

(National Coat-of-arms)
KINGDOM OF CAMBODIA
Nation Religion King

Royal Government of Cambodia
No. 10 S.E.

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| MINISTRY OF HEALTH | |
| IN | Dated February 11 |
| | 1997 at |
| | Registration No. 220 |

SUBDECREE
On
the Procedures for Imposing Disciplinary Sanctions on Civil Servants

The Royal Government

Pursuant to:

- The Constitution of the Kingdom of Cambodia;
- Royal Decree, dated November 1, 1993, on the Appointment of the Royal Government of Cambodia, from His Majesty Preah Bat Samdech Preah Norodom Sihanouk Varman, the King of the Kingdom of Cambodia;
- Royal Decree No. NS. RD 1094.83, dated October 24, 1994, on the Modification to the Components of the Royal Government of Cambodia;
- Royal Decree No. NS. RD. 1094. 90, dated October 31, 1994, on the Modification to the Components of the Royal Government of Cambodia;
- Law on the Organization and Functioning of the Office of the Council of Ministers promulgated by Royal *Kram*, dated July 20, 1994;
- Law on the Common Statutes of Civil Servants of the Kingdom of Cambodia, promulgated by Royal *Kram* No. 06 NS.94, dated October 30, 1994;
- Royal *Kram* No. NS. RK.0196.24, dated January 24, 1996, on the Establishment of the State Secretariat of Civil Service;
- Request filed by the Secretary of State of the State Secretariat of Civil Service;
- Approval from the Council of Ministers;

Hereby decides:

CHAPTER 1
Disciplinary Fault

Article 1: Disciplinary fault occurs intentionally or unintentionally, failure to commit, forgetting, negligence, carelessness and breach of chapter 4 of the Law on the Common Statutes of Civil Servants of the Kingdom of Cambodia, articles 33, 34, 35, 37, 38 and 39, determined according to the discretion of the disciplinary authorities, repeated failure to fulfill work obligations.

Article 2: All disciplinary faults committed by any civil servants shall require that civil servant to be subject to disciplinary sanctions as specified in Article 40 of the Law on the Common Statutes of Civil Servants of the Kingdom of Cambodia. Disciplinary fault, civil mistake and criminal mistake shall have mutual autonomy. The civil sanction or criminal sanction also has mutual autonomy.

CHAPTER 2

Procedures for Imposing Disciplinary Sanctions Related to First-Degree Sanctions

Article 3: The civil servants who have been accused shall be entitled to check their case according to the conditions set forth in Article 6 of the Law on Common Statutes of Civil Servants of the Kingdom of Cambodia. A request to check a case shall be made within a period of 15 days following official receipt from the unit chief or head of the institution concerned. The person responsible for the case shall maintain the confidentiality of the witness's name. The person concerned can make a protest to the head of institution within a period of 15 days at the latest after checking the case.

Article 4: Following receipt of explanation or in case there is no excuse from the civil servants within the period determined above, the head of an institution can decide to accept one of the following points:

- File the case without taking any further measures;
- Censure;
- There is another first-degree measure of disciplinary sanction.

Article 5: The disciplinary form of censure shall be made in a letter and sent to the person concerned by the unit chief or the head of the institution. This letter of censure shall expire after 15 years

unless the person concerned has committed any other wrongdoing. The disciplinary form of censure remarked on in a personal file, the forced change and deletion of a name from the list of rank or position promotion shall be decided by Royal Decree, subdecree or *prakas*.

Censure remarked on in the personal file and forced change can be effective for a period of two years as long as the person concerned does not commit any further wrongdoing.

Regarding the forced change, the person concerned shall not be entitled to be automatically reinstated to their previous post.

Deletion of name from the list of rank or position shall be implemented within the year until the list of the rank or position promotion of the following year has been done.

This sanction shall expire unless within the above period the person concerned fails to commit any wrongdoing and in this case, it shall be precisely specified in a Royal Decree, subdecree or *prakas* of the imposing sanction.

CHAPTER 3

Procedures for Imposing Disciplinary Sanctions Related to Second-Degree Sanctions

Article 6: The forms of second-degree discipline include:

- A- Serious censure causes deletion of name from the list of rank or position promotion in case there is name registration or delay in rank or position promotion within a period that is limited but does not exceed two years of promotion of rank or position in accordance with the turn of selection or the turn of seniority;
- B- Be in an unpaid period of leave of not more than one year;
- C- Decrease in rank or position of one or more degrees;
- D- To retire before the schedule or be forcibly dismissed from work;

E- Dismissal from the position of civil servant.

The accusation of a mistake of second-degree disciplinary [having been made] shall be investigated in advance.

The investigation shall be assigned to one or more representatives of the head of the institution concerned who holds a higher or equal rank or position but they shall have greater work seniority than the civil servant against whom the accusation has been made. Regarding the investigation, the person concerned shall be officially invited to check his/her case and issue a protest according to the conditions and duration specified in Article 3 of this subdecree. This investigation shall last no longer than two months.

The investigated case shall be forwarded to the head of institution for examination and decision whether this accused civil servant should be sent to the Disciplinary Board or the accusation should be dismissed or s/he should be punished at the first degree. In case the head of the institution is of the opinion that the accusation is continued, the case shall be forwarded to the disciplinary board.

A report or evaluation of inspectorate or general inspectorate is necessary for the head of the institution in case the accusation does not affect the inspector or inspector-general.

Article 7: Appointment of the disciplinary board shall be approved by Royal Decree, subdecree or *prakas*. The disciplinary board shall be established in each actual situation when there is a disciplinary order.

Article 8: The disciplinary board shall be comprised of five members:

- Three civil servants shall be appointed by the head of the institution that the accused civil servants are under the supervision of, among whom one person holds the position of chief, one person holds the position of a reporting member and the third person is the member.
- Two civil servants in the same framework as the accused civil servants; however, who shall have a higher rank or greater seniority than the civil servants in the equal degree.

In case the director-general or inspector-general shall be forwarded to the disciplinary board, the disciplinary board shall be appointed by Royal

Decree from among the civil servants in the same framework with a higher rank or greater seniority in an equal degree working in another unit of the same institution. In the event that there are no civil servants as mentioned above, the Royal Government shall request a decision to appoint a disciplinary board from among the senior officials from other institutions.

Moreover, any civil servants lodging a complaint against the accused civil servants or being the third degree of consanguinity of that accused civil servants may not be appointed to the disciplinary board.

Article 9: After the disciplinary board has already been appointed, the head of institution supervising that civil servant shall forward all cases related to the accused civil servants to the Chairperson of the Disciplinary Board to be sent to the reporting member.

Article 10: The reporting member shall allow the accused civil servants to check his/her case file and provide a list of witnesses as well as his/her defense representatives. The reporting member shall then conduct the investigation by means of:

- Requesting other evidence if necessary;
- Extracting the responses of the witnesses if any;
- Listening to verbal [remarks] and [written] comments of defense representatives who are civil servants;
- Accept the protest of the accused civil servants;

Reporting members shall make a written report on the outcome of the investigation without expressing his/her direct comments within a period of 15 days at the latest and shall promptly send the report to the Chairperson of the Disciplinary Board.

Article 11: Following receipt of the report, the disciplinary board shall convene a meeting within a period of no longer than 15 days. In case the file is not enough, the chairperson may order the reporting member to find additional information and delay the meeting to a later date as well as to take other important measures to find the truth and not affect the ruling order of the court in case the court has already made a decision.

The above investigation shall not take longer than a period of two months.

In case it is necessary to research for information, the Chairperson of Disciplinary Board can delay the meeting for a further two months.

Article 12: The disciplinary board shall convene a meeting at the invitation of the chairperson, which is required to have the attendance of all members. In case any members are absent to attend to personal matters, the head of the institution shall take measures to include new members to complete the full complement of members. The accused civil servants shall be present at the invitation. The accused civil servants who appear as per the invitation can bring their defense representatives who are civil servants in addition to witnesses.

That accused civil servant can provide explanations to defend himself/herself or through his/her defense representative either verbally or in writing.

Article 13: Following completion of the discussion to seek information, the disciplinary board shall turn back to discuss, consider and reach a confidential conclusion. The disciplinary board shall have a subsequent secret election from the highest level to the lowest level of the criminal discipline. The opening of all ballots shall be done at the same time during the voting of each sanction level, after which, in case of a tied vote, the vote regarding disciplinary sanction level shall be done again.

Article 14: The Chairperson of the Disciplinary Board shall promptly take minutes on the outcomes of the discussion and vote and then send them to the head of the institute concerned and also issue other notices on the disciplinary sanction level to the person concerned to accept with a certified signature. In case the accused civil servant refuses to accept the notice, the disciplinary board still has the power to forward this case file to the chairperson of the head of the institution for examination and to make a decision by means of a written report with the meaning

that the person concerned refuses to sign the notice of the disciplinary board.

Article 15: The authority level making the decision to impose the disciplinary sanction does not need to follow the comments of the disciplinary board. In case the disciplinary board is of the opinion that it contains mistakes, the authority level cannot follow the comments of the disciplinary board specifying the grounds in writing and shall decide to impose any second-degree disciplinary sanction that is less severe than the request of the disciplinary board.

Article 16: The final sanction shall be determined by Royal Decree, subdecree or *prakas*.

CHAPTER 4

Procedures for Imposing Disciplinary Sanctions on Accused Civil Servants Charged with Disappearance

Article 17: During the implementation of disciplinary procedures, should accused civil servants disappear within a period of 15 days after two subsequent invitations, they shall be subject to unpaid leave in compliance with the provision. Upon a period of three months, if the accused person concerned is still not found following two notices, s/he shall be delisted from the framework.

CHAPTER 5

Final Provisions

Article 18: Various provisions contrary to this subdecree shall be abrogated.

Article 19: Co-ministers in charge of the Office of the Council of Ministers, ministers of all ministries, secretaries of state of all state secretariats shall accept responsibility for implementing this

subdecree from the date of royal signature and signature onwards.

Phnom Penh, January 28, 1997

First Prime Minister Second Prime Minister
(Signatures and stamp)

**NORODOM
RANARIDDH**

HUN SEN

To have informed
Samdech the First and Second
Prime Ministers
**Secretary of State of the State
Secretariat of Civil Service**
(Signature)

PRAK SOK

CC:

- Cabinet of the King
- General Secretariat of the National Assembly
- Cabinet of *Samdech Krom Preah* the First Prime Minister
- Cabinet of *Samdech* the Second Prime Minister
- As stipulated in Article 19
- Records - Archives