

***LAW ON FINANCIAL REGIME AND PROPERTY OF MUNICIPALITIES AND PROVINCES***

Having seen the 1993 Constitution of the Kingdom of Cambodia;

Having seen the Royal Decree dated November 1, 1993 on the Appointment of the Royal Government of Cambodia;

Having seen the Royal Kram No. 02 NS, dated July 20, 1994 on the Organization and Functioning of the Council of Ministers;

Having seen the Royal Decree No. NS-RKT-1094, dated October 31, 1994 on the Reshuffle of the members of the Royal Government of Cambodia;

Having seen the Royal Decree No. CS-RKT-0897-147, dated August 7, 1997 on the Reshuffle of the members of the Royal Government of Cambodia;

Having seen the Royal Kram No. 01 NS-93, dated December 28, 1993 on Financial System;

Having seen the Royal Kram No. NS-RKM-0196, dated January 24, 1996 on the Establishment of the Ministry of Economy and Finance;

Having seen the Royal Kram No. NS-RKM-0297, dated February 24, 1997 on Taxation;

Pursuant to the request of H.E First Prime Minister, Samdech Second Prime Minister and the Minister of State in charge of Rehabilitation and Development and the Minister of Economy and Finance,

**HEREBY PROMULGATE**

**CHAPTER ONE: GENERAL PROVISIONS**

**Article 1**

This Law is aimed at defining the financial regime of Municipalities and Provinces, and the management of property under their control.

**Article 2**

Municipality-Province is the legal person of public laws.

Municipality-Province shall fulfill the competences accorded by Law, including budgets and properties defined by this law.

**Article 3**

Municipality-Province shall be governed by a governor assisted by a number of vice governors under the conditions set out by laws.

**Article 4**

The Governor of Municipality-Province shall represent the central administration in his/her territory.

In financial domain, the Governor is granted with state authority and is under the control of the competent Minister. As for general public administration, the Governor has the duties of coordination, orientation, expedition and surveillance.

**CHAPTER TWO: COMPETENCE AND MANAGEMENT OF MUNICIPAL-PROVINCIAL PROPERTIES**

**Article 5**

Municipality-Province is charged with managing affairs beneficial to its territory, in order to ensure that the public services that do not fall directly under state's responsibility, will meet the need of the residents of the Municipality-Province. The competences of the Municipality-Province will be defined by a Sub-Decree upon a joint-proposal of the Ministry of Interior and the Ministry of Economy and Finance.

#### **Article 6**

In financial domain and in the framework of provisions of law stated in chapter four of this Law, the Governor shall prepare municipal-provincial budgets. As for the budget execution, the Governor is the principal *manager*, opens and closes the administrative accounts.

The Governor raises proposal to the Ministry of Economy and Finance on fiscal and non-fiscal revenues in the framework of fiscal and non-fiscal system for the sake of the Municipality-Province, examines and fosters the revenue collection.

#### **Article 7**

The Governor controls public domain in his/her territory. The Governor manages and preserves the property transferred by State to its control in the framework of effective Laws and regulations.

#### **Article 8**

The financial regime and the management of municipal-provincial properties shall be under the control of the Ministry of Economy and Finance. The conditions of the control shall be specified by a Prakas of the Ministry of Economy and Finance, upon the consent of the Ministry of Interior.

### **CHAPTER THREE: MUNICIPAL-PROVINCIAL PROPERTIES**

#### **Article 9**

The State delegates to each municipality-province the right to maintain and use some public properties and the immovable goods located in the municipality-province according to State's specification.

The delegation is made through a joint Prakas of the Ministry of Economy and Finance and the Ministry of Interior, with signature of the Governor. The delegation shall be revocable.

The Governor, who is the authority maintaining the state's property, has the duties to preserve and repair that property. The Governor shall guarantee the control, and can take the profit from that property upon consent of the Minister of Economy and Finance and agreement of the Ministry of Interior. The Governor shall not lease or transfer the use of that property without the consent in advance of the Minister of Economy and Finance and agreement of the Ministry of Interior.

#### **Article 10**

The State can transfer to Municipality-Province for their advantages, the buildings and achievements, which are originally intended for public use or to meet the need of public services.

#### **Article 11**

The movable and immovable properties intended for public services that Municipality-Province could earn by itself shall be its ownership.

### **CHAPTER FIVE: MUNICIPAL-PROVINCIAL BUDGET**

#### ***PART ONE: MUNICIPAL-PROVINCIAL CHARGES AND RESOURCES***

#### **Article 12**

The municipal-provincial budget shall come under provisions of the Law on Financial System promulgated by the Royal Kram No. NS-93, dated December 28, 1993.

#### **Article 13**

The municipal-provincial budgets shall contain the balance between revenues and expenses. Revenue and expense project shall be drafted and adopted in a real balancing manner, in which precedent management contracts shall be taken into account as well.

#### **Article 14**

The necessary expenses of Municipality-Province are as follow:

1. Repairing and preserving municipal-provincial headquarter, or house or room rental if any;
2. Money for correspondence and document preservation that is under the burden of Municipality-Province;
3. Salary and bonus for personnel who is directly under the burden of Municipality-Province, and allocation for villages, communes and districts;

4. Expenses for public administration performance that falls under municipal-provincial competence as well as public services.
5. Expenses for main management, preservation and reparation of public buildings, common equipment of all sorts, which have been transferred to its control by the State and fallen under its control such as administrative buildings, academic buildings, hospitals, public markets, sport and cultural equipment.
6. Expenses for the maintenance of roads and public gardens, hedge preparation;
7. Expenses for the maintenance of pipelines, wells, water pumping machines, channels to bring out dirty water or rainwater;
8. Expenses that fall under municipal-provincial charges set forth by Laws or regulations.

#### **Article 15**

Apart from expenses stated in Article 14 above, Municipality-Province can have limited, subsidiary expenses such as fees for protocols, meetings, visits. These expenses can be drafted only in case where they do not affect the necessary expenses and not tip the budget balance.

#### **Article 16**

All investment projects with the capital equal to or more than that specified by Prakas may be inserted into the municipal-provincial budgets only upon the consent of the Minister of Economy and Finance in advance.

#### **Article 17**

Revenues for municipal-provincial functioning shall be supported by fiscal revenues from state's budget, or shall be created particularly for the benefit of the Municipality-Province. In no case does Municipality-Province shall have the rights to make a loan decision.

1. Shall be transferred from state's budget to municipal-provincial budgets the fiscal and non-fiscal revenues as follow:
  - a. Fiscal revenues
    - Chapter 10-08: Tax on Unused Land
    - Chapter 11-01: Registration Tax
    - Chapter 12-03: Patent Tax
    - Chapter 12-05: Slaughtering Tax
    - Chapter 12-06: Tax on transportation Means and vehicles
  - b. Non-fiscal revenues
    - Chapter 20-03-13: Revenues from Electricity Supply in Municipality-Province
    - Chapter 20-03-14: Benefits from Water Supply in Municipality-Province
    - Chapter 20-05: Revenues from Public Domain management (markets, parking, docks for ferry-boats, auctioning)
    - Chapter 21-05: Other Non-Fiscal revenues of Municipality-Province.
2. The content of direct fiscal revenues for the benefit of Municipality-Province shall be separately established by Law.
3. The content of non-fiscal revenues for the benefit of Municipality-Province is as follow:
  - a. Revenues from administrative modalities by the use of municipal-provincial authority set forth by Law.
  - b. Revenues from administrative permission.
  - c. Revenues from public services, whose types and rates concern the real importance affirmed by the Municipality-Province vis-à-vis consumers.

These revenues shall be determined by a Sub-Decree of the Royal Government on proposal of the Minister of Economy and Finance and agreement of the Ministries concerned, which will draft a list of maximum revenues.

### ***PART TWO: PREPARATION AND APPROVAL OF MUNICIPAL-PROVINCIAL BUDGETS***

#### **Article 18**

The project of municipal-provincial budget shall be prepared by the Governor according to procedures determined by a Prakas of the Ministry of Economy and Finance.

The project of municipal-provincial budget shall be referred to the Ministry of Economy and Finance by the latest of September 1 of each year, with annexed documents analyzing the program purposes and characteristics of the budgets, and necessary legal documents.

All the projects of municipal-provincial budgets are the budget packages submitted to the National Assembly for approval in the framework of state's general budgets, and shall maintain basic economic balance. The budget package shall be divided to each Municipality-Province by a Prakas of the Ministry of Economy and Finance upon agreement of the Ministry of Interior.

#### **Article 19**

State's credits reserved for municipal-provincial development projects and projects of municipal-provincial characteristics shall be transferred into municipal-provincial budgets, and considered as direct resources and expenses in accordance with the Financial Laws.

### ***PART THREE: EXECUTION AND RULES OF MUNICIPAL-PROVINCIAL BUDGET***

#### **Article 20**

The Municipal-provincial budgets can be altered in the year according to the same conditions stipulated in the Law on Financial System.

#### **Article 21**

Credit flow within the municipal-provincial budgets shall be made in the same conditions specified by a Prakas of the Ministry of Economy and Finance.

#### **Article 22**

When the execution of municipal-provincial budget reveals the sign of deficit and failed to stipulate any measures, the Minister of Economy and Finance shall approve that budget in order to guarantee the balance. Whereas, at the end of each year, if the municipal-provincial budgets show the surplus, the surplus shall be entered into state's budget.

#### **Article 23**

The execution of municipal-provincial budget shall be carried out in conformity with provisions for execution of state's budget. Financial and accounting operations shall be carried out according to rules such as general principles on public accounting, on the creation of financial control of state's expenditures in Ministries, provinces, municipalities, autonomous municipalities, Phnom Penh and public administrative organizations, and rules on public procurement.

The Ministry of Economy and Finance shall issue a Prakas to specify the conditions for executing these rules for Municipality-Province.

The municipal-provincial accounting positions shall be held by a treasury's accountant nominated by the Minister for Economy and Finance.

### **CHAPTER FIVE: MANAGEMENT OF MUNICIPAL-PROVINCIAL PUBLIC SERVICES**

#### **Article 24**

Municipality-Province shall organize the procedures to govern the public services in its territory.

#### **Article 25**

Upon agreement of the Ministry of Interior, the Minister of Economy and Finance authorizes Municipality-Province to exploit on public services in term of supplier (Rathakar), or on the contrary, the Minister can withdraw the authorization. The administrative organization, the financial regime and the functioning of the supplier (Rathakar) shall be determined by a Sub-Decree upon proposal of the Ministry of Economy and Finance.

The revenues and expenses of the supplier (Rathakar) shall be entered into the municipal-provincial budgets. The municipal-provincial accountants shall list those revenues and expenses in the municipal-provincial accounts according to the effective rules. However, Municipality-Province can suggest some public services that have been exploited by the supplier (Rathakar) with an autonomous budget. If those public services have not yet been exploited in term of supplier (Rathakar), they can be the subjects of concession.

**Article 26**

Municipality-Province can establish public enterprises of industrial and commercial natures to govern the public services of industrial and commercial nature in its territory. The organization and functioning of those enterprises shall be carried out in accordance with the laws and regulations in force.

***PART SIX: MUNICIPAL-PROVINCIAL PERSONNEL*****Article 27**

The Governor shall nominate municipal-provincial personnel in the framework of municipal-provincial budgets according to the stipulations of effective norms, in addition to the Law on Common Statute of Civil Servants of the Kingdom of Cambodia, promulgated by the Royal Kram No.06-NS-94, dated October 30, 1994. However, the personnel shall respect the obligations imposed on all public agents.

The personnel to be chosen shall be limited to those who belong to staff category "C" or "D", and which is badly needed after trying the best use of the existing staff.

**CHAPTER SEVEN: SEPARATE PROVISIONS****Article 28**

The modality of the implementation of this Law shall be determined by a Sub-Decree based on the real situation of each Municipality-Province, and by a Prakas of the Ministry of Economy and Finance if necessary.

**CHAPTER EIGHT: FINAL PROVISIONS****Article 29**

Any provisions contrary to this Law shall be null and void.

**Article 30**

This Law shall be proclaimed urgent.