

LEGAL UPDATE

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1. Prakas on the Implementation of the Right of Parties in Secured Transactions

The Prakas on the Implementation of the Right of Parties in Secured Transactions was promulgated on 23 October 2023 by the Ministry of Commerce with 14 Articles (the “Prakas”).

The Prakas aims to determine the filing, search for public records, request for certified records, caution-listing, and obligations of the units under the Ministry of Commerce in order to strengthen the mechanism of implementing the rights of the parties to the security agreement filed at the secured transactions filing office in accordance with the Law on Secured Transactions. In addition, the purpose of the Prakas is also to clarify the type of movable things that can be used as collateral to secure the obligations. The collateral may be the goods, farm products, equipment, inventory, serial numbered vehicle, fixture, account, secured sale contract, letter, document, consignment, and intangible property.

The officer of the secured transactions filing office has the authority on all the administrative work in order to ensure the filing is effective, efficient, accountable, and transparent. They also have the authority to refuse the filing within 07 (Seven) working days after receiving the notice with the 04 (Four) conditions as stated in Article 10 of the Prakas.

2. Royal Decree on the Establishment, Organization, and Functioning of the National Authority for Alternative Dispute Resolution

The Royal Decree on the Establishment, Organization, and Functioning of the National Authority for Alternative Dispute Resolution was promulgated on 02 November 2023 with 6 Chapters and 22 Articles (the “Royal Decree”).

The Royal Decree determines the establishment, organization, and functioning of the National Authority for Alternative Dispute Resolution in Cambodia (NAA) as a complementary mechanism in order to enhance the quality, efficiency, and speed of dispute resolution while reducing the congestion of lawsuits at court and bringing the dispute resolution closer to the local community as well as maintaining social harmony and justice.

The NAA handles civil disputes, commercial disputes, and other disputes through conciliation based on the mutual consent of the parties or at the request of the parties, save and except for the dispute that is not subject to the conciliation as determined by the law.

In addition, the roles and duties of the NAA as stated in the Royal Decree are:

- Lead, facilitate, and implement alternative dispute resolution through dispute conciliation;
- Establish policies, strategic plans, guidelines, measures, and regulations for the implementation of alternative dispute resolution within its jurisdiction;
- Implement the code of ethics, code of conduct, rules, and regulations for the implementation of dispute conciliation within its jurisdiction;
- Receive and resolve complaints that are requested for conciliation;
- Establish mechanisms to inspect and resolve the out-of-court dispute or complaint at the local level through conciliation in cooperation with the relevant authorities;
- Monitor, collect information, and evaluate the progress of the work of alternative dispute resolution in Cambodia within its jurisdiction;
- Report to the Head of the Government on the progress, challenges, and proposed measures in relation to the alternative dispute resolution within its jurisdiction;
- Perform other duties as assigned by the Head of the Government.

The conciliation of the dispute under the framework of the NAA shall be resolved by the dispute conciliation official appointed by the NAA or by the group of the dispute conciliation appointed by the NAA. The official may be selected among the civil servants, among the notaries, lawyers, and other legal professionals, or among other person with legal skills or expertise related to dispute resolution. They shall be trained at the Ministry of Justice on legal skills, and dispute resolution skills, including the code of ethics and code of conduct.

The formalities and detailed procedures on dispute conciliation under the framework of the NAA including the form and content of the protocols to settle the disputes shall be determined by the NAA.

3. Inter-Ministerial Prakas on the Determination of Contribution and Implementation Date for the Health Care Social Security Scheme through Voluntary Contribution Regime for Self-Employed Person and Individual under the Responsibilities of NSSF Member as Person defined by the Provisions of the Labor Law and Self-Employed Person

The Inter-Ministerial Prakas on the Determination of Contribution and Implementation Date for the Health Care Social Security Scheme through Voluntary Contribution Regime for Self-

Employed Person and Individual under the Responsibilities of NSSF Member as Person defined by the Provisions of the Labor Law and Self-Employed Person was promulgated on 13 November 2023 by the Ministry of Labor and Vocational Training with 7 Articles (the “**Prakas no. 330/23**”).

The Prakas no. 330/23 determines the contribution and the implementation of the health care social security scheme through a voluntary contribution regime. The contribution shall be equal to 2.6% (Two point six percent) of the contributable income for the first level benefit and the contributable income shall be 600,000 (Six hundred thousand) Riels.

The minimum income for the self-employed person shall be determined by the Inter-Ministerial Prakas between the Ministry of Labor and Vocational Training and the Ministry of Economy and Finance.

4. Notification on Incentives for Informal Economy Voluntary Business Registration

The Notification on Incentives for Informal Economy Voluntary Business Registration was issued on 21 November 2023 by the Ministry of Commerce.

After the launch of the "National Strategy for Informal Economic Development 2023-2028" by the Royal Government of Cambodia, the Ministry of Commerce has decided to provide incentives to those who wish to register businesses as the formal economy in Cambodia with support from the Royal Government such as:

1. Exemption of compliance obligations
2. Exemption of penalty for business that is operating and is not properly registered.

5. Notification on Annual Inspection on Payment of Tax on Means of Transportation of 2023

The Notification on Annual Inspection on Payment of Tax on Means of Transportation of 2023 was issued on 18 December 2023 by the General Department of Taxation.

The capital-provincial joint working group led by the tax officers, cooperating with the competent authorities at the sub-national level, will inspect the declaration on payment of tax on means of transportation of 2023 on some main roads of the capital-province from 15 January 2024 to 31 March 2024.

The General Department of Taxation has reminded the owners of all means of transportation to declare payment of tax on means of transportation and additional tax for the late payment

according to the law in force at the General Department of Taxation or the Provincial/Khan Tax Branches or the Canadia Bank/ACLEDA Bank/Vattanac Bank/Cambodian Public Bank/J Trust Royal Bank/Sathapana Bank/Cambodia Post Bank/ABA Bank/Foreign Trade Bank or GDT Taxpayer App for all types of vehicles that had declared payment of tax on means of transportation before.

6. Instruction on the Issuance of Foreign Work Permit for Foreign Employer

The Instruction on Issuance of Foreign Work Permit for Foreign Employer was issued on 28 December 2023 by the Ministry of Labour and Vocational Training.

Based on the Labor Law and Prakas on Foreigner Work Permit and Foreigner Employment Card, dated 20 August 2014, the foreign employer, having a name in the patent tax is required to have a foreign work permit. The application to request for foreign work permit shall be made through www.fwcms.mlvt.gov.kh with the attached documents:

- a. Valid passport
- b. Latest patent tax
- c. Physical examination certificate
- d. Photo 4x6 cm

In addition, for the foreigner as an employee, having a name in the patent tax or as a self-employed person, is also required to have a work permit and an employment card. For the foreigner as a shareholder and a member of the board of directors in the company's articles of incorporation, having no visa residing in Cambodia, is not required to have a foreign work permit.

DISCLAIMER

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