

Kingdom of Cambodia

Nation

Religion

King



**MINISTRY OF SOCIAL AFFAIRS, VETERANS
AND YOUTH REHABILITATION**

PRAKAS

ON

PROCEDURES TO IMPLEMENT THE POLICY

ON

ALTERNATIVE CARE FOR CHILDREN



October 2011

Support in the duplication by the End Trafficking In Person Program (ETIP) of World Vision International



FOREWORD

Under the wise leadership of Samdech Akka Moha Sena Padis Techo Hun Sen, Prime Minister of the Royal Government of Cambodia (RGC), the Kingdom of Cambodia has been progressing and has made achievements in all sectors through the implementation of the Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase II and the National Strategic Development Plan (NSDP) 2009-2013. The development of a National Social Protection Strategy for the Poor and Vulnerable (NSPS) is needed for the RGC to accelerate progress towards the Cambodian Millennium Development Goals (CMDGs). Within these strategies, protection of vulnerable families and children has been the main area of focus. The RGC has made achievements especially in child welfare development, which has been led by the Ministry of Social Affairs, Veterans and Youth Rehabilitations (MoSVY).

The Ministry issued and adopted a Policy on Alternative Care for Children in 2006, which aims “to ensure that children grow up in a family and in a community” and promotes the concept that “institutional care should be a last resort and a temporary solution”. Through this policy, the Ministry also encourages other relevant Ministries and institutions to be committed to implement policies and related programmes on alternative care, to build the capacity of staff working with and for children and to establish a monitoring and evaluation system.

To establish such system, the Ministry has adopted the Minimum Standards on Alternative Care for Children in 2008 which comprises of a Prakas No. 616 MoSVY, dated November 22, 2006, on the Minimum Standards on Residential Care for Children and a Prakas No. 198 MoSVY, dated March 11, 2008, on the Minimum Standards Applicable to Alternative Care for Children in the Community. The Minimum Standards detail conditions and basic standards for the establishment of residential care facilities, community alternative care programmes and settings, caregivers’ requirements and responsibilities as well as complaint procedures and legal protection in case of abuse. These minimum standards also establish a monitoring mechanism and punishments against perpetrators. Based on these policies and regulations, the Ministry has been proactively monitoring alternative care facilities and made recommendations for improvement.

Yet to establish a system which can prevent and protect children from abuse, exploitation and violence, as well as respond to different vulnerabilities requires time and efforts by all concerned actors.

Having said that, in 2009, the MoSVY initiated to develop a Prakas on Procedures to Implement the Policy on Alternative Care for Children, which provides detailed guidance on identification of vulnerable children, not only children at risk of separation but also other vulnerabilities, so that they can be referred to relevant services at sub-national level; assessment of the situation of children and their families in order to preserve or reunify families; provision of appropriate services of alternative care as a temporary solution and permanency planning including domestic adoption and inter-country adoption; and follow-up on cases. This includes defining the roles and responsibilities of different departments and agencies at national and sub-national levels. In 2010, under the leadership of the MoSVY, in

close collaboration with the Ministries of Interior and Cults and Religion, the draft Prakas was tested in selected communes and refinement of the Prakas was done through a number of consultative meetings. We believe that through the implementation of this Prakas, MoSVY and other relevant Ministries and institutions can further strengthen capacities to build a child welfare system, achieve common goals to provide care and protection for vulnerable children and act in the best interests of the child.

The MoSVY would like to express its appreciation to relevant ministries, especially the Ministries of Interior and Cult and Religion, institutions and Non-Governmental Organizations that have always collaborated well with the Ministry to protect and promote the rights of the child. The Ministry would like to convey its special thanks to UNICEF that has financially and technically supported the development, testing and publication of this Prakas.

The MoSVY would like to welcome constructive feedback and comments to this Prakas for its future improvement and effective implementation.

Phnom Penh, 11 October, 2011

MINISTER

ITH SAM HENG

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Ministry of Social Affairs, Veterans
and Youth Rehabilitation

No: 2280 MOSVY

Phnom Penh, 11 October 2011

PRAKAS

on

**Procedures to Implement the Policy on Alternative Care for Children
Minister of Social Affairs, Veterans and Youth Rehabilitation**

- Having seen Constitution of the KOC,
- Having seen Royal Decree No: NS/RKT/0908/1055 of 25 September 2008 on the Appointment of the RGC of the KOC,
- Having seen Royal Kram No: 02/NS/94 of 20 of July 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers,
- Having seen Royal Kram No: NS/RKM/0105/001 of 17 January 2005 promulgating the Law on the Establishment of Ministry of Social Affairs, Veteran's Affairs and Youth Rehabilitation,
- Having seen United Nations Convention on the Rights of the Child, ratified by KOC on 15 Oct 1992,
- Having seen Royal Kram No: NS/RKM/PRL/0912/1148 of 03 Dec 2009 promulgating the Law on Inter-country Adoption,
- Having seen Royal Kram No: NS/RKM/0508/017 of 22 May 2008 promulgating the Law on the Administration of Capital/Province and Town/District/Khan,
- Having seen Royal Kram No: NS/RKM/0301/05 of 19 March 2001 promulgating the Law on the Administration of Commune/Sangkat/Sangkat and Sangkat
- Having seen Sub-Decree No: 55 dated 08 April 2005 on Organization and Functioning of the Ministry of Social Affairs, Veterans and Youth Rehabilitation,
- Having seen the Prakas No:217 of 26 April 2006 on the Policy on Alternative Care for Children,
- Having seen the Prakas No:616 of 22 November 2006 on Minimum Standards on Residential Care for Children,
- Having seen the Prakas No:198 of 11 March 2008 on the Minimum Standards on Alternative Care for Children in the Community,
- Having seen the Guideline No. 082 of 08 August 2007 on the establishment of CCWC, and
- Upon necessity of the Ministry of Social Affairs, Veterans and Youth Rehabilitation.

Chapter 1

General Provisions

Article 1.

The goal of this Prakas is to ensure the best interests of the child and to protect the basic rights of all children especially children who are in need of special care and protection or at-risk children, to fully develop in a family environment in an atmosphere of happiness, love and understanding.

Article 2.

This Prakas is intended to define roles and responsibilities of relevant competent agencies and establish procedures, operational guides, and forms to implement the Policy on Alternative Care for Children, aiming to uphold the best interests of the child as the paramount consideration, recognizing the child's right to grow up in a permanent family-preferably his or her biological family, and other family in the community.

Article 3.

Provincial/municipal councils, khan/district councils and commune councils will be given delegated tasks in a sector of alternative care for children, in recognition of the principle that the best option for children is to keep them in the community, as stipulated in this Prakas. The Women and Children Consultative Committee(WCCC) at sub-national level shall assist its council to implement the delegated tasks from the Ministry of Social Affairs, Veteran's Affairs and Youth Rehabilitation(MoSVY). In implementing the delegated tasks, provincial/municipal councils, khan/district councils and commune councils shall be responsible for implementation of this Prakas.

Article 4.

The following definitions are used in this Prakas:

1. A **child** refers to an individual less than 18 years of age.
2. **Orphans** refer to children who have lost one or both parents.
3. **Vulnerable children** refer to children who are in need of assistance due to their difficult circumstances or challenges, and include those in a situation of risk.
4. An **abandoned child** refers to a child who has been found by the competent authorities or reported by the public to the competent authorities, and whose parents, father or mother or guardians are unknown or have deserted the child, and cannot be found for at least five consecutive months.
5. A **child in need of special protection** includes an orphan, an abandoned child, a child infected or affected by HIV/AIDS, a child victim of abuse, exploitation or harmful labour, a child living on the street, a child in contact with the law, a child living with a disability, a child addicted to drugs or a child whose basic needs are not met.
6. A **child who needs special care** refers to a child who has a serious physical disability or mental disability, or who has a chronic illness.
7. A **family** includes the biological parents of a child, legal guardians, and blood relatives of the child who has a close relationship with the child.

8. A **situation of risk** refers to a circumstance that creates a serious danger that the child will be separated from the family, including the situations referred to in Article 6.
9. **Alternative care** refers to the care provided to children who are not under the care of their biological parents.
10. A **family support worker** refers to a trained person who works under the direction of the Commune/Sangkat Council to identify children and families in a Situation of Risk or responds to referrals of such situations, and follows-up by assisting the children and/or families.
11. A **social worker** is a person who has been trained and has a career at the Krong/District/Khan and Provincial/capital levels to provide supervision to family support workers and assists with managing difficult cases.
12. **Legal Guardianship** refers to a placement effected through a “will” left by the parents, or a court-approved placement appointing a person to exercise the rights and obligations of a parental power holder when there are no holders of parental rights, in accordance with the Civil Code.
13. A **Guardian** pertains to a person designated by the parents by will or appointed by the court to exercise the rights and obligations of a parental power holder in accordance with the Civil Code.
14. **Full adoption** refers to a legal process resulting in a court-approved placement, that creates a permanent parent-child relationship between the adopted child and the adoptive parent(s) and terminates the respective rights and obligations between the child and his/her biological parents or guardian.
15. **Simple adoption** refers to a legal process resulting in a court-approved placement that creates a permanent parent-child relationship between the adopted child and the adoptive parent, without ending the relationship with the biological parents, and in which the adopted child can be a minor or an adult.
16. **Institutional or residential care** is “a group-living arrangement for children in which care is provided by remunerated adults for service provision” e.g. orphanages, recovery centres, child protection centres. Children in such settings receive full-time care for an appropriate length of time.
17. **Orphanage** refers to a centre run by the State or by a non-governmental organization, which is recognized by the Ministry in charge of Social Affairs, which provides care and all basic developmental needs of children who have lost one or both parents, who have been abandoned, or whose parents or guardians are incapable of providing adequate care for them.
18. **Permanency planning** refers to the effort to provide a permanent family for a child using permanent kin placements, domestic guardianships and adoptions, and inter-country adoption.

Chapter 2

Situations of Risk and Need for Intervention

Article 5.

Situations and difficult circumstances that cause children to be at risk of family disintegration include:

- 1- children whose parents or guardians are not living with them;
- 2- actual or threatened separation of children from family through abandonment, imprisonment, trafficking or migration;
- 3- actual or threatened violence in the home, or physical or sexual abuse or abandoning the child, or exploitation of the child such as selling or renting the child;
- 4- children whose parents or guardians do not have the capacity to fulfill their obligations because of a serious lack of basic necessities and services such as shelter, food, education and health care;
- 5- chronic illness and disability of the child or caregiver, that children are not able to receive appropriate care;
- 6- family with alcoholism, gambling, drug addiction or other substance abuse, that are not able to provide the children with appropriate care; or
- 7- children who are at risk of or being in conflict with law.

Article 6.

Commune Council (CC), which staff are also members of the Commune Committee for Women and Children (CCWC), has the duty to visit the child or family who are facing situations as stated in Article 5 and assess the risks and strengths in the family. If there is risk and the family or child is not able to cope with the situation, a case shall be opened for further services, with collaboration and intervention from the City/District/Khan WCCC, Provincial/Municipal WCCC, as well as collaboration, and technical support and services first sought from City/District/Khan Office of Social Affairs, Veterans, and Youth Rehabilitation (OSVY) and then from the Provincial/Municipal Department of Social Affairs, Veterans, and Youth Rehabilitation (DoSVY).

Chapter 3

Roles and Responsibilities of the Relevant Agencies

Article 7.

Commune/Sangkat Councils with the CCWC shall have the following duties:

1. Collaborate and facilitate all communication related to the implementation of this Prakas, in their commune, with the City/District/Khan (OSVY), the Provincial/Municipal (DoSVY), Pagoda, other religious centers, and NGOs working with children and families;
2. Collect data on vulnerable children in the Commune/Sangkat to be used as a basis for the preparation and development of the annual commune investment plan, and commune development plan, to mobilize financial and technical support from relevant institutions and to report to the City/District/Khan (WCCC) and OSVY;
3. Identify and assess children and families in situations of risk, establish a Service Plan for necessary services, follow-up the family's progress to preserve the child in the family, and make decisions on alternative care placement with kin in the same commune if necessary;

4. Work with the family and collaborate with the City/District/Khan OSVY, the Provincial/Municipal DoSVY, and other NGOs to prepare for the return of the child, follow-up with the reunification services and reintegration of the child and family to reunite the child with his/her family;
5. Make a temporary placement in a safe setting with relatives or community-based foster care, in collaboration with the City/District/Khan OSVY, for children abandoned in the community. As a last resort, refer the child to the Provincial/Municipal DoSVY if no placements are found with relatives or community-based care; and
6. Complete, keep, and copy to relevant authorities relevant forms developed through this Prakas, based on the progress of each individual case.

Article 8.

The City/District/Khan Office of Social Affairs, Veterans, and Youth Rehabilitation (OSVY) shall:

- 1- Collect data on vulnerable children who are in alternative care in community in the district to consult with the City/District/Khan WCCC and the Provincial/Municipal DoSVY to find strategies and support for commune councils to protect and care for such children and to report the data to the Provincial/Municipal DoSVY;
- 2- Provide support, training and technical guidance to the CCWC in collaboration with the district WCCC;
- 3- Collaborate and facilitate communication with CCWCs, city/district/Khan WCCC, Pagoda, other religious centers, and other NGOs to provide services to the family on family preservation and reunification cases;
- 4- Directly manage cases not covered by the Commune/Sangkat Council, including but not limited to: non-kin foster care, cross-City/District/Khan or cross-Provincial/Municipal cases, difficult cases, children placed in institutions or at risk of being placed, and children in need of permanency planning;
- 5- Track the referrals, services provided, and outcomes achieved within the City/District/Khan and send correspondent monthly, quarterly, semesterly, 9-month, and annual reports to the City/District/Khan WCCC and the Provincial/ Municipal DoSVY;
- 6- Complete, keep, and copy to relevant persons relevant forms developed through this Prakas, based on the progress of each individual case; and
- 7- Participate in monitoring the implementation of the minimum standards of alternative care in the community and residential care.

Article 9.

The City/District/Khan Councils with the Women and Children Consultative Committees (WCCC) shall:

- 1- Assist the CCWC in identifying and assessment of children and families who are facing situations of risk in case CCWC are not able to do so.
- 2- Communicate and facilitate collaboration with the City/District/Khan OSVY to collect and analyze data, and include child protection issues in City/District/Khan annual work plan, 5-year development plan and 3-year rolling plan of the City/District/Khan, to support and mobilize resources for the Commune Council for planning and advocate for needed services for children and families and to carry out the tasks in Article 8.

- 3- Collaborate with the City/District/Khan OSVY in providing training and capacity building to the CCWC on procedures and forms in this Prakas.
- 4- Collaborate with the Provincial/Municipal DoSVY via Provincial/Municipal WCCC and collaborate with NGOs working in child and family welfare to carry out the above mentioned tasks.

Article 10.

The Provincial/Municipal Department of Social Affairs, Veterans, and Youth Rehabilitation (DoSVY) shall:

- 1- Update the provincial list of all care-giving individuals, local/international organizations, and residential care that are authorized to provide alternative care;
- 2- Maintain/ update data on vulnerable children and children who are in care in residential care and other settings, including children who leave alternative care, in the Capital/Province, and consult with the Provincial/Municipal WCCC to find strategies and support for the City/District/Khan WCCC and Commune Councils;
- 3- Carry out permanency planning for all children in the Capital/Province as detailed in Chapter 7 of this Prakas;
- 4- Carry out search for the parents or guardians of children who have been abandoned, as required under Article 21, Chapter 5 of this Prakas;
- 5- Support and guide the work of the City/District/Khan OSVY workers and facilitate communication with other Provincial/Municipal DoSVY, for cross-provincial/capital cases, in collaboration with Provincial/Municipal WCCC;
- 6- Expand resources to strengthen family-based care through means such as community-based initiatives, bi-lateral assistance, trained faith-based leaders (such as monks), and collaborate with other departments, NGO and private sectors to provide support, training, and technical support to the City/District/Khan OSVY to implement roles and responsibilities in this Prakas;
- 7- Raise awareness about the Policy on Alternative Care for Children, Minimum Standards for Alternative for Children, including the Minimum Standards Applicable to Alternative Care for Children in the Community and promote, recruit, train and support families willing to be a permanent family to a child;
- 8- Collect data and update list of abandoned children and list of families who have been accepted for permanent placements, such as families who have been approved, families who are in legal process, families who need to be investigated for permanent placements within the capital/province, and families who have been trained;
- 9- Collaborate with Provincial/Municipal WCCC, Department of Cults and Religion, partner NGOs, and relevant agencies to seek budget, materials and technical support for older children for whom a permanent family is not found, to ensure these children are provided life skills and occupational skills prior to reaching adulthood;
- 10- Complete, keep, and copy to relevant persons relevant forms developed through this Prakas based on the progress of each individual case;
- 11- Be responsible for monitoring of the implementation of the Minimum Standards for Alternative for Children.
- 12- Follow up services provided, and report on outcomes achieved within their service area and submit monthly, quarterly, semesterly, 9-month, and annual reports to the Provincial/Municipal WCCC and MoSVY, and share necessary information to the City/District/Khan OSVY under their coverage area; and
- 13- Use the State budget and other resources offered by donor community and civil society which are appropriate under a child-centered, family-friendly policy.

Article 11.

The Provincial/Municipal Councils with the Women and Children Consultative Committees (WCCC) shall:

- 1- Communicate and facilitate collaboration with the Provincial/Municipal DoSVY to support and mobilize resources for the City/District/Khan OSVY and WCCC for planning and advocate for needed services for children and families to carry out the tasks in Article 9 and 10, respectively.
- 2- Communicate and facilitate collaboration with the Provincial/Municipal DoSVY to collect and analyze data, and include child protection issues in Provincial/Municipal annual work plan, 5-year development plan and 3-year rolling plan, to support and mobilize resources for the City/District/Khan Councils for planning and advocate for needed services for children and families, and to carry out the tasks in Article 10.
- 3- Collaborate with the Provincial/Municipal DoSVY in providing training and capacity building to City/District/Khan WCCC on children and family welfare.
- 4- Collaborate with the Provincial/Municipal DoSVY, relevant departments, and NGOs to implement the Alternative Care Policy.

Article 12.

The Child Welfare Department of MoSVY shall have the following duties:

- 1- Manage and monitor the implementation of policies, laws, regulations, and legal procedures related to implementation of the Policy on Alternative Care for Children;
- 2- Plan the budget and provide training and technical support to the Provincial/Municipal DoSVY and City/District/Khan OSVY needed to carry out the mandates set out in this Prakas;
- 3- Collaborate with the relevant ministries/institutions, local and international organizations to provide technical assistance to Provincial/Municipal and City/District/Khan WCCCs and Commune/Sangkat Councils on activities related to child welfare;
- 4- Develop and maintain a national database of child welfare throughout the nation, including children abandoned, children reunited with their families, children in alternative care, children in need of permanency planning and children who are adoptable and eligible for national adoption and inter-country adoption, and develop the list of children placed via domestic adoption and inter-country adoption;
- 5- Raise awareness about the Policy on Alternative Care for Children, Minimum Standards Applicable to Alternative Care for Children in the Community and promote, recruit, train and support families willing to be a permanent family to a child, maintaining a list of such families at the national level;
- 6- Raise awareness and promote child rights, policies and standards related to child welfare to grassroots and communities;
- 7- Provide technical support to the Provincial/Municipal DoSVY for monitoring the implementation of the minimum standards of alternative care in the community and residential care; and
- 8- Use the State budget, the Child Welfare Fund and other resources offered by donor community and civil society, which are appropriate under a child-centered, family-friendly policy and promote the re-direction of NGO services to be compatible with the goals of this Prakas.

Chapter 4

Family Preservation Services

Article 13.

When there is a danger that a child will be separated from his/her family due to a situation of risk, it shall be a priority to prevent such separation through supportive services to the family. Services shall be provided based on the assessment of the risks and the family's own resources to cope with the risks. The services shall aim to stabilize and empower the family so that the child can be cared for by the caregiver both for the short term and long term.

Article 14.

If information is received about a vulnerable child or child's situation of risk has been reported, the Commune Committee for Women and Children (CCWC) shall follow the procedures below:

- 1- Visit the child and their family to assess the risk situation and determine if the family is able to cope with the difficulties on its own or intervention is necessary;
- 2- If intervention is necessary, make a service plan in order that the child and family receive appropriate services;
- 3- Connect the family to the appropriate services with the goal of keeping the child in the family;
- 4- Monitor and follow up the child's and family's progress regularly based on the goals identified in the service plan;

For difficult cases, the Commune Council shall contact with the City/District/Khan Office of Social Affairs, Veterans, and Youth Rehabilitation (OSVY) and trained faith-based leaders for consultation and seeking additional support.

Article 15.

Family Preservation has the following procedures:

- 1- At the initial assessment, protecting the safety of children and their caregiver is required to be done routinely.
- 2- If there is an immediate danger to the safety of the child or primary caregiver, it may be necessary to separate them from the danger. In case an adult causes danger to the child and/or caregiver, removing the dangerous adult in the home shall be considered before removing the child from the home.
- 3- All removals must be done in consultation between CCWC and the City/District/Khan OSVY and clearly documented. Placement of the child out of his/her home shall follow the order of relatives, community-based care and residential care.
- 4- In the removal process, the assistance of the competent authority shall be requested in potentially dangerous cases.
- 5- While the child is in temporary alternative care, the child and family shall be provided reunification and family preservation services.

Article 16.

Safety protection for children and family members includes:

- 1- When the goals of the Service Plan have been met and the risk of the children and family has been addressed, the case shall be closed. The CCWC shall fill in the last part of the family service plan form indicating date and reasons for closing.
- 2- Families which have multiple children receiving services may continue to receive assistance until all children are out of risk.
- 3- In case the problems of the child and family are not successfully solved despite good efforts to assist them in a reasonable time frame, the CCWC shall refer the case to OSVY to recommend permanency planning, and the City/District/Khan OSVY shall meet with the Provincial/MunicipalDepartment of Social Affairs, Veterans, and Youth Rehabilitation (DoSVY) to review and open the case for permanency planning.
- 4- The Provincial/MunicipalDoSVY and the City/District/Khan OSVY personnel may involve the Department of Cults and Religion/trained faith-based leaders to support families at risk of separation.

Chapter 5

Family Reunification Services

Article 17.

Children separated from their families due to migration, trafficking, alternative care placement, abandonment or any other reason shall be assisted in reunification with their families. Reunification services do not apply to children who have been placed with relatives on a permanent or temporary basis by mutual agreement with the parents and are being treated as if they are biological children.

Article 18.

For children living in alternative care, such as living with relatives, living in community-based care and in institutions, the City/District/Khan Office of Social Affairs, Veterans, and Youth Rehabilitation (OSVY) shall collaborate with Commune Committees for Women and Children (CCWC) to implement the reunification procedures by visiting the child and family and making an assessment of the child's condition and needs and family situation, in order to reintegrate the child back into the family and community. For children who live in a different capital/province from their families, the Provincial/MunicipalDepartment of Social Affairs, Veterans, and Youth Rehabilitation (DoSVY) shall cooperate with the Provincial/MunicipalDoSVY of various provinces and capital to hand over the case for follow up and continue the provision of services in accordance with the following procedures:

- 1- TheProvincial/MunicipalDoSVY and City/District/Khan OSVY shall prepare the child for the reunification and then cooperate with the CCWC worker in the parents' commune/Sangkat to assist the child's family to be prepared before receiving the child back home. If necessary, the family shall be provided with relevant services to improve their capacity to receive the child.
- 2- The Provincial/MunicipalDoSVY, City/District/Khan OSVY and CCWC shall consult with each other, coordinating gradual reintegration if necessary. The Provincial/MunicipalDoSVY and City/District/Khan OSVY and CWCC shall discuss the needs of the child and family after they are reunited. The CCWC may also prepare the community for the return of the child.

- 3- The Provincial/MunicipalDoSVY and City/District/Khan OSVY shall collaborate with CCWC to reintegrate the child back to his/her family after the child and the family is well prepared.
- 4- The Provincial/MunicipalDoSVY and City/District/Khan OSVY shall collaborate with CCWC to monitor the child's and family's readjustment to each other for at least three times per year, and close the case when it is appropriate. In case the reunification is not successful, the case moves on to permanency planning upon approval by the CCWC and Provincial/MunicipalDoSVY personnel.
- 5- The Provincial/MunicipalDoSVY shall make case reports, including on outcomes achieved and submit these to the Child Welfare Department.

Reunification is in the child's best interests unless it will put the child's safety at risk.

Article 19.

For abandoned children, the following procedures shall be observed:

- 1- The Commune Council in each community shall conduct awareness raising and announcement to the people of the commune that if they receive information on, encounter or receive an abandoned child, they should immediately inform or bring the child to the village chief or the CCWC.
- 2- The CCWC has a primary responsibility for searching for parents or guardians of an abandoned child at the commune level in collaboration with the City/District/Khan OSVY. The search shall be done immediately after finding the child or receiving information from the residential care director, while the village chief and CCWC shall temporarily place the child with the nearest relative available, or with another family in the community. In the case of placement with a non-kin family outside their commune, the CCWC shall notify the City/District/Khan OSVY.
- 3- In case kinship care or community-based care are not available, the CCWC shall collaborate with the City/District/Khan OSVY and family support workers where available, to find a trained foster family to provide temporary foster care until an appropriate and permanent family-based care is found. As a last resort, the CCWC shall collaborate with City/District/Khan OSVY to place the child temporarily in an institution until a parent/guardian or another family is found to care for the child.
- 4- In case a child is abandoned at a residential care or brought to the orphanage by a citizen, the orphanage director shall take the child into safety, document the placement by the person who brought the child (if available) and sign.
The residential care director shall immediately inform the CCWC in the commune that the child was found and also inform the City/District/Khan OSVY and Provincial/MunicipalDoSVY within 7 (seven) working days of the arrival of the child. The CCWC shall follow the same procedures of placement options as provided under the Alternative Care Policy and in Chapter 6 of this Prakas.
- 5- In all other cases of abandonment, the CCWC shall report to City/District/Khan OSVY and Provincial/MunicipalDoSVY immediately of finding the child. The City/District/Khan OSVY shall visit and assess the child and then make a report to the Provincial/MunicipalDoSVY within 7 (seven) working days of receiving such report from CCWC. The Provincial/MunicipalDoSVY shall immediately send the report on child abandonment with a photograph of the child to the Child Welfare Department, which shall add the child's name to the Registry of Children Reported Abandoned.
- 6- The Provincial/MunicipalDoSVY and City/District/Khan OSVY personnel may involve the Department of Cults and Religion or trained faith-based leaders in this process.

Article 20.

The followings are procedures for searching for parents or guardians of an abandoned child:

- 1- The Provincial/MunicipalDoSVY shall have overall responsibility for searching for the parents, or guardians of an abandoned child, in collaboration with the CCWC, other relevant competent authorities, other international and local organizations that do not have adoption program, and other Provincial/MunicipalDoSVY.
- 2- The search by the Provincial/MunicipalDoSVY shall begin immediately after the Provincial/MunicipalDoSVY receives report on the abandoned child, and shall use all feasible methods including mass media. The Provincial/MunicipalDoSVY shall post notices (including photo) at the location where the child was abandoned and at places where people gather regularly. The notice shall be copied to the Child Welfare Department.
- 3- The search shall be conducted for five consecutive months or may continue until found.
- 4- At the end of the search, whether the parents/guardians are found or not, the Provincial/MunicipalDoSVY shall submit one of the two following reports to the Child Welfare Department:
 - a. **Report of Parent or Guardian Found:** If parents or guardians are found or come forward during the search, any person claiming that he/she is a parent, relative or guardian of the child shall provide evidence and legal documents of his/her relationship with the child. The Provincial/MunicipalDoSVY shall then make a request to the Child Welfare Department to remove the child's name from the Registry of Reported Abandoned Children using the appropriate form. The Provincial/MunicipalDoSVY shall ask the City/District/Khan OSVY to collaborate with the CCWC to conduct the family assessment and make a service plan with the family to reunify and preserve the child in the family.
 - b. **Report of Search without Finding Parents:** At the end of five months of diligent search, if the child's parents or guardian have not been found, the Provincial/MunicipalDoSVY shall make a report on search without finding parents or guardian, and send a copy to the Child Welfare Department so that the child's name is entered into the National List of Abandoned Children. The Provincial/MunicipalDoSVY shall facilitate the child's birth registration with relevant competent authorities, enter the child's name into the list of permanency planning, and shall file dossiers to request the court to appoint a guardian for the child.
 - From the moment when a child is found until a guardian for minor is appointed by the court, the director of the Provincial/MunicipalDoSVY is the temporary guardian for minor of the child on the territory of DoSVY, except if the child is in an orphanage under the direct control of the MoSVY, in which case the director of Child Welfare Department is the temporary guardian of the child. The guardian for minor of the child shall follow the Civil Code and the temporary guardian has no right to consent to adoption.
 - The director of the Provincial/MunicipalDoSVY shall file dossiers with the court requesting for appointment of a guardian for minor of the child except if the child lives in an orphanage under the direct control of the MoSVY, in which case the director of the Child Welfare Department shall file dossiers with the court to appoint the guardian for minor of the child.
 - The director of the Provincial/MunicipalDoSVY and the director of the state-run orphanage have responsibility to report on the situation of children with a legal guardian and send all relevant dossiers to be attached to the child's file to the Child Welfare Department.

Chapter 6

Alternative Care for Children

Article 21.

All placements of children in alternative care setting shall be considered “temporary alternative,” except placement with a family permanently. After exhausting efforts for family reunification, temporary alternative care placements shall be implemented in the following order of preference:

- a. Placement with relatives,
- b. Placement with community-based family foster care,
- c. Placement with community-based care, such as Group Care and Pagoda Care (in the same community and the child can visit their family regularly), and
- d. Placement in residential care.

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Article 22.

The following are roles and responsibilities for child placement via alternative care:

1. All legal persons, associations, national/ international organizations and residential care which have programs and plans for providing alternative care programs for children shall enter into a MoU with the Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MoSVY).
2. The Provincial/Municipal Department of Social Affairs, Veterans, and Youth Rehabilitation (DoSVY) shall maintain an updated list of all such care-giving individuals, local/international organizations, and orphanages that provide alternative care, track the names, addresses, and numbers of children in such care by age and sex, and promote the proper implementation of the Minimum Standards on Alternative Care for Children.
3. Placement and monitoring of children placed with kin in the commune are the duties of the Commune Committee for Women and Children (CCWC). For non-kin placements within the commune or across different communes within the same district, it is the duty of the City/District/Khan Office of Social Affairs, Veterans, and Youth Rehabilitation (OSVY). The Provincial/Municipal DoSVY and the City/District/Khan OSVY shall guide the placement and monitor the welfare of children placed across districts or provinces, whether in community or residential care settings.
4. The relevant officials engaged in the alternative care placements have the right to enter and monitor the residential care facilities with or without notice and be given direct access to the children and their records.

Article 23

Placement decision and monitoring of children in alternative care shall be as follows:

- 1- When alternative care placement is determined to be necessary, the relevant CCWC, City/District/Khan OSVY and Provincial/Municipal DoSVY shall discuss the case and make a joint determination and document the authorization for that placement.
- 2- Prior to placing a child in alternative care, the parents/guardians and the child shall be consulted (if available), and every effort shall be made to keep the child in the same or nearest community as the parents/guardians. They should be informed of where the

child is being placed, unless due to past abuse or exploitation it is determined to be in the child's best interests to keep that confidential.

- 3- The Provincial/Municipal DoSVY or City/District/Khan OSVY social workers shall physically take the child to the new placement after the child has been given counseling and shall explain to the child why he/she is being taken to the new placement, what they can expect there, review the child's rights while in the placement, and inform about a schedule for follow-up visit, shall consult with the caregiver(s) regarding the new placement, and in consultation with the child who is old enough, shall establish a Service Plan for the child.
- 4- The City/District/Khan OSVY social workers shall visit the child placed under alternative care regularly, once per three months, to ensure his/her safety and wellbeing, and shall evaluate every six months the need for family or community reintegration for each child placed in residential care.
- 5- Parental authority over a child who has been entrusted to an orphanage for purposes of care and/or education shall remain with the child's parent or guardian until such parental authority is revoked by the Court for reasons including those cited in civil code.
- 6- Not later than forty-eight (48) hours after receipt of a report on a possible incident of child abuse, violence or neglect of a child placed in temporary alternative care, the Provincial/Municipal DoSVY with oversight of the director of the Department of Child Welfare shall investigate, interview the child and determine the need of removing the child from the alternative care setting in consultation with the child's parents or legal guardian. Whenever practicable, the D/MoSVY shall conduct the interview jointly with the police and/or the commune authorities to minimize the number of interviews of the child
- 7- If the investigation discloses sexual abuse, serious physical violence or life-threatening neglect of the child, the Provincial/Municipal DoSVY with oversight of the Director of the Department of Child Welfare shall immediately separate the child from the danger by removing the perpetrator from the temporary alternative care setting where the child was found or, if necessary for the best interests of the child, by removing the child and placing him/her under protective custody to ensure his/her safety.

If available, families of children placed under alternative care shall receive appropriate services with the goal of family reunification. If a child lives away from their family, the child shall be moved to a temporary placement facility close to the parents to make the reunification process easy unless reunification will not be in the child's best interests as established by past abuse or exploitation.

Chapter 7

Permanency Planning

Article 24

Children for whom family preservation and reunification services have been exhausted, shall be referred to planning for placement with permanent families as follows:

- 1- Prior to the commencement of permanency planning, all family preservation and reunification efforts provided to that point shall be documented along with the reason for the decision to refer the case for permanency planning. The Commune Committee

- for Women and Children (CCWC) and the relevant City/District/Khan Office of Social Affairs, Veterans, and Youth Rehabilitation (OSVY) or Provincial/Municipal Department of Social Affairs, Veterans, and Youth Rehabilitation (DoSVY) social workers shall make a joint decision to start permanency planning.
- 2- Permanency placement is achieved when a child has been incorporated into a family and a Court has decreed legal guardianship, domestic adoption or inter-country adoption.
 - 3- Permanency placement shall be done with decision from a court that biological parents' rights are terminated, or after parents give proper consent for permanency planning. Only the court can make a decision on permanency placement.
 - 4- In case parents or mother or father chooses to voluntarily resign their/his or her parental rights or give consent for permanency planning, they or he/she shall first be given counselling regarding the services available, and the implications of their actions. This counselling shall be provided by a competent social work agent who has been properly trained, and witnessed by the Commune/Sangkat chief.

Article 25.

Procedures to look for a permanent family for the child shall be as follow:

- 1- In finding the new family, priority will be given to placements within the child's extended family, in the community and capital/province. If a child has extended family in a different provincial/Municipal the respective Provincial/Municipal DoSVY shall coordinate efforts with relevant competent authorities to place the child within the child's extended family.
- 2- If the child has no family or the family cannot be found, Provincial/Municipal DoSVY shall look for other permanent families within the child's Commune/Sangkat, City/District/Khan, and/province/Municipal.
- 3- If appropriate families cannot be found within at least 4 (four) months, the Provincial/Municipal DoSVY shall forward the child's name to the Child Welfare Department for consideration of placement within the other/provinces/Municipal.
- 4- After the Child Welfare Department has given due consideration to finding a domestic family and no appropriate family is found within 6 (six) months the child's folder may be referred to the Inter County Adoption Authority for inter-country adoption. This timeframe shall be reviewed annually and amended to shorten, as deemed appropriate

Article 26.

Responsibilities for promotion of domestic placement shall be in accordance with the following procedures:

- 1- It is the responsibility of the Child Welfare Department and Provincial/Municipal DoSVY to promote domestic permanency placements.
- 2- The Provincial/Municipal DoSVY shall conduct on-going campaigns within their respective provinces to recruit foster families, legal guardians and potential adopters. These shall be done with participation from the City/District/Khan OSVY offices and Commune Councils, and by NGOs who do not make inter-country adoption placements. The Provincial/Municipal DoSVY shall train and certify families who come forward to take the children into their homes.
- 3- The Child Welfare Department shall seek support from development partners, make proposal to the Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MoSVY) for funding and technical assistance to the Provincial/Municipal DoSVY for

the recruitment, training and certification of families, and shall conduct national campaigns for seeking families who agree to accept children and refer those families to the Provincial/Municipal DoSVY where the child's residence.

Article 27.

Procedures for permanent care by kin shall be as followed;

- 1- When extended family has cared for a child for at least 6 (six) months and the child is doing well, such a placement shall be considered permanent care unless there is cause for concern.
- 2- In such a case, the relative should be encouraged to enter into a legal guardianship, or adopt the child permanently, but they should not be forced.
- 3- In case the relative needs assistance to care for the child, assistance services shall be provided to the family under family preservation services.

Article 28.

Domestic adoption includes simple adoption and full adoption. Domestic adoption is the first priority for permanence solution for children and shall follow the following procedures:

- 1- Simple and full adoptions shall follow the procedures detailed in the Civil Code Sections 1007-1033.
- 2- All requisite consents for domestic adoptions shall follow the same child protection procedures as for inter-country adoptions, which are detailed in the Law on Inter-Country Adoption and in the various other regulations of the Kingdom of Cambodia. Counseling before giving consent shall be an essential condition of obtaining consent from parents or children. The adoption applicant shall provide the following information; personal history of emotional stability and good relationships, suitable housing and safe neighborhood, ability to provide the child access to adequate education and health care, ability to provide material and emotional support for the child, genuine desire to raise the adopted child the same as a biological child, and feelings of other children who live in the same family.
- 3- The adoptive applicants shall be required to provide the documents and interviews necessary to make these determinations and provide their signatures stating that they will treat the child the same as a biological child and provide support, love, education and inheritance as well as perform the same roles and responsibility as with their biological child.
- 4- The Provincial/Municipal DoSVY personnel shall render his/her best judgment in making the report on the qualifications of the family, then hold a staff meeting with the relevant office of the Provincial/Municipal DoSVY (if any) before the family is finally approved. Upon approval, the applicant shall fill out the form to seek approval from the court for domestic adoption. There shall be a trial period of 6 (six) months before the adoption is finalized by an order of the court. During this time, the director of the Provincial/Municipal DoSVY shall continue to be the guardian of the child, except if the child lives in an orphanage under the direct control of the MoSVY, in which case the Director of Child Welfare Department is the guardian of the child, and shall provide services to increase the chance of a successful transition to permanent adoption. If the adjustment of the child and family is successful, the Provincial/Municipal DoSVY shall assist the family to finalize the adoption. If serious problems develop and the adoption is disrupted, the Provincial/Municipal DoSVY shall continue its efforts to find a permanent family for the child.

Article 29.

Procedures for permanent care by non-kin foster care shall be as follows;

- 1- Children placed in non-kin foster care placements for at least 6 (six) months shall be targeted for permanent guardianship with the family that has cared for them.
- 2- If the condition of the child and family is appropriate, the family shall be encouraged and assisted with the legal process to enter into a permanent legal guardianship of the minor or to adopt the child; otherwise the placement shall continue to be monitored as needed and efforts shall continue to find a permanent family for the child.

Article 30.

For children who reach age 15 in residential care, the Child Welfare Department and Provincial/Municipal DoSVY shall collaborate with residential care directors and relevant NGOs to provide services to prepare them for adulthood including life skills, occupational/vocational skills, plans for further education and resource management skills.

Chapter 8

Final Provisions

Article 31

Provisions on review, placement and permanency planning shall be further detailed in implementing guidelines.

Article 32.

Any regulatory provisions that are contrary to this Prakas shall be deemed of no effect.

Article 33.

Chief of the Cabinet of the Minister, General Director of the General Directorate of Administrative and Finance, General Director of the General Directorate of Technical Affairs, Director of the Child Welfare Department, Provincial/Municipal DoSVY, City/District/KhanOSVY, Provincial/Municipal WCCC, City/District/KhanWCCC, and Commune/Sangkat official responsible for child welfare shall have duties to enforce this Prakas effectively.

This Prakas is in effect as of the date of the signature.

MINISTER

Signature and Seal

ITH SAM HENG

C.C:

- General Secretariat of the Senate
- General Secretariat of the National Assembly
- Office of the Council of Ministers
- Cabinet of the Samdech Prime Minister
- Cabinet of Chomteav Deputy PM Men Sam An
- Ministry of Interior

