

UNOFFICIAL TRANSLATION

**Kingdom Of Cambodia
Nation Religion King**

**Royal Government of Cambodia
Ministry of Interior**

No. 1329

Phnom Penh, 19 December 2001

**DECLARATION (PRAKAS)
ON
ROLES, DUTIES AND RIGHTS
OF A COMMUNE/SANGKAT CLERK**

CO-MINISTERS

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No.1198/72 dated 30 November 1998 on the appointment of the Royal Government of Cambodia;
- Having seen Royal Kram No.02/94 dated 20 July 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Royal Krma No.0196/05 dated 24 January 1996 promulgating the Law on the Establishment of the Ministry of Interior;
- Having seen Royal Kram No.0301/05 dated 19 March 2001 promulgating the Law on Administration and Management of Commune/Sangkat;
- Having seen Royal Kram No.06/94 dated 30 October 1994 promulgating the Law on the Co-Statute of the Civil Servants of the Kingdom of Cambodia;
- Having seen Royal Decree No.0500/096 dated 19 May 2000 on the Separate Statute for the Ministry of Interior's Civil Servants Framework
- Having seen Royal Decree No.501/175 dated 18 May 2001 on the Establishment of the National Committee for Support to Communes/Sangkat;
- Having seen Sub-Decree No.16 dated 20 December 1993 on the Organization and Functioning of the Ministry of Interior;
- Pursuant to the decision made at the meeting of the National Committee for Support to Communes/Sangkat held on 13 December 2001.

HEREBY DECIDE

CHAPTER 1 GENERAL PROVISIONS

Article 1:

A Commune/Sangkat clerk is an official within the framework of administrative secretary of the Ministry of Interior.

Every Commune/Sangkat Council shall have a commune/Sangkat clerk.

The commune/Sangkat clerk shall be appointed and employed within the structure of the Ministry of Interior.

The Ministry of Interior shall have a duty to allocate a commune/Sangkat to serve one or more Commune/Sangkat Councils.

Article 2:

The commune/Sangkat clerk shall work in the office of commune/sangkat.

Where a commune/Sangkat clerk serves more than Commune/Sangkat Councils, the Ministry of Interior shall decide the place where he/she works.

Article 3:

According to the decision of the Commune/Sangkat Council, a commune/Sangkat chief may submit a written proposal to the Ministry of Interior to consider the change of a commune/Sangkat clerk.

The written proposal shall specify appropriate reason and shall be consistent with applicable laws and procedures.

The Ministry of Interior shall replace a commune/Sangkat clerk who is transferred.

Article 4:

The Ministry of Interior can delegate the Commune/Sangkat Council all or some of its responsibilities and authorities to manage a commune/Sangkat clerk.

The Commune/Sangkat Council can further delegate all or some of these delegated responsibilities and authorities to the commune/Sangkat chief. The delegation, however, shall obtain prior approval from the Ministry of Interior.

Article 5:

The commune/Sangkat clerk is directly and permanently responsible to his/her Commune/Sangkat Council and also to the Ministry of Interior as well as the State Authority.

The commune/Sangkat clerk may report directly to the Ministry of Interior or to the State Authority on some matters concerned with commune/sangkat or the Commune/Sangkat Council if:

- Requested to do so by the Commune/Sangkat Council;
- Requested to do so in terms of this Prakas; or

- Required by the Ministry of Interior to report to it during an intervention into the commune/Sangkat in terms of Article 54 of the Law on Administration and Management of commune/Sangkat.

Article 6:

The commune/Sangkat clerk does not have a superior position or supervisory or disciplinary functions or powers over the commune/sangkat staff that may be employed by commune/sangkat.

A Commune/Sangkat Council cannot delegate to the commune/Sangkat clerk any supervisory or disciplinary functions or powers over the commune/sangkat staff appointed by the commune/sangkat.

CHAPTER 2 ADMINISTRATIVE DUTIES

Article 7:

The commune/Sangkat clerk shall act as a secretary of the Commune/Sangkat Council for matters such as recording, safekeeping and maintaining of all movable and immovable assets that are publicly or privately owned by commune/Sangkat or rented by commune/Sangkat, including:

- Land, buildings, lakes, dams, or canals, etc;
- Official seals, stamps, and records such as correspondence and documents that are the properties of the commune/Sangkat; and
- Office furniture, machineries and equipment, including stationeries.

The commune/Sangkat clerk shall report to the commune/Sangkat chief on annual property inventory and measures for safekeeping and maintaining all movable and immovable assets that are publicly or privately owned by commune/Sangkat or rented by commune/Sangkat.

Article 8:

The commune/Sangkat clerk shall:

- Receive and review all kinds of incoming correspondence and documents; and correctly deliver them to the commune/sangkat office, any committee of the Commune/Sangkat Council, or any committee of the commune/Sangkat chief, or chairperson of the Commune/Sangkat Council, commune/Sangkat chief, deputy commune/Sangkat chief, councilors, commune/Sangkat clerk or other officials employed in the commune/sangkat;
- Discuss with the commune/Sangkat chief the content of correspondence and documents that are received;
- Receive and record the decision of the commune/Sangkat chief and the assignment of works or duties by commune/Sangkat chief to those who will carry them out in commune/Sangkat;
- Assist the commune/Sangkat chief to report the content of correspondence and documents that have been received to the monthly meeting or the special meeting of the Commune/Sangkat Council together with the action that has been taken or proposed by the commune/Sangkat chief.

Article 9:

The commune/Sangkat clerk shall act as a secretary to review all correspondence and documents that is prepared by or on behalf of the Commune/Sangkat Council before they are sent out or are submitted to the Commune/Sangkat Council or a committee to ensure that the correspondence or document is factually correct and complies with all procedural and legal requirements.

CHAPTER 3 LEGALITY

Article 10:

The commune/Sangkat clerk shall act as a secretary and a representative of the Commune/Sangkat Council in making and implementing decisions in accordance with the Law on Administration and Management of Commune/Sangkat, sub-decrees, Prakas, and legal instruments that are adopted by the National Committee for Support to Communes/Sangkat.

The commune/Sangkat clerk shall be responsible for appropriately informing and advising the Commune/Sangkat Council or the legal representative of the Commune/Sangkat Council.

The legal representative of the Commune/Sangkat Council includes chairperson of the Commune/Sangkat Council, commune/sangkat chief, deputy commune/sangkat chief, all committees appointed by the Commune/Sangkat Council or by the commune/sangkat chief, village chief and other officials appointed by the Commune/Sangkat Council.

The commune/Sangkat clerk shall inform and advise the Commune/Sangkat Council what functions and powers it can implement and what procedures and systems it follows to comply with the requirements of laws or any applicable sub-decrees, Prakas or legal instruments.

The commune/Sangkat clerk shall also advise the Commune/Sangkat Council and commune/Sangkat chief about obligations imposed on the Council/Sangkat Council to send documents or to report to the Royal Government or the ministries or agencies of the Royal Government.

The commune/Sangkat clerk shall rely his/her information and advice solely on the provisions of the Law on Administration and Management of commune/sangkat, sub-decrees, Prakas, and legal instruments that are adopted by the National Committee for Support to Communes/Sangkat.

Article 11:

The commune/Sangkat clerk shall assist Commune/Sangkat Council to ensure that every decision or action that is taken on behalf of the Council through commune/Sangkat chief, commune/Sangkat clerk, committees or other representatives of the Council shall be authorized in advance by a decision of the Council, or by the Law on Administration and Management of Commune/Sangkat, or by sub-decree, Prakas and legal instruments that are adopted by the National Committee for Support to Communes/Sangkat.

Article 12:

Where a decision, action or document that are adopted or proposed for decision by the Commune/Sangakt Council is not factually correct and does not comply with procedural and legal requirements, the commune/Sangkat clerk shall note the error and can propose appropriate changes.

The commune/Sangkat clerk shall make his/her note or proposal in writing.

If the Commune/Sangkat Council or its legal representative refuses to accept the change or measures that will ensure that the matter is correct and complies, the commune/Sangkat clerk shall immediately

report the matter to the Ministry of Interior and send a copy of the report to the commune/Sangkat chief.

Article 13:

The commune/Sangkat clerk shall not implement a decision or action that does not comply with all procedural and legal requirements.

CHAPTER 4 COUNCIL AND COMMITTEE MEETINGS

Article 14:

The commune/Sangkat clerk shall correctly prepare letter of invitation and the agenda fixed by the Ministry of Interior for the first meeting of the Council during 14 days after the official announcement of the results of Commune/Sangkat Council elections. The commune/Sangkat clerk shall inform and advise the official designated by the Minister of Interior to preside over the first meeting of the Council to declare the validity of the Commune/Sangkat Council, commune/sangkat chief, deputy commune/sangkat chief and other matters identified by the Minister of Interior; and then shall inform and advise the council chairperson on the procedures and applicable rules and regulations for the conduct and management of the meetings of the council and its committees.

The commune/Sangkat clerk shall inform the council chairperson about:

- Preparation and adoption of internal rules and regulations by the Council for the conduct and management of the meetings before it start businesses after the first meeting;
- The internal rules and regulations for the conduct and management of the meetings shall follow the model that has been approved by the National Committee for Support to Commune/Sangkat and is acceptable to the Council.

Article 15:

The commune/Sangkat clerk shall be allowed to attend every meeting of the Council or the committees appointed by the Council or commune/Sangkat chief.

In case of his/her absence at the meeting, he/she shall ask for prior permission from the chairperson of the Council or commune/Sangkat chief.

Article 16:

The commune/Sangkat clerk shall inform and advise commune/sangkat chief about the formation of a committee as it is necessary.

Article 17:

The commune/Sangkat clerk shall assist the Council chairperson to convene every meeting of the Council and assist the chairperson of a committee to convene every meeting of the committee. The commune/Sangkat clerk shall consult with the commune/sangkat chief to prepare the agenda for every meeting of the Council. As for the agenda for the meeting of the committee, the commune/Sangkat clerk shall consult with the commune/Sangkat chief and the committee chairperson.

The commune/Sangkat clerk shall submit a draft agenda and shall also propose items that should be put on the agenda of the meeting of the Commune/Sangkat Council or a committee.

The commune/Sangkat clerk shall prepare draft report and other documents that are required by the commune/Sangkat chief for submission to the Council or a committee.

The commune/Sangkat clerk shall ensure that the letter of invitation and the agenda for every meeting of the council and committee is timely delivered.

Article 18:

The commune/Sangkat clerk must inform and advise the Council or the committee chairperson on appropriate internal rules or regulations for the conduct and management of the meeting, whenever necessary.

Prior to and during the meeting, the commune/Sangkat clerk shall openly inform the chairman of the meeting about the quorum required to decide matters in compliance with legal principles and procedures.

The commune/Sangkat clerk shall openly count and record the number of votes that are in favor, those that are against and those that are abstained or a proposal that is being decided by the council or a committee.

Article 19:

The commune/Sangkat clerk shall prepare and sign the draft minutes of every meeting of the Commune/Sangkat Council or a committee after consulting with the Council or the committee chairperson.

The commune/Sangkat clerk shall ensure that the draft minutes of every meeting of the Commune/Sangkat Council and the committee is submitted to the next meeting of the Council or the committee for consideration and adoption and signed officially by the commune/Sangkat chief or the committee chairperson.

Article 20:

A copy of the officially signed minutes of the meeting of Commune/Sangkat Council or committee shall be given to every member of the Council or committee concerned.

The commune/Sangkat clerk shall post immediately the decisions of the council and a committee on the public notice board after being adopted by the Council or the committee.

The commune/Sangkat clerk shall keep a copy of every signed minute available at the office of the council for public information or inspection at no cost, or shall make a copy available to any person at the cost of reproduction.

The commune/Sangkat clerk shall not publicize the secret minutes and the decisions of the council in the secret meeting.

CHAPTER 5 IMPLEMENTATION AND MONITORING

Article 21:

The commune/Sangkat clerk shall assist the Commune/Sangkat Council and the commune/Sangkat chief to ensure that every decision of the council and a committee is implemented most strictly in accordance with legal and procedural requirements.

The commune/Sangkat clerk shall assist the Commune/Sangkat Council and the commune/Sangkat chief to trace and monitor the progress of implementing those decisions and shall report monthly to the commune/Sangkat chief and to the Council.

Article 22:

The commune/Sangkat clerk shall assist a committee to make a monthly report on the progress of its activities to be submitted to the Council.

The commune/Sangkat clerk shall monitor or prepare the draft report of a committee though the committee designates its staff to do so.

CHAPTER 6 SELECTION OF VILLAGE CHIEF

Article 23:

The commune/Sangkat clerk shall advise commune/Sangkat chief about the competence of the Commune/Sangkat Council in selection of a village chief and assistant of village chief for each village as soon as possible in accordance with procedures established by the Ministry of Interior and approved by the National Committee for Support to Communes/Sangkat.

CHAPTER 7 PUBLIC NOTICES

Article 24:

The commune/Sangkat clerk shall assist the Commune/Sangkat Council to set up one or more notice boards in commune/Sangkat that are accessible to the general public to inspect and know about every decision or work result of the Council and other information relating to the commune/Sangkat.

CHAPTER 8 NEUTRALITY OF WORK PERFORMANCE OF COMMUNE/SANGKAT CLERKS

Article 25:

The commune/Sangkat clerk shall be neutral and impartial and act equally towards all residents of the commune/Sangkat, councilors, and political groups of the Commune/Sangkat Council, and committees.

The commune/Sangkat clerk shall not use the commune/sangkat's means, equipment, budget and working hour to serve his/her own interest or any political party.

Article 26:

The commune/Sangkat clerk shall not give any information or advice solely or exclusively to an individual councilor, or to any particular group of councilors, or to any single political party of the council, on any matter that is within the scope of the Commune/Sangkat Council.

This restraint does not prevent the commune/Sangkat clerk from giving information and advice that he/she is required to give in the course of his/her duties to the Council chairperson, commune/Sangkat chief or deputy commune/Sangkat chief, or other authorized representatives of the Council.

The commune/Sangkat clerk shall not give an opinion, information or advice to any person, group of institution that is not part of the Commune/Sangkat Council concerning any subject matter that is within the scope of the Commune/Sangkat Council.

CHAPTER 9 FINAL PROVISIONS

Article 27:

Any provision which is contradicted to this Prakas shall be abrogated.

Article 28:

The Prakas shall take effect from the date it is signed.

CO-MINISTERS

Signed and sealed

Sar Kheng You Hockry

CC:

- Ministry of Royal Palace;
- Secretariat General of the Senate;
- Secretariat General of the National Assembly;
- Cabinet of Prime Minister;
- Members of NCSC;
- Concerned Ministries or institutions;
- Municipal, Provincial, District and Commune Offices
 " For information "
- Documentation-chronology" *For information "*