriage up to the third degree tries that same case at a lower court.

**Article 76.-**

A judge who has spouse, parental link up to fourth degree, or relative by marriage up to the third degree who acts as lawyer of a party or parties to a case cannot adjudicate that case.

**Article 77.-**

Judge cannot adjudicate any case if his/her spouse, parental link up to sixth degree, or relative by marriage up to the third degree is a party to the case.

**Article 78.-**

Notwithstanding other provisions, involved parties and individuals who have interest in a case, including being a representative of prosecution, may file a complaint requesting annulment of a judgment of a court due to an alleged violation of the principles of incompatibility as provided for in Articles 75, 76 and 77 of this Law.

The request for annulment may be made any time before the court within the appeal procedure, in accordance with applicable provisions on procedure. Even if a judgment is final, a request for annulment may still be made during a period of 60 days beginning from the day that information as provided for in above-mentioned Article 74, 75, 76, 77 is received, after that final judgment. In this case, the request for annulment shall be filed in a court the renders the judgment, however different judges shall review and decide on the request for annulment of the judgment and to execute ongoing procedures, in accordance with applicable provisions.

## **CHAPTER 6 BUDGET OF COURTS AND PROSECUTION OFFICES**

**Article 79.-**

The Court of First Instance and prosecution offices attached to those courts, the Courts of Appeals and the General Prosecution Office attached to the Court of Appeals, and the Supreme Court and the General Prosecution Office attached to the Supreme Court shall have a separate budget for their operations, which are contained in the budget of the Ministry of Justice and allocated from that budget.

The Presidents of the courts of all levels shall be delegated by the Minister of Justice to receive the budget of their respective courts.

The management and execution of the budget of the courts and the prosecution offices as mentioned in Paragraph 1 above shall be defined by Sub-Decree.

## CHAPTER 7 TRANSITIONAL PROVISION

### **Article 80.-**

Courts of all levels and categories and the prosecution offices attached to those courts that were established before the entry into force of this law shall continue their functions, in accordance with provisions of this law.

### **Article 81.-**

Previous provisions relating to the military court and prosecution office attached to that court, as well as provisions on competencies and procedures applicable for cases of military offences shall continue to apply after entry into force of this law until such time as new provisions or laws enter into force to replace those provisions.

### **Article 82.-**

While waiting for the operation of other Courts of Appeals, the current Court of Appeals situated in Phnom Penh has a territorial jurisdiction over the Kingdom of Cambodia.

### **Article 83.-**

Commencement of the operations of the specialized courts in the Courts of First Instance, as stated in Article 14 of this Law, shall be made by a Prakas of the Minister of Justice.

### **Article 84.-**

In the event that a provincial court has not yet been established or cannot be established, the jurisdiction of that court shall be given to other court(s) via the Royal Decree.

### **Article 85.-**

In the event that a Commercial Chamber or a Labor Chamber of a Court of Appeals or the Supreme Court cannot operate due to an insufficient number of judges, the Civil Chamber of a Court of Appeals or the Supreme Court shall jurisdiction over those cases. These cases shall be managed by the Presidents of the Court of Appeals or the Supreme Court where those specialized chambers sit.

If any specialized chamber above functions in accordance with this law, other specialized chambers shall transfer the cases which do not fall within its jurisdiction to the competent specialized chamber.

### **Article 86.-**

In the event there are an insufficient number of judges, an investigating judge may be a trial judge, but cannot try a case which he/she has investigated.

**Article 87.-**

In the event there is no administrative court, the jurisdiction to hear administrative cases shall be given to the Civil Court of First Instance and Civil Chamber of a Court of Appeals or the Supreme Court.

**Article 88.-**

In the event there are no commercial or labor advisors, the composition of panels in commercial and labor litigations shall follow the provisions of the Code of Civil Procedure.

**Article 89.-**

In the event there are no commercial procedure laws, hearings and trials on commercial matters shall follow the provisions of Code of Civil Procedure and other applicable laws.

In the event there are no labor procedure laws, hearings and trials on labor matters shall follow the provisions of Code of Civil Procedure and other applicable laws.

In the event there are administrative procedure laws, hearings and trials for administrative matters shall follow the provisions of Code of Civil Procedure and other applicable laws.

**Article 90.-**

In the first five (5) years after the entry into force of this Law, the appointment of governing officers of the court administration of courts at all levels shall be based upon specific qualifications.

The Chief of court clerks in a Court of First Instance may be nominated as the Chief or a Deputy Chief of the Administrative Secretariat of the court where he/she works.

The Chief of clerks of the higher Courts may be nominated as the Secretary General or Deputy Secretary General of the General Secretariat of the Court Administration in courts where he/she works.

**CHAPTER 8  
FINAL PROVISION**

**Article 91.-**

The Criminal Code and Code of Criminal Procedure in use in Cambodia during the transitional period dated 10 September 1992, and Law on the Organization and Activities of the Courts of the State of Cambodia, promulgated by Kret No. 06 Kr dated on February 08<sup>th</sup>, 1993, and any other provisions contrary to this law shall be abrogated and replaced by this law.

**Done in the Royal Palace, July 16<sup>th</sup>, 2014**  
Signature and seal

Norodom Sihamoni





## ROYAL KRAM

NS/RKM/0714/016

**WE**

**Preah Karuna Preah Bat Samdech Preah Borom Neath Norodom Sihamoni, faithful and devoted servant of the country, religion, nation and the Khmer people; protected by Buddha and Indra; unifier of all Khmer; defender of the independence, territorial integrity and peace of Kampuchea; and happiness, freedom and prosperity of the Khmer people, Preah Chau Krong  
Kampuchea Thipadei**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree NS/RKT/0913/903 dated 24<sup>th</sup> September 2013, on the nomination of the Royal Government of the Kingdom of Cambodia
- Having seen Royal Kram 02/NS/94/ dated 20<sup>th</sup> July 1994, which promulgated the Law on the Organization and Functioning of the Council of Ministers
- Having seen Royal Kram ChS/RKM/0498/06 dated 08<sup>th</sup> April 1998, which promulgated the Law on the Organization and Functioning of the Constitutional Council
- Having seen Royal Kram NS/RKM/0107/005 dated 31<sup>st</sup> January 2007, which promulgated the Law on the Amendment of the law on the Organization and Functioning of the Constitutional Council
- Having seen Royal Kram NS/RKM/0196/05 dated 24<sup>th</sup> January 1996, which promulgated the Law on the Establishment of the Ministry of Justice
- Having seen the report of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia

## PROMULGATE

The Law on the Status of Judges and Prosecutors, which was approved by the National Assembly on 23<sup>rd</sup> May 2014, during the fifth mandate of its second meeting, and which was completely reviewed by the Senate on its form and content on 12<sup>th</sup> June 2014, during the third mandate of its fifth meeting, as well as the decision of the Constitutional Council declaring that it was consistent with the Constitution of the Kingdom of Cambodia, in decision N<sup>o</sup> 147/001/2014 KBTH.Ch dated on 02<sup>nd</sup> July 2014 in which the whole content is following:

**LAW**  
**ON**  
**THE STATUS OF JUDGES AND**  
**PROSECUTORS**

## **CHAPTER 1 JOINT PROVISIONS**

### **Article 1.-**

This Law determines the status of judges and prosecutors and other principles related to judges and prosecutors, aimed at ensuring the independence of the judiciary in accordance with the Constitution of the Kingdom of Cambodia.

### **Article 2.-**

This Law applies to all judges and prosecutors in the Kingdom of Cambodia, except as otherwise stated in other laws.

### **Article 3.-**

The technical terms in this Law are defined as following:

- Judges refer to sitting judges, including trial judges and investigating judges.
- Prosecutors refer to deputy prosecutors, prosecutors, prosecutors general and deputy prosecutors general.
- Magistracy refers to judges and prosecutors.

### **Article 4.-**

All persons recruited to serve as judges and prosecutors shall be competent, honest and have good morals.

### **Article 5.-**

During their career, judges may be appointed as prosecutors, and prosecutors may be appointed as judges.

### **Article 6.-**

The security of judges and prosecutors and their families shall be guaranteed at the request of the concerned persons, as necessary.

Judges and prosecutors shall not be subjected to criminal or civil charges for their decisions made within their framework and duties as judges or prosecutors. This principle shall not apply when judges or prosecutors use their decisions to severely and with bad intention abuse their competency and duties.

### **Article 7.-**

All judges and prosecutors shall be part of the central administrative framework of the Ministry of Justice, and may be appointed to perform their duties in the Ministry of Justice. In cases where judges perform their duties in the Ministry of Justice, judges shall request authorization from the Supreme Council of Magistracy.

When performing their duties in the Ministry of Justice, judges and prosecutors shall have the status of prosecutor and shall receive the same salary and duty allowances as prosecutors who are in duty at the prosecution of a court. In the

case where salary and duty allowances are different, the concerned person has the right to choose the higher salary and duty allowance.

**CHAPTER 2**  
**JUDGES**  
**SECTION 1**  
**GENERAL PROVISIONS**

**Article 8.-**

All judges shall make decisions impartially, based upon legal principles, without pressure, threat or intimidation or order, whether direct or indirect, from any party to the case or any other person.

**Article 9.-**

Judges shall be appointed to perform their duties at any particular court for a term of four years.

No judge on duty as specified in paragraph 1 of this Article may be transferred to any other court or office without their prior consent, even if that court or office offers a higher position. However, the Supreme Council of Magistracy may transfer a judge to any other court or office to perform his/her duties when he/she is subjected to a 2<sup>nd</sup>-degree disciplinary sanction as stated in Article 55 of this Law or as needed for the benefit of justice.

**SECTION 2**  
**RANKS AND GRADES**

**Article 10.-**

The Cadre of Judges is composed of three ranks:

- *Udom Chaokrom* (Senior Judges),
- *Vorak Chaokrom* (Middle Judges), and
- *Anuk Chaokrom* (Junior Judges).

**Article 11.-**

The grades for the rank of Senior Judges, Middle Judges, and Junior Judges shall be determined by Royal Decree.

**SECTION 3**  
**UNIFORM**

**Article 12.-**

The Judges' uniform consists of:

- The uniform for hearings and uniform for other duties.
- Official uniform for national ceremonies.

- These uniforms shall be determined by a Royal Decree at the request of the Supreme Council of Magistracy.

**Article 13.-**

The uniform for judges at hearings is a gown.

The uniform for other duties is clothes or other identifiers. The use of clothes or other identifiers shall be determined by the Supreme Council of Magistracy.

The uniform that all judges are required to wear during parades or other national ceremonies, if officially required, shall be formal clothing.

SECTION 4

SALARIES, ALLOWANCES, INCENTIVES AND ANNUAL LEAVE

**Article 14.-**

Judges are eligible to receive salaries in accordance with their ranks and grades, the duty allowances, other allowances, and other incentives as provided by law.

**Article 15.-**

Salaries, duty allowances, and other allowances such as mission allowance, rental allowance, livelihood allowance, allowance for transferring workplace, medical and hospital allowances, and allowances for long-term treatment of chronic illness shall be determined by Sub-Decree.

**Article 16.-**

Judges are entitled to thirty (30) days of annual leave in addition to the public holidays determined by the Royal Government. The period within which a judge may apply for annual leave shall be counted from 1st January of the year.

Annual leave may be applied as a single leave or many instances of leave during the year. This annual leave is valid until the end of February of the following year.

Requests for annual leave shall be made to the President of the Court at least three months prior to the leave.

Female judges are entitled to ninety (90) days of maternity leave.

During their leave, judges shall receive their salary, duty allowances and other allowances.

**Article 17.-**

Judges who have performed their duty for two years without interruption, or with a few interruptions, but without affecting their performance and still managed to complete a 2-year term, are eligible for sick leave of six months without salary reduction.

If a judge's sick leave is extended from six months to one year, their salary shall be reduced by half. If the sick leave is extended for more than one year,

the judge shall request for unpaid leave as specified by the Article 45 of this Law. In case there is no unpaid leave request, he/she shall be put under retirement due to mental or physical inability as specified by the Article 66 of this Law.

Judges who fall sick, may request sick leave from the Ministry of Justice and are required to provide medical certification. However, the Ministry of Justice may appoint an expert physician to examine the judges at any time if it deems such examination necessary.

**Article 18.-**

Any judge who has not used his/her annual leave, may add his/her annual leave to his/her sick leave without salary reduction.

**SECTION 5  
RECRUITMENT OF JUDGES**

**Article 19.-**

A candidate to take the examination for the selection of judge students shall meet the following qualifications:

- 1- Having Khmer nationality;
- 2- Being not more than thirty-five (35) years old for student candidates and not more than forty (40) years old for civil service candidates as of the day of the examination;
- 3- Hold at least a Bachelor Degree in Law;
- 4- Not have been convicted of a misdemeanor or a felony; and
- 5- Having sufficient physical fitness to fulfill the duties.

**Article 20.-**

The determination of the number of judge students to be selected shall be made by the Prakas of the Minister of Justice following consultation with the Supreme Council of Magistracy.

**Article 21.-**

The candidates who succeed in the examination shall obtain professional training organized by the Ministry of Justice.

The organization and functioning of professional training shall be determined by the Prakas of the Minister of Justice.

**Article 22.-**

The formality, procedure, date, and venue, as well as the grading of the examination for the selection of judge Students shall be determined by the Prakas of the Minister of Justice.

**Article 23.-**

The examination for selection into the cadre of judges may also be conducted

through an internal examination from civil servants and clerks who hold at least bachelor degree in Law, have at least five (5) years of working experience in the legal and judicial fields, and who are not older than 45 years old as of the day of the examination. Lawyers who hold at least Bachelor Degree in Law and have at least five (5) years of professional working experience may register for the examination as stated in sentence one above if their age is not older than 45 years as of the day of examination.

Candidates who succeed in the examination for selection into the cadre of judges as provided in paragraph 1 above shall receive professional training organized by the Ministry of Justice.

The formality and procedure of the examination above and the number of candidates selected into the cadre of judges stated in this article, as well as the organization and functioning of the professional training shall be determined by the Prakas of the Minister of Justice following consultation with the Supreme Council of Magistracy.

## SECTION 6

### INTERSHIP AND FULL APPOINTMENT INTO THE CADRE OF JUDGES

#### **Article 24.-**

Judge students who were selected based on Article 19 and Article 23 of this Law and who successfully finished the professional training shall be appointed as intern judges by Royal Decree in the rank of junior judge of the first grade for a period of one year. The duration of the internship shall be counted from the date of appointment as intern judge.

The procedure of internship and competence of the intern judge shall be determined by the Prakas of Minister of Justice following consultation with the Supreme Council of Magistracy.

Appointment as an intern judge has effect on the intern judge's salary and seniority.

#### **Article 25.-**

Intern judges who successfully complete their internship shall be appointed into the cadre of judges and placed as junior judges of the first grade.

The Supreme Council of Magistracy may decide to extend the period of internship for another one year for any intern judge who was not successful in undertaking their internship or if they were absent from their internship for a period of more than thirty (30) days in total.

In the event that an intern judge was absent for more than thirty (30) days without authorization or if the intern judge was not successful again after the extended internship period, he/she shall be removed from the list of the cadre of judges following the decision by the Supreme Council of Magistracy.

**Article 26.-**

Intern judges who are unfit or who have insufficient health to perform their duties according to the conditions set by law, or who committed misconduct in the performance of their duties may be removed from the list of the cadre of judges at any time following a decision of the Supreme Council of Magistracy.

The removal or full appointment into the cadre of judges shall be decided within a period not exceeding three months after completion of the intern judges' internship.

SECTION 7  
PROMOTION OF GRADES AND RANKS

**Article 27.-**

The promotion of grades and ranks shall be carried out in order of selection and in order of seniority in accordance with the list compiled for each grade and rank.

The conditions for the promotion of grades and ranks in order of selection and in order of seniority shall be determined by Royal Decree.

**Article 28.-**

The promotion of judges in grade and rank judges shall be based on:

- Correctly complying with working discipline;
- Good performance;
- Good behavior and morals, which do not harm the honor of magistracy; and
- Receiving trainings or completing studies at institutes of higher education.

During the performance of duties, judges enrolling in additional studies and receiving a post-graduate degree shall be encouraged with a one-grade promotion.

**Article 29.-**

For each grade and rank of the hierarchy, the number of judges scheduled to be promoted in grade or rank for each year shall be determined in accordance with the requirement of work and the national budget plan.

**Article 30.-**

Judges who are in the same rank may be promoted by only one grade each time. If necessary, judges may be promoted in rank through examination.

**Article 31.-**

In the first week of January every year, each judge shall receive personal record sheet in which the judge shall complete a series of questions.

The personal record sheet shall be scored with clear comments and reasons.

The scoring of the personal record sheet shall be completed as follows:

1. Vice-Presidents and Judges of the Court of First Instance shall be scored by the President of the Court of First Instance.

2. Vice-Presidents and Judges of the Court of Appeals shall be scored by the President of the Court of Appeals.
3. Presidents of the Court of First Instance, Presidents of the Courts of Appeal, Judges of the Supreme Court, and the Vice-Presidents of the Supreme Court shall be scored by the President of the Supreme Court.
4. Judges who are transferred to work in other institutions shall be scored by the head of the concerned institutions.

**Article 32.-**

Only judges who have performed their duties after full appointment in the Cadre of Judges in their ranks or grades for at least two years as of every April 13 each year may be registered in the list of promotion.

**Article 33.-**

The composition of the Commission of Promotion in grade and rank shall be comprised of:

- |  |               |
|--|---------------|
| - A Secretary of State of the Ministry of Justice            | Chairman      |
| - A Vice-President of the Supreme Court                      | Vice Chairman |
| - A Deputy Prosecutor General of the Supreme Court           | Vice Chairman |
| - President of the Phnom Penh Court of Appeals               | Member        |
| - Prosecutor General of the Phnom Penh Court of Appeals      | Member        |
| - President of the Phnom Penh Municipal Court                | Member        |
| - Prosecutor of the Phnom Penh Municipal Court               | Member        |
| - The Secretary General of the Supreme Council of Magistracy | Secretary.    |

The Minister of Justice may appoint any other composition if necessary.

**Article 34.-**

The list of proposed judges for promotion of grade and rank shall be prepared based on seniority in accordance with the list concerning each grade.

This list shall be posted at all courts to notify all concerned persons.

**Article 35.-**

Judges, whose seniority are due for a promotion of grade and rank but whose names are not registered in the above list of proposed promotion, may make a complaint to the Minister of Justice not later than 30 days from the date of receiving notification of the list of proposed promotion. If this period has expired, such complaint shall be considered null and void.

**Article 36.-**

The personal record sheets of all registered judges for promotion of grade and rank and the personal record sheets of those judges who brought a complaint as detailed in Article 35 of this Law shall be sent to the Commission of Promotion in Grade and Rank as specified by Article 33 of this Law not later than the second week of February each year.

**Article 37.-**

The Chairman of the Commission of Promotion of grade and rank shall convene its members for a meeting.

The Commission shall hold the meeting before Khmer New Year.

**Article 38.-**

After reviewing personal record sheets of judges and making decisions over the complaints filed, as well as after listening to a full explanation of the Chairman, each member of the Commission shall give mark from zero to twenty to each proposed candidate judge for promotion. The registration of the proposed candidate judge into the list shall be made based on the result of the total scores, from highest to lowest. If two proposed candidate judges obtain equal scores, the judge who is older shall be registered first on the list.

**Article 39.-**

The Commission of Promotion in grade and rank shall prepare the list in accordance with the batch of judges who are eligible for promotion and in the order of precedence, and shall give it to the Supreme Council of Magistracy for examination and comment. The Secretary-General of the Supreme Council of Magistracy shall prepare the list of judges who are accepted for promotion by the Supreme Council of Magistracy to the Minister of Justice in order to prepare a draft of a Royal Decree to submit to the King.

**Article 40.-**

Judges who are under disciplinary investigation or under criminal charge shall be barred from registering in the list of promotion in grade and rank.

**Article 41.-**

In case a proposed candidate judge for promotion was not promoted in grade or in rank, he/she will have priority to be registered first in the list of promotion for the upcoming year.

**Article 42.-**

The promotion in grade or rank, the increase of salary, and seniority shall be counted from April 13 each year.

SECTION 8

APPOINTMENT, TRANSFER, DISCHARGE, PUTTING OUTSIDE CADRE,  
TEMPORARY SUSPENSION FROM DUTY, AND REMOVAL OF JUDGES

**Article 43.-**

The Supreme Council of Magistracy makes decisions and submits a request to the King for the appointment, transfer, discharge, putting outside of cadre, temporary suspension from duty, and removal of all judges.

**Article 44.-**

Judges are permitted to be discharged from their duties or be placed outside of the Cadre of Judges upon a request from the concerned person or other institutions with the consent of the concerned person.

In the case that judges are required to temporarily perform a task in civil service, to be a member of National Assembly, Senator, a member of the Government, Under-Secretary of State, other elective mandate position or advisory function of the Government, he/she may request to be discharged from duty. The permission for such discharge shall be made at the request of the concerned person or other institutions with the consent of the concerned person. During the period of discharge from duty, the judge shall continue to receive his/her salary, as well as the rights to promotion of grade and rank and retirement, but shall not enjoy other duty allowances and incentives of his/her judicial function.

In the necessary case that judges are required to temporarily perform duties in public enterprises or international organizations, judges may request to be put outside the Cadre of Judges. The permission to be put outside Cadre of Judges shall be made at the request of the concerned person or other institutions with the consent of the concerned person. Judges put outside of Cadre of Judges shall not enjoy the right to receive their salary, duty allowances or other allowances as specified in Article 15 of this Law.

Judges may be removed from the Cadre of Judges in cases where the concerned judges abandoned their duties or were absent more than thirty (30) days pursuant to Article 52 of this Law or requested resignation.

The resignation of judges shall be submitted in writing by the concerned judges. The request shall be submitted to the Supreme Council of Magistracy for examination and determination.

**Article 45.-**

In cases of personal or familial emergencies or incompatibility, judges may request unpaid leave for a certain period of time based on the request of the concerned judges. Permission to take unpaid leave may be made for one or two years at a time. Permission to take unpaid leave may be made only two times, and the total duration of the unpaid leave shall not exceed four (4) years.

To qualify for unpaid leave requested by the concerned judges, judges shall have fulfilled their duty in the Cadre of Judges for at least 4 years, regardless of if the judges were punished with 2nd degree disciplinary sanction as stipulated in point B of Article 55 of this Law.

The request for unpaid leave shall be submitted to the Supreme Council of Magistracy for examination and determination.

**Article 46.-**

If judges who are on unpaid leave for the first time and wish to extend their leave or return to their work, must submit their request for such extension or return at

least two (2) months prior to the end date of unpaid leave. Judges who fail to submit their request for an extension of unpaid leave or return to their work within thirty (30) days from the end of their unpaid leave are considered to have quit their job, and shall be removed from the Cadre of Judges from that date.

**Article 47.-**

Judges who are assigned to undertake an internship in order to improve their professional capacity shall be considered as judges in duty.

**Article 48.-**

In the case of removal of judges' names from the Cadre of Judges, as specified in provisions of this Law, the concerned judges shall enjoy the right to all pension benefits deducted from their salaries under this Law or under any other regulations regarding retirement pension funds.

**Article 49.-**

The President of the Supreme Court shall have the rank of Senior Judge with the highest grade. The Vice-Presidents and all judges of the Supreme Court shall have the rank of Senior Judges. The number of Senior Judges shall not exceed 25, including the President of the Supreme Court. However, the number of judges at Supreme Court may exceed the number stated above by the Royal Decree at the request of Minister of Justice.

The Presidents of the Courts of Appeal shall have the rank of Senior Judges. The Vice-Presidents and all judges of the Courts of Appeal shall have the rank of Senior Judges or middle Judges.

The Presidents of the Courts of First Instance shall have the rank of middle Judges. The Vice-Presidents and all judges of the Courts of First Instance shall have the rank of middle Judges or junior Judges.

SECTION 9  
DUTIES OF JUDGES

**Article 50.-**

Judges shall be responsible for the duties assigned to them and shall strictly abide by their Code of Ethics.

For their own livelihood, judges shall not commit any act that harms their own honor and dignity, or the prestige of the magistracy.

In political activities, judges shall be absolutely neutral.

**Article 51.-**

Judges shall not leave their work unaccomplished or be absent without prior and proper authorization from their immediate supervisor.

**Article 52.-**

Judges who leave their work unaccomplished or are absent for more than fifteen (15) days without reason shall be subjected to a suspension of their salary or placed on unpaid leave calculated from the day they left their work unaccomplished or from the day of the absence without authorization. If a judge fails to perform his/her duty or is absent without reason for more than thirty (30) days and does not return to perform his/her duties after receiving proper notification twice, he/she shall be removed from the Cadre of Judges.

**Article 53.-**

Judges who are on duty at any courts shall receive authorization in advance from the Supreme Council of Magistracy, if they want to publish, or request to broadcast by any means, any text or written notes, as well as other comments in relation to their duties.

Any violation of the provisions of this article shall be subjected to disciplinary sanction, regardless of criminal charges, if any.

This provision shall not apply to general information related to judicial proceedings at courts that is not a breach of the principle of confidentiality under the law. Such information shall be provided by the officers of the Court administration Unit.

## SECTION 10 DISCIPLINARY SANCTIONS

**Article 54.-**

Judges who fail to fulfill the duties of their profession, as well as act dishonorably, or without good morals and dignity, or contrary to the Code of Ethics of judges and prosecutors shall be subject to disciplinary sanctions under the relevant provisions of this Law. However, the use of discretion of judges and prosecutors in implementing the law shall not be regarded as disciplinary mistakes.

Disciplinary sanctions will not bar criminal complaints if any crimes occurred.

In the event that judges are subjected to sanction proceedings of the Disciplinary Council of the Supreme Council of the Magistracy, judges may be temporarily suspended from their duties by the President of Disciplinary Council of the Supreme Council of Magistracy.

**Article 55.-**

There are two degrees of disciplinary sanctions:

1. First degree of sanctions:
  - A. Verbal reprimands;
  - B. Reprimands followed by a record in the personal file;
  - or
  - C. Suspension from being registered in the list of promotion in grade and rank for a duration of no longer than two years, or

removal from the list of promotion in grade and rank if already registered in the list of promotion in grade and rank.

2. Second degree of sanctions:
  - A. Forced transfer for further training;
  - B. Unpaid suspension from duties for a period of no longer than one year;
  - C. Reduction of one or more grades or ranks;
  - D. Forced retirement prior to the retirement age;
  - E. Forced termination from functions; or
  - F. Dismissal from Cadre of Judges.

The 2<sup>nd</sup> degree disciplinary sanctions shall be made by Royal Decree following a decision of the Supreme Council of Magistracy.

#### **Article 56.-**

In the case of forced termination from function or dismissal from the Cadre of Judges as stipulated in provisions of this Law, the concerned judges are eligible to receive all pension benefits deducted from their salaries under this law or under any other regulations regarding retirement pension funds.

### SECTION 11 JUDICIAL CHARGES

#### **Article 57.-**

Judges who commit any criminal offense shall be subject to prosecution.

The Minister of Justice may decide to transfer the jurisdiction from the court where that judge sits to another Court of First Instance.

In the case of a judge committing a criminal offence and charged by prosecutors, the prosecutors shall notify the Minister of Justice of the charges within 72 hours.

In the case of the arrest or detention of a judge, the competent authorities shall notify the Minister of Justice about such arrest or detention.

The Minister of Justice shall immediately notify the above information to the Supreme Council of Magistracy.

#### **Article 58.-**

The accused judges who are charged with a felony or a misdemeanor shall be automatically temporarily suspended from duty until a final court decision is made. They may enjoy their salary as usual until the final court decision finding them guilty. The salary of the judge shall be temporarily suspended by the decision of Minister of Justice from the date a court finds them guilty, even if they appeal this verdict.

#### **Article 59.-**

In the event that the accused judges receive a non-suit order or an acquittal, the judges shall immediately resume their duties by counting all previous seniority, grade, rank, retirement and salary during their temporary suspension.

This provision also applies in the event that the names of the accused judges were not removed from the Cadre of Judges as provided under Article 61 of this law.

**Article 60.-**

Notwithstanding a court decision to drop the charge(s) or to acquit the judges, if the accused judges conducted themselves contrary to the Code of Ethics for judges and prosecutors, the judges may be subjected to disciplinary sanctions by the Supreme Council of Magistracy.

**Article 61.-**

Judges who are finally convicted for a misdemeanor or felony without a suspended sentence shall be removed from the Cadre of Judges, effective from the day the verdict enters into force.

SECTION 12  
RETIREMENT

**Article 62.-**

The retirement age of all Judges, regardless of gender, shall be 60 years.

All judges of the Supreme Court whose age is 60 years or over shall retire upon the request of the concerned judges. However, when a judge of the Supreme Court reaches 65 years of age, the Supreme Council of Magistracy shall decide on the judges extending their duty upon the request of the concerned judges.

The Minister of Justice shall prepare a draft Royal Decree to submit to the King on this matter.

**Article 63.-**

Judges who have been in duty for thirty (30) years may apply for early retirement prior to the age of 60.

Judges who have been in duty for more than thirty (30) years are eligible to receive the retirement pension by seniority of their last remuneration.

Judges who have been in duty for twenty (20) years to thirty (30) years are eligible to receive the retirement pension by proportion of their last remuneration.

Judges who have been in duty for less than twenty (20) years are eligible to receive only a one-time retirement pension deducted from their salary and other allowances.

The duration of duties above shall also include the duration of serving as civil servants prior to the appointment as judges.

Judges' pensions shall be received at Secretariat-General of the Supreme Council of Magistracy.

The pension is received only at one place.

The processing of pensions shall be determined by Sub-Decree.

**Article 64.-**

For judges whose seniority is thirty (30) years, their salary for retirement pensions shall not be deducted. However, if the seniority is under thirty (30) years, the deductions of salary for retirement pensions shall be made until reaching seniority of 30 years in order to be eligible to receive the retirement pension by seniority.

**Article 65.-**

Seniority of judges shall be counted from the day they were employed by the Government regardless of the political regime.

**Article 66.-**

Judges who can no longer carry out their duties for the reasons of mental or physical inability or disability shall be put under retirement. The decision on losing professional competence shall be made by the Supreme Council of Magistracy based on the medical report issued by the expert physicians appointed by the Ministry of Health.

Where the disability is obviously a result of the performance of duty or resulted from their hard work on behalf of the public interest, those judges have special rights to enjoy a disability pension, which is equal to the pension of seniority regardless of the duration of employment. The judges may be eligible to receive such pension only if the illness or the disability directly and clearly causes to the inability to perform their duty.

The cause(s), the source(s), the categories and the physical effects or illness shall be certified by a medical report issued by expert physicians appointed by the Ministry of Health.

If judges pass away due to hard work as mentioned above, their spouse and minor children are eligible to receive allowances equal to twelve (12) months salary of the deceased.

Moreover, the Royal Government shall support the minor children and the spouse, except a spouse who is engaged to re-marry.

**Article 67.-**

In case of losing professional competences as specified in Article 66 above, the Minister of Justice shall report to the Supreme Council of Magistracy for examination and decision on retirement.

The Minister of Justice shall prepare a draft Royal Decree regarding this case and submit it to the King following the decision of the Supreme Council of Magistracy.

## SECTION 13 HONORARY TITLE

**Article 68.-**

Whenever reaching retirement, judges shall be promoted one rank higher than

the current rank whilst on duty, provided that the judges have served at least one year in the last rank before retirement, except judges who are forced into retirement. This honorary title shall be issued by a Royal Decree.

The Supreme Council of Magistracy shall prepare a draft Royal Decree regarding this matter and submit it to the King.

**Article 69.-**

Retired judges have full rights to preserve their honorary title.

This honorary title may be withheld by the Supreme Council of Magistracy at the request of the Minister of Justice if there is any harm to the honor or dignity of the Magistracy.

SECTION 14  
OATH

**Article 70.-**

Before taking office, judges shall take an oath at the Royal Palace. The content of oath is attached as an annex to this law.

**Article 71.-**

The taking of the oath shall be recorded by officials of the Royal Palace and shall be forwarded to the Supreme Council of Magistracy to be recorded in the personnel file of concerned judges.

**Article 72.-**

Judges who refuse to take an oath are not eligible to function as judges, and shall be removed from the Cadre of Judges.

Judges who contempt or insult the oath they took shall be subjected to disciplinary sanction.

**Article 73.-**

When judges are witnesses in cases, they shall take an oath according to court proceedings and religious tradition.

CHAPTER 3  
PROSECUTORS  
SECTION 1  
GENERAL PROVISIONS

**Article 74.-**

The Prosecution Office attached to the Supreme Court shall be led by one Prosecutor General, Deputy Prosecutors General, and some prosecutors as necessary. The Prosecutor General, Deputy Prosecutors General, and prosecutors of Prosecution

Office attached to the Supreme Court are the representatives of the Prosecution Office attached to the Supreme Court.

The Prosecution Office attached to the Courts of Appeals shall be led by one Prosecutor General, Deputy Prosecutors General, and some prosecutors as necessary. The Prosecutor General, Deputy Prosecutors General, and prosecutors of the Prosecution Office attached to the Court of Appeals are the representatives of the Prosecution Office attached to the Court of Appeals.

The Prosecution Office attached to the Court of First Instance shall be led by one prosecutor and some deputy prosecutors as necessary. The prosecutor and deputy prosecutors of Prosecution Office attached to the Court of First Instance are the representatives of the Prosecution Office attached to the Court of First Instance.

Only the Prosecution Offices are entitled to bring public actions. Prosecutors are in charge of seeking the criminal offences, prosecuting perpetrators and requesting law enforcement action before the investigating judges and trial judges.

In civil cases and other cases, the representatives of Prosecution Office may attend court proceeding and give comments if it is necessary for the public interest.

#### **Article 75.-**

The key principles of Prosecution Offices are as follows:

1. The Prosecution Office is a united organ in which all prosecutors shall be under direction and hierarchical supervision. The Minister of Justice is the Chief of the Prosecution Office and has the right to issue an injunction order to the Prosecution Offices of all levels. The General Departments of Prosecution and Criminal Affairs of the Ministry of Justice is the secretariat to the Minister of Justice on this issue. The Prosecutor General attached to the Supreme Court is the Chief of the Prosecution Office attached to the Supreme Court. The prosecutors and Deputy Prosecutors General of the Prosecution Office attached to the Supreme Court shall work under the instruction and responsibility of the Prosecutor General who is the Chief. The Prosecutor General attached to the Court of Appeals is the Chief of the Prosecution Office attached to the Court of Appeals. The prosecutors and Deputy Prosecutors General of the Prosecution Office attached to the Court of Appeals shall work under the instruction and responsibility of the Prosecutor General who is the Chief. The Prosecutor attached to the Court of First Instance is the Chief of the Prosecution attached to the Court of First Instance. All the deputy prosecutors of the Prosecution Office attached to the Court of First Instance shall work under the instruction and responsibility of the Prosecutor who is the Chief.
2. The Prosecution Office is an indivisible organ that requires prosecutors within the Prosecution Office attached to any court to have joint obligations within the same function and may replace each other. In accordance with this principle, many members of the Prosecution Office

may replace each other and continue the work of another prosecutor during a case, as appointed by the Chief.

3. The prosecution is independent and prosecutors shall not be under the power of the Court where he or she works. The court has no power to examine the work of the prosecutor. Even in the case where a prosecutor makes a wrong charge, the Court shall not record or censor the prosecutor in his/her decision. This prohibition shall apply to criminal cases and other cases. However, the Court may raise the issue of a prosecutor's misconduct to the superior level of the prosecutor.

#### **Article 76.-**

Every year:

- Prosecutors of each Court of First Instance shall make a report on offences and their activities to the Minister of Justice and provide a copy to the Prosecutor General attached to the Court of Appeals that has territorial jurisdiction over their work.
- The Prosecutors General of each Court of Appeals shall make a report on offences and their activities, as well as the activities of the Prosecution Office attached to the Courts of First Instance in their territorial jurisdiction to the Minister of Justice and provide a copy to the Prosecutor General attached to the Supreme Court.
- The Prosecutor General of the Supreme Court shall make a report on the activities of the Prosecution Office attached to the Supreme Court to the Minister of Justice.

#### **Article 77.-**

All prosecutors shall perform their functions and duties based upon legal principles, without pressure, threat or intimidation, or order, whether direct or indirect, from any party to the case or any other person except as provided in Article 75 of this Law.

## SECTION 2 RANKS AND GRADES

#### **Article 78.-**

The cadre of prosecutors consists of three grades:

- *Udom Prah Reach Anha* (Senior Prosecutors),
- *Vorak Prah Reach Anha* (Middle Prosecutors), and
- *Anuk Prah Reach Anha* (Junior Prosecutors).

#### **Article 79.-**

Grades for senior prosecutors, middle prosecutors and junior prosecutors shall be determined by the Royal Decree.

### SECTION 3 UNIFORM

**Article 80.-**

The provisions on Chapter 2 (Judges) Section 3 (Uniform) of this Law also applies to Prosecutors.

### SECTION 4 SALARY AND OTHER ALLOWANCES, INCENTIVES, ANNUAL LEAVE

**Article 81.-**

The provisions of Chapter 2 (Judges) Session 4 (Salaries, Allowances, Incentives, and Annual Leave) of this Law also apply to prosecutors.

### SECTION 5 RECRUITMENT OF PROSECUTORS

**Article 82.-**

The recruitment and the training of Prosecutors should be jointly implemented with the recruitment and training of Judges as provided under the provisions of chapter 2 (Judges), section 5 (recruitment of Judges) of this Law.

### SECTION 6 INTERNSHIP AND FULL ENTILEMENT IN CADRE OF PROSECUTORS

**Article 83.-**

The prosecutor students who have successfully finished the professional training shall be appointed as intern Prosecutors by Royal Decree with the rank of junior Prosecutors of the First Grade for a period of one year. The duration of the internship shall be counted from the date of appointment as intern Prosecutor.

The procedure and competence of the intern Prosecutors' internship shall be determined by the Prakas of Minister of Justice, following a consultation with all members of the Supreme Council of Magistracy.

Appointment as an intern Prosecutors has effect on the Intern Prosecutor's salary and seniority.

**Article 84.-**

Intern Prosecutors who successfully complete their internship should be appointed into the cadre of prosecutors and placed as junior Prosecutors of first grade. Upon request from the Minister of Justice, the Supreme Council of Magistracy shall make a proposal to the King recommending the appointment into the Cadre of Prosecutors.

The Minister of Justice may decide to extend the period of internship for another one year for any intern prosecutor who was not successful in undertaking their internship or if they were absent from their internship for a period of more than thirty (30) days in total.

In the event that an intern prosecutor was absent for more than thirty (30) days without authorization or if the intern prosecutor was again unsuccessful after the extended period, he/she shall be removed from the list of the cadre of Prosecutors as stipulated in Article 89 of this Law.

**Article 85.-**

Intern prosecutors who are unfit or who have insufficient health to perform their duties according to the conditions set by law, or who committed misconduct in the performance of their duties may be removed from the list of the Cadre of Prosecutors at any time as stipulated in Article 89 of this Law.

The removal or full appointment into the Cadre of Prosecutors shall be decided within a period not exceeding three months after completion of the Intern Prosecutor's internship.

SECTION 7  
PROMOTION OF GRADES AND RANKS

**Article 86.-**

The provisions of Articles 27 to 30, 32 to 38 and 40 to 42, Chapter 2, section 7 (Promotion of grades and ranks) of this Law also applies to prosecutors.

**Article 87.-**

The personal record sheets shall be scored on this sheet with clear comments and reasons.

For scoring, it shall be applied as following:

1. Deputy Prosecutors of the Prosecution Office in the Court of First Instance shall be scored by the Prosecutors of Prosecution Office in the Court of First Instance.
2. Deputy Prosecutors General and prosecutors attached to the Court of Appeals shall be scored by the Prosecutor General attached to the Court of Appeals.
3. The Prosecutor attached to the Court of First Instance, Prosecutor General attached to the Court of Appeals, Prosecutors and Deputy Prosecutor General attached to the Supreme Court shall be scored by the Prosecutor General attached to the Supreme Court.
4. Prosecutors who are transferred to work in other institutions shall be scored by the head of the concerned institutions.

**Article 88.-**

The Commission of grade and rank promotion shall prepare the list in

accordance with the batch of prosecutors who are eligible for promotion and in the order of precedence, and shall give to the Supreme Council of Magistracy for examination and comment. The Secretary-General of the Supreme Council of Magistracy shall prepare the list of prosecutors who are accepted for promotion by the Supreme Council of Magistracy to the Minister of Justice in order to prepare a draft of Royal Decree to submit to the King.

## SECTION 8

### APPOINTMENT, TRANSFER, DISCHARGE, PUTTING OUTSIDE CADRE, TEMPORARY SUSPENSION FROM DUTY, AND REMOVAL OF PROSECUTORS

#### **Article 89.-**

The Supreme Council of Magistracy submits a request to the King for appointment, transfer, discharge, putting outside of cadre, temporary suspension from duty, and removal of all prosecutors throughout the Kingdom of Cambodia upon request from the Minister of Justice. The Supreme Council of Magistracy shall be necessarily consulted about this request.

The Minister of Justice shall prepare a draft Royal Decree regarding this matter and submit it to the King.

#### **Article 90.-**

Prosecutors are permitted to be discharged from their duties or be placed outside of the Cadre of Prosecutors upon a request from the concerned prosecutor or other institutions with the consent of the concerned prosecutor.

In the case that prosecutors are required to temporarily work in civil service, to be a member of National Assembly, Senator, be a member of the Government, Under-Secretary of State, other elective mandate or advisory function of the Government, he/she may request to be discharged from duty. The permission for such discharge shall be made at the request of the concerned prosecutor or other institutions with the consent of the concerned prosecutor. During the period of discharge from duty, the prosecutor shall continue to receive his/her salary, as well as the rights to promotion of grade and rank and retirement but shall not enjoy with other duty allowances and incentives of his/her prosecutorial function.

In the necessary case that prosecutors are required to temporarily perform duties in public enterprises or international organizations, prosecutors may request to be put outside the Cadre of Prosecutors. The permission to be put outside the Cadre of Prosecutors shall be made at the request of the concerned prosecutor or other institutions with the consent of the concerned prosecutor. Prosecutors put outside the Cadre of Prosecutors shall not enjoy the right to receive their salary, duty allowances or other allowances as specified in Article 81 of this Law.

The Minister of Justice may temporarily discharge prosecutors from their duties in cases where the prosecutor is involved in proceedings of the Disciplinary Council of the Supreme Council of Magistracy.

Prosecutors may be removed from the Cadre of Prosecutors in cases where the concerned prosecutors were punished with second degree sanctions, abandoned the duties, were absent more than thirty (30) days pursuant to Article 52 of this Law or requested resignation.

The resignation of prosecutors shall be submitted in writing by the concerned prosecutors. The request shall be submitted to the Minister of Justice for examination and determination in accordance with legal proceedings.

#### **Article 91.-**

In cases of personal or familial emergencies or incompatibility, prosecutors may request unpaid leave for a certain period of time based on the request of the concerned prosecutors. Permission to take unpaid leave may be made for one or two (2) years at a time. Permission to take unpaid leave may be made only two times, and the total duration of the unpaid leave shall not exceed four (4) years.

To qualify for unpaid leave requested by the concerned prosecutors, prosecutors shall have fulfilled their duty in the Cadre of Prosecutors for at least four (4) years, regardless of if the prosecutors were punished with 2nd degree disciplinary sanctions.

The request for unpaid leave shall be submitted in writing by the concerned prosecutor to the Minister of Justice for examination and determination in accordance with the legal proceeding.

#### **Article 92.-**

If prosecutors who are on unpaid leave for the first time wish to extend their leave or return to their work, they must submit their request for such extension or return at least two (2) months prior to the end date of unpaid leave. Prosecutors who fail to submit their request for an extension of the unpaid leave or return to their work within 30 days from the end of their unpaid leave are considered to have quit their job, and shall be removed from the Cadre of Prosecutors from that date.

#### **Article 93.-**

Prosecutors who are assigned to undertake an internship in order to improve their professional capacity shall be considered as prosecutors in duty.

#### **Article 94.-**

In case of removal of prosecutors' names from the Cadre of Prosecutors, as specified in provisions of this Law, the concerned prosecutors shall enjoy the right to all pension benefits deducted from their salaries under this Law or under any other regulations regarding retirement pension funds.

#### **Article 95.-**

The Prosecutor General attached to the Supreme Court shall have the rank of Senior Prosecutor with the highest grade. The Deputy Prosecutors General and all prosecutors attached to the Supreme Court shall have the rank of Senior Prosecutor.

The Prosecutors General attached to the Courts of Appeals shall have the rank of Senior Prosecutor. The Deputy Prosecutors General and all prosecutors attached to

the Courts of Appeals shall have the rank of senior Prosecutor or middle Prosecutor.

The prosecutors attached to the Court of First Instance shall have the rank of middle prosecutor. The deputy prosecutors attached to the Court of First Instance shall have the rank of middle Prosecutor or junior Prosecutor.

## SECTION 9 DUTIES OF PROSECUTORS

### **Article 96.-**

Prosecutors shall be responsible for the duties assigned to them and shall strictly abide by their Code of Ethics.

For their own livelihood, prosecutors shall not commit any act that harms their own honor and dignity, or the prestige of the magistracy.

Prosecutors who are on duty in a Prosecution Office attached to any court shall get authorization in advance from the Minister of Justice if they want to publish, or request to broadcast by any means, any text or written notes, as well as other comments which may affect the prestige of the prosecution or the judiciary. This provision shall not apply to public statements of prosecutors in accordance with the Code of Criminal Procedure.

In political activities, prosecutors shall be absolutely neutral.

Any violation of the provisions of paragraphs 1 and 2 of this Article shall be subject to disciplinary sanction, regardless of criminal charges, if any.

### **Article 97.-**

No prosecutors shall leave their work unaccomplished or be absent without prior and proper authorization from their immediate supervisor.

Requests for leave from the Prosecutors attached to the Court of First Instance, the Prosecutors General attached to the Courts of Appeals and the Prosecutor General attached to the Supreme Court, shall be decided by the Minister of Justice.

### **Article 98.-**

Prosecutors who leave their work unaccomplished or are absent for more than fifteen (15) days without reason shall be subject to a suspension of their salary or placed on unpaid leave calculated from the day they left their work unaccomplished or from the day of the absence without authorization. If a prosecutor fails to perform his/her duty or is absent without reason for more than thirty (30) days, and does not return to perform his/her duties after receiving proper notification twice, he/she shall be removed from the Cadre of Prosecutors.

## SECTION 10 DISCIPLINARY SANCTIONS

### **Article 99.-**

The provisions of Chapter 2 (Judges) Section 10 (Disciplinary Sanctions) of this Law also apply to prosecutors.

## SECTION 11 JUDICIAL CHARGES

### **Article 100.-**

The provisions of Chapter 2 (Judges) Section 11 (Judicial Charges) of this Law that also apply to prosecutors.

## SECTION 12 RETIREMENT

### **Article 101.-**

The retirement age of all Prosecutors, regardless of gender, shall be 60 years.

All prosecutors of Prosecution General attached to Supreme Court whose age is 60 years or over shall retire upon the request of the concerned prosecutors. However, when a prosecutor of the Prosecution General attached to Supreme Court reaches 65 years of age, the Supreme Council of Magistracy shall decide on the prosecutor's extending his/her duty upon the request of the concerned prosecutors.

The Minister of Justice shall prepare a draft Royal Decree to submit to the King on this matter.

### **Article 102.-**

The provisions of Articles 63 to 67 of Chapter 2 (Judges), Section 12 (Retirement) of this Law shall also apply to prosecutors.

## SECTION 13 HONORARY TITLE

### **Article 103.-**

Whenever reaching retirement, prosecutors shall be promoted one rank higher than the current rank whilst on duty, provided that the prosecutors have served at least one year in the last rank before retirement, except prosecutors who are forced into retirement. This honorary title shall be issued by a Royal Decree.

The Supreme Council of Magistracy shall prepare a draft Royal Decree regarding this matter and submit it to the King.

### **Article 104.-**

Retired prosecutors have full rights to preserve their honorary title.

This honorary title may be withheld by the Supreme Council of Magistracy at the request of the Minister of Justice if there is any harm to the honor or dignity of the Magistracy.

## SECTION 14 OATH

### **Article 105.-**

The provisions of Chapter 2 (Judges) Section 14 (Oath) of this Law shall also apply to prosecutors.

## CHAPTER 4 INCOMPATIBILITY

### **Article 106.-**

Being a judge in any court or a prosecutor in any Prosecution Offices attached to any court is incompatible with public functions, with a member of the National Assembly, a senator, or a member of the Government as a Under-Secretary of State or as any other elective mandate or advisory function, except as otherwise specified by other provisions.

Judges and prosecutors of all courts and Prosecution Offices of all courts shall not be lawyers, engage in any commercial or business professions, or perform activities that may be a conflict of interest or harm the honor of the Magistracy. However, judges and prosecutors can be lecturers at any educational institution.

### **Article 107.-**

If judges and prosecutors who have been permitted to take leave and want to undertake private transactions, they must notify to the Minister of Justice. The Minister of Justice may refuse to allow him/her from undertaking such private transactions if the Minister of Justice considers those activities to be contrary to the honor or honesty, or may harm the prestige of the Judiciary, including other judges and prosecutors.

Judges or prosecutors violating this provision shall be subjected to disciplinary sanctions as specified in Article 55 of this Law.

## CHAPTER 5 TRANSITIONAL PROVISIONS

### **Article 108.-**

The judges and prosecutors who were appointed before the entry into force of this Law and were under the cadre managed by the Supreme Council of Magistracy shall be integrated into the Cadre of Judges and Cadre of Prosecutors in accordance with the provisions of this Law, except for judges of the Military Court and prosecutors attached to the Military Court.

The Commission in charge of checking the qualifications of the integration of the grade and rank of judges and prosecutors shall be established by a Royal Decree

upon the request of the Minister of Justice following consultation with all members of the Supreme Council of Magistracy.

The integration above shall be issued by Royal Decree upon the request of Minister of Justice.

**Article 109.-**

The provisions in Chapter 2 (Judges) Section 11 (Retirement) and Chapter 3 (Prosecutors) Section 12 (Retirement) of this Law shall be enforced after the integration into the Cadre of Judges and Cadre of Prosecutors.

Before the integration above takes place, the retirement of judges and prosecutors shall be implemented in accordance with provisions in place before this law entered into force.

**Article 110.-**

For the first five (5) years after the entry into force of this Law, the provisions of Article 49 and Article 96 of this Law shall not be enforced, except for the limitation of the number of judges of the Supreme Court.

During the first five (5) years after the entry into force of this Law, judges of Court of Appeals and prosecutors attached to the Court of Appeals that reach retirement age may be permitted to extend their duties upon their requests. Such extensions shall be for a period of one year, but no more than three extensions shall be granted. Such extensions shall be issued by Royal Decree upon request from Minister of Justice following consultation with all members of the Supreme Council of Magistracy.

**CHAPTER 6  
FINAL PROVISIONS**

**Article 111.-**

Any provisions that are contrary to this law shall be abrogated.

**Done in the Royal Palace, July 16<sup>th</sup>, 2014**  
Signature and seal

Norodom Sihamoni

ANNEX

OATH

WE,  
Judges and Prosecutors of the Kingdom of Cambodia,  
would like to take oath before His Majesty The King, the Chief Monks  
Angels protecting the white umbrellas, with the following meaning:

Upon exercise of the functions of judges and prosecutors, we pledge to perform our duties, obligations, rights and powers as judges and prosecutors in accordance with the Constitution and laws of the Kingdom of Cambodia, and to respect scrupulously the Code of Ethics of the judge and prosecutor. We therefore promise to be honest and to remain faithful to our national consciousness and to perform our duties with dignity, dedication, loyalty and justice.

We are committed to using our consciences and to remain faithful to our national consciousness in accordance with the Constitution and laws of the Kingdom of Cambodia avoiding four types of bias from “affection, hatred, fear and ignorance”, and to practicing the virtues “of dedication, justice, rule of law, respect for equality and lucidity”.

If we do not exercise our functions, duties and powers according to our oath, we agree to ask the spirits of ancient kings, angels, all the spiritual guardians of the earth, Yeay Tep and all sacred objects of the world, to punish all of us, both in our actual and future lives.

However, if we strictly stick to our promise, we will ask the spirits of ancient kings, angels, all the spiritual guardians of the earth, Yeay Tep and all the sacred objects of the world, to protect us always in this life and in future lives.



## ROYAL KRAM

NS/RKM/0714/017

WE

**Preah Karuna Samdech Preah Bat Preah Borom Neath Norodom Sihamoni, faithful and devoted servant of the country, religion, nation and the Khmer people; protected by Buddha and Indra; unifier of all Khmer; defender of the independence, territorial integrity and peace of Kampuchea; and happiness, freedom and prosperity of the Khmer people, Preah Chau Krong Kampuchea Thipadei**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree NS/RKT/0913/903 dated 24<sup>th</sup> September 2013, on the nomination of the Royal Government of the Kingdom of Cambodia
- Having seen Royal Kram 02/NS/94/ dated 20<sup>th</sup> July 1994, which promulgated the Law on the Organization and Functioning of the Council of Ministers
- Having seen Royal Kram ChS/RKM/0498/06 dated 08<sup>th</sup> April 1998, which promulgated the Law on the Organization and Functioning of the Constitutional Council
- Having seen Royal Kram NS/RKM/0107/005 dated 31<sup>st</sup> January 2007, which promulgated the Law on the Amendment of the law on the Organization and Functions of the Constitutional Council
- Having seen Royal Kram NS/RKM/0196/05 dated 24<sup>th</sup> January 1996, which promulgated the Law on the Establishment of the Ministry of Justice
- Having seen the report of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia

### PROMULGATE

The Law on The Organization and Functioning of The Supreme Council of Magistracy, which was approved by the National Assembly on 23<sup>rd</sup> May 2014, during the fifth mandate of its second meeting, and which was completely reviewed by the Senate on its form and content on 12<sup>th</sup> June 2014, during the third mandate of the fifth meeting, as well as the decision of the Constitutional Council that it was consistent with the Constitution of the Kingdom of Cambodia, in decision No.148/002/2014 KBTH.Ch dated on 02<sup>nd</sup> July 2014 in which the whole content is following:

**LAW**

**ON**

**THE ORGANIZATION AND**

**FUNCTIONING OF THE SUPREME**

**COUNCIL OF MAGISTRACY**

## CHAPTER 1 GENERAL PROVISIONS

### Article 1.-

This law establishes and determines the organization and functioning of the Supreme Council of Magistracy in order to assist the King to guarantee the independence of the judiciary in accordance with the Constitution of the Kingdom of Cambodia.

### Article 2.-

This Law applies to all judges and prosecutors of the Kingdom of Cambodia unless otherwise stated in other laws.

### Article 3.-

The terms used in this law shall define as follows:

- “Judge” refers to all sitting judges, including trial judges and investigating judges.
- “Prosecutor” refers to deputy prosecutors, prosecutors, deputy prosecutors general and prosecutors general.
- “Magistracy” refers to judges and prosecutors.

## CHAPTER 2 ORGANIZATION OF THE SUPREME COUNCIL OF MAGISTRACY SECTION 1 COMPOSITION OF THE SUPREME COUNCIL OF MAGISTRACY

### Article 4.-

The composition of the Supreme Council of Magistracy under Royal Presidency of His Majesty the King shall be as follows:

- |   |        |
|---|--------|
| 1. Minister of Justice  | Member |
| 2. President of the Supreme Court   | Member |
| 3. Prosecutor General of the Supreme Court  | Member |
| 4. One (1) member, elected by the Senate with an absolute majority of votes of the total Senate members, who is a former judge or prosecutor or other dignitary who has experience at least fifteen (15) years in the legal or judicial field;                      |        |
| 5. One (1) member, elected by the National Assembly with an absolute majority of votes of the total National Assembly members, who is a former judge or prosecutor or other dignitary who has experience at least fifteen (15) years in the legal or judicial field |        |
| 6. One (1) member, elected by the Constitutional Council with an absolute majority of votes of the total Constitutional Council members who is a former judge or prosecutor or other dignitary who has experience at least fifteen (15)                             |        |

years in the legal or judicial field

7. One (1) member, designated by the Minister of Justice, who is a prosecutor
8. One (1) member, elected by all judges of the High Courts, who is a Judge at a High Courts
9. One (1) member, elected by all prosecutors of the High Courts and Ministry of Justice, who is a prosecutor at a High Court or the Ministry of Justice
10. One (1) member, elected by all judges at the Courts of First Instance, who is a Judge at a Court of First Instance, and
11. One (1) member, elected by all prosecutors at the Courts of First Instance, who is a prosecutor at a Court of First Instance.

All members of the Supreme Council of Magistracy shall be appointed by Royal Decree. The Minister of Justice shall prepare and submit a draft Decree to His Majesty the King concerning this matter.

The rules and procedures of electing the members of the Supreme Council of Magistracy provided from points 8 to 11 of this Article shall be determined by a Prakas of Minister of Justice and agreed to by a majority members of the Supreme Council of Magistracy.

#### **Article 5.-**

The term of the elected members of the Supreme Council of Magistracy shall be five (5) years and whose term shall end when the new members are appointed. Elected members of the Supreme Council of the Magistracy may run as candidates for continuous terms. The elections of members of the Supreme Council of Magistracy shall be arranged within ninety (90) days before the end of each mandate.

In the event of any member of the Supreme Council of the Magistracy dies, resigns, or loses his/her qualifications as provided in Article 4 of this Law or is unable to perform his/her duties for any reason, he/she shall be replaced by a substitute member for the rest of term under the provisions of Article 4 of this Law. The Minister of Justice shall immediately undertake this affair.

The Supreme Council of Magistracy may decide to remove any of its elected members due to serious violations of its Internal Regulations or due to any other activity that seriously affects the reputation and dignity of the Supreme Council of the Magistracy. The decision to remove any elected member shall require consent from at least eight (8) members of the Supreme Council of the Magistracy. Any member of the Supreme Council of Magistracy who has been convicted of a felony or intentional misdemeanor offense and sentenced to imprisonment, without a suspended sentence, shall be automatically removed from his/her position. A new substitute member shall be selected following the provisions provided in this Law.

#### **Article 6.-**

Membership in the Supreme Council of Magistracy is incompatible with the position of a judge or a prosecutor at any court and with a prosecution office attached to any court during his/her term of membership in the Supreme Council of the

Magistracy, except for the President of the Supreme Court and the Prosecutor General of Supreme Court.

A member of the Supreme Council of Magistracy, whose membership is incompatible with the position as stipulated in this Article shall request to suspend his/her position as a judge or prosecutor at the court or prosecution office attached to any court where he/she works.

#### **Article 7.-**

The Royal President of the Supreme Council of Magistracy may appoint a Royal Representative to act as President of the Supreme Council of Magistracy. The Royal Representative who is appointed to be Acting President of the Supreme Council of Magistracy shall regularly submit activity report to His Majesty the President of the Supreme Council of Magistracy.

The Royal Representative shall not be involved in decision-making processes of the Supreme Council of Magistracy. However, in the event that the Minister of Justice or the President of the Supreme Court shall be appointed as the Royal Representative, the Minister of Justice or the President of the Supreme Court shall have the right to be involved in decision-making processes of the Supreme Council of Magistracy.

## SECTION 2 THE GENERAL SECRETARIAT OF THE SUPREME COUNCIL OF MAGISTRACY

#### **Article 8.-**

The Supreme Council of Magistracy shall have a General Secretariat under the central administration of Ministry of Justice to serve in support of its functions. The General Secretariat of the Supreme Council of Magistracy shall be directed by one (1) Secretary General whose rank is equivalent to that of a Secretary of State or Minister and shall, if necessary, be assisted by some Deputy Secretaries General appointed by Royal Decree or Sub-Decree.

The Secretary General and Deputy Secretaries General of the Supreme Council of Magistracy shall be appointed by Royal Decree or Sub-Decree on the request of Minister of Justice after consulting with all members of the Supreme Council of Magistracy. The Secretary General and Deputy Secretaries General of the Supreme Council of Magistracy shall be selected from civil servants or high-ranking officials who have at least ten (10) years' experience in the legal, administrative, or financial fields. Officials working in the General Secretariat of the Supreme Council of Magistracy shall have civil servant status in the Ministry of Justice. The General Secretariat of the Supreme Council of Magistracy may employ contractual staff to assist its tasks, if necessary. The General Secretariat of the Supreme Council of Magistracy shall be divided into Departments led by one (1) Director and some Deputy Directors as necessary.

The organization and functioning of the General Secretariat of the Supreme

Council of Magistracy shall be specified by Sub-Decree.

**Article 9.-**

The General Secretariat of the Supreme Council of Magistracy shall be accompanied by some officials of this General Secretariat, as necessary, to be secretaries to record meeting minutes of the Supreme Council of Magistracy and meetings of Disciplinary Council of the Supreme Council of Magistracy.

**CHAPTER 3**  
**FUNCTIONING OF THE SUPREME COUNCIL OF MAGISTRACY**

**Article 10.-**

The Minister of Justice shall convene a meeting for the Supreme Council of Magistracy based on a Royal Order from the Royal President of the Supreme Council of Magistracy. A meeting of the Supreme Council of the Magistracy may also be initiated by a request from at least four (4) members of the Supreme Council of Magistracy. The Minister of Justice shall prepare and submit a letter to the Royal President of the Supreme Council of the Magistracy seeking His Royal permission to convene a meeting.

**Article 11.-**

The meeting of the Supreme Council of Magistracy shall not be deemed valid unless at least six (6) members of the Supreme Council of the Magistracy attend the meeting.

Any decision of the Supreme Council of Magistracy shall not be deemed valid unless there are at least six (6) votes through secret ballots. The Royal President of the Supreme Council of Magistracy shall not be involved in the decision-making processes of the Supreme Council of the Magistracy.

In cases of emergency and upon the request of at least six (6) members of the Supreme Council of Magistracy, decisions of the Supreme Council of Magistracy may be made through indirect secret votes. The Minister of Justice shall arrange this task after receiving advice and suggestions from the Royal President of the Supreme Council of Magistracy.

**Article 12.-**

The members of the Supreme Council of Magistracy, including secretaries and officials, shall keep all meetings of the Supreme Council of the Magistracy confidential.

**Article 13.-**

The Minister of Justice is responsible for all works of the Supreme Council of the Magistracy relating to the drafting and preparation of Royal Decrees of the Supreme Council of Magistracy, and the Minister of Justice shall submit the draft

Decrees to His Majesty the King on behalf of the Supreme Council of Magistracy. The Minister of Justice is the representative of the Supreme Council of Magistracy in its relations and communications with private and public persons, and shall manage the administrative affairs of the Supreme Council of Magistracy assisted by the General Secretariat of the Supreme Council of Magistracy.

**Article 14.-**

The Supreme Council of Magistracy shall establish its Internal Regulations to determine its operations and functions. The Internal Regulations shall be approved by at least six (6) votes of members of the Supreme Council of Magistracy.

**Article 15.-**

The Supreme Council of Magistracy shall have its own budget provided by the National Budget. The Minister of Justice is the lawful budget organizer of the Royal President of the Supreme Council of Magistracy.

**Article 16.-**

Members of the Supreme Council of Magistracy shall be entitled to receive salary for their duty allowances, remuneration for attending meetings at an hourly rate, and other remunerations to perform their duties.

Members of the Supreme Council of Magistracy may choose only one duty allowance.

**Article 17.-**

The Supreme Council of Magistracy shall use its stamp in the performance of its duties.

**CHAPTER 4**  
**COMPETENCY OF THE SUPREME COUNCIL OF MAGISTRACY**  
**SECTION 1**

**GENERAL COMPETENCY OF THE SUPREME COUNCIL OF MAGISTRACY**

**Article 18.-**

The Supreme Council of Magistracy shall decide and submit requests to His Majesty the King regarding appointments, transfers, discharges, suspensions, and removals of title for all judges.

The Supreme Council of Magistracy shall submit requests to His Majesty the King regarding appointments, transfers, discharges, suspensions, and removals of title for all prosecutors, upon request from the Minister of Justice. It is mandatory that the Supreme Council of Magistracy be consulted regarding any requests stated in this Article.

The Supreme Council of Magistracy shall provide recommendations on promotions of grade and rank for all judges and prosecutors as set forth in the Law on the Status of Judges and Prosecutors.

**Article 19.-**

It is mandatory that the Supreme Council of Magistracy be consulted with for advice and recommendations on any proposed law or bill, or draft law, pertaining to the organization and the functioning of the judiciary. The Supreme Council of Magistracy shall provide its comments, advice and recommendations within thirty (30) days from the date it received proposed law, or draft law from the Minister of Justice. In cases of emergency, this duration shall be reduced to ten (10) days.

The Supreme Council of Magistracy shall review, consider, and decide on the Code of Ethics for Judges and Prosecutors.

**SECTION 2****COMPETENCY OF THE SUPREME COUNCIL OF MAGISTRACY  
CONCERNING DISCIPLINARY ACTION AGAINST JUDGES AND  
PROSECUTORS****Article 20.-**

The Supreme Council of Magistracy shall meet and act as the Disciplinary Council for matters involving disciplinary actions against judges, under the Chairmanship of the President of the Supreme Court. The Supreme Council of Magistracy shall meet and act as the Disciplinary Council for matters involving disciplinary actions against prosecutors, under the Chairmanship of the General Prosecutor attached to the Supreme Court. His Majesty the King and the Minister of Justice shall not attend the meetings of the Disciplinary Council.

In the case of a disciplinary action concerning the President of the Supreme Court or the General Prosecutor attached to the Supreme Court, the Disciplinary Council shall be presided over by His Majesty the King or his Royal Representative.

A judge or prosecutor who is a member of the Supreme Council of Magistracy and who is subject to disciplinary proceedings cannot attend the meetings of the Disciplinary Council of the Supreme Council of the Magistracy as a member of the Disciplinary Council of the Supreme Council of Magistracy in order to examine and decide on the disciplinary matter in question.

**Article 21.-**

An Inspection Team of the Supreme Council of Magistracy shall be created to assist the Disciplinary Council of the Supreme Council of Magistracy to investigate disciplinary matters. Members of the Inspection Team of the Supreme Council of Magistracy shall be appointed by Royal Decree after receiving approval from a majority of the members of the Supreme Council of Magistracy. The Inspection Team shall have two (2) co-leaders, one (1) shall be selected from senior-ranking judges and one (1) shall be selected from senior-ranking prosecutors.

The Disciplinary Council of the Supreme Council of Magistracy shall specify the duties, organization and functions of the Inspection Team of the Supreme Council of Magistracy.

**Article 22.-**

The Inspection Team shall carry out its duties under the direction of the Chairman of the Disciplinary Council of the Supreme Council of Magistracy. In performing its duty, the Inspection Team may request to examine any case involving disciplinary matters. If necessary, the Inspection Team may request to interview concerned individuals. If a judge or prosecutor who do not cooperate with the Inspection Team's request shall be recorded in the Inspection Team's minutes as disciplinary mistakes.

**Article 23.-**

Complaints regarding disciplinary matters against judges and prosecutors shall be submitted to the Secretariat General of the Supreme Council of Magistracy or to Ministry of Justice. The Minister of Justice shall make a preliminary examination and investigation on this complaint before deciding to submit it to the Disciplinary Council of the Supreme Council of Magistracy for further procedure.

**Article 24.-**

After receiving a disciplinary complaint, if further investigation is necessary, the Chairman of the Disciplinary Council shall decide to further investigate the complaint through the Inspection Team of the Disciplinary Council of the Supreme Council of Magistracy.

**Article 25.-**

The Chairman of the Disciplinary Council shall convene a meeting of the Disciplinary Council of the Supreme Council of Magistracy. The disciplinary case file, as well as supporting documents related to the disciplinary action against the judge or prosecutor, shall be sent to all members of the Disciplinary Council for examination at least ten (10) days prior to the meeting of the Disciplinary Council of the Supreme Council of Magistracy. The judge or prosecutor involved in the disciplinary case shall have the right to be informed of disciplinary charge against him/her and shall have the right to defend himself/herself, with or without the assistance of lawyer, before the Disciplinary Council of the Supreme Council of Magistracy.

Meetings of the Disciplinary Council shall be closed to the public. The Chairman of the Disciplinary Council may invite relevant concerned persons to attend its meeting, if necessary. The members of the Supreme Council of Magistracy and all persons who attend Disciplinary Council meetings shall maintain the confidentiality of the meeting.

The quorum of the Disciplinary Council meeting shall be the same as that of the Supreme Council of Magistracy as provided in Article 11 of this Law.

The Internal Regulations of the Disciplinary Council of the Supreme Council of Magistracy shall specify the detailed procedures and operations of the Disciplinary Council of the Supreme Council of the Magistracy.

**Article 26.-**

In cases where a judge or prosecutor has been found guilty of an infraction, the Disciplinary Council of the Supreme Council of Magistracy shall apply disciplinary sanctions as provided in the Law on Status of Judges and Prosecutors. All decisions of the Disciplinary Council of the Supreme Council of Magistracy shall be grounded in law and facts.

Decisions of the Disciplinary Council shall be enforced in the same manner as the Supreme Council of Magistracy as provided in Article 11 of this Law.

Decisions of the Disciplinary Council shall be submitted to the Supreme Council of Magistracy for review and decision. Decisions of the Supreme Council of the Magistracy shall not be subject to appeals.

In cases where a disciplinary sanction of the 2<sup>nd</sup> degree is announced, the Supreme Council of Magistracy shall raise its recommendations to His Majesty the King.

## CHAPTER 5 TRANSITIONAL PROVISIONS

**Article 27.-**

The existing members of the Supreme Council of Magistracy prior to the entry into force of this Law shall continue their duties and functions in accordance with the provisions of this Law until the new members of the Supreme Council of the Magistracy are officially appointed by Royal Decree after elections for new members to the Supreme Council of Magistracy as provided in Article 4 of this Law. The principles of incompatibility stipulated in Article 6 of this Law shall not be applied during this time period.

**Article 28.-**

The Minister of Justice shall organize an election of members of the Supreme Council of Magistracy as stipulated from point 8 to 11 of Article 4 of this Law within three (3) months after the entry into force of this Law.

The rules and procedures of the first election of members to the Supreme Council of Magistracy as stipulated in Paragraph 3, Article 4 of this Law shall be specified by Prakas of the Minister of Justice.

**Article 29.-**

Until the Inspection Team of the Disciplinary Council of the Supreme Council of Magistracy has been appointed in accordance with Article 21 of this Law, the Chairman of the Disciplinary Council of the Supreme Council of Magistracy may assign judges or prosecutors working at the courts or at prosecution offices attached to courts to investigate disciplinary cases.

**Article 30.-**

The provisions of Article 6 of this Law shall not apply to judges or prosecutors at the Extraordinary Chambers in the Courts of Cambodia for trial over the crimes committed during the Democratic Kampuchea Regime.

**CHAPTER 6  
FINAL PROVISIONS**

**Article 31.-**

The Law on the Organization and Functioning of the Supreme Council of Magistracy promulgated by Royal Kram 09/NS/94/ dated 22<sup>nd</sup> December 1994 and other laws and provisions, which are contrary to this law, shall be abrogated and replaced by this law.

**Done in the Royal Palace, July 16<sup>th</sup>, 2014**  
Signature and seal

Norodom Sihamoni



កិច្ចសហប្រតិបត្តិការ  
អាស៊ីម៉ង់

DEUTSCHE ZUSAMMENARBEIT



Centre for International  
Migration and Development  
a joint operation of IOM and the  
German Federal Employment Agency