



Kingdom of Cambodia

Nation Religion King

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Royal Government of Cambodia

N. : 114 ANKr.BK

SUB DECREE

ON

THE MORTGAGE AND TRANSFER OF THE RIGHTS OVER A LONG-TERM LEASE OR AN ECONOMIC LAND CONCESSION

The Royal Government of Cambodia

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0704/124, dated July 15, 2004, on the Appointment of the Royal Government of the Kingdom of Cambodia;
- Having seen Royal Kram No. 02/NS/94, dated July 20, 1994, promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Royal Kram No. 04/NS/94, dated August 10, 1994, promulgating the Law on Land Management, Urban Planning and Construction;
- Having seen Royal Kram No. NS/0699/09, dated June 23, 1999, promulgating the Law on Establishment of the Ministry of Land Management, Urban Planning and Construction;
- Having seen Royal Kram No. NS/RKM/0801/05 dated August 30, 2001, promulgating the Land Law;
- Having seen Royal Kram No. 03/NS/94, dated August 5, 1994, promulgating the Law on Investment;
- Having seen Royal Kram No. NS/0303/009, dated March 24, 2003, promulgating the Law on the Amendment to the Law on Investment;

- Having seen Sub-decree No. 62 ANKr.BK, dated July 20, 1999, on the Organization and Functioning of the the Ministry of Land Management, Urban Planning and Construction;
- Having seen Sub Decree No. 46 ANKr.BK, dated May 31, 2002, on Procedures for Establishing Cadastral Maps and Master Land Register Book;
- Having seen Sub decree No. 48 ANKr.BK, dated May 31, 2002, on Sporadic Land Registration;
- Having seen Sub-decree No. 118, dated October 07, 2005, on State Land Management;
- Having seen Sub-decree No. 146 ANKr.BK, dated December 27, 2005 on Economic Land Concession;
- Having seen Sub-Decree No. 111 ANKr.BK, dated September 27, 2005, on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia;
- Pursuant to the need of the Royal Government.

HEREBY D E C I D E S:

Article 1:

The purpose of this Sub-Decree is to determine principles and terms and conditions for granting rights to investors to put up as security and transfer of rights over a long-term lease or an economic land concession during the period of time not exceeding the period prescribed in the long-term lease agreement or the economic land concession agreement.

Article 2:

In this Sub-Decree, the terms:

- “**Transfer of rights**” means the transfer of all the rights specified in the land concession agreement or in the long-term lease agreement;
- “**Mortgage**” means the offer of rights over a long-term lease or an economic land concession as security for repayment of a debt;
- “**Long-term lease**” means the lease of an immovable property by a physical person, a legal entity or the Royal Government in compliance with the laws of the Kingdom of Cambodia. Long-term lease shall have a period of 15 (fifteen) years or more;
- “**Land concession**” means economic land concession authorized by the Royal Government to an investor that has fulfilled the conditions required by the laws of the Kingdom of Cambodia;
- “**Lease**” means a lease contract of an immovable property made between the owner of the property and the lessee;

- “**Lessor**” means the owner of a property who leases its property to somebody ;
- “**Lessee**” means the person who leases the property from its owner;
- “**Inscription**” means record of any event in the book or register in accordance with determined procedure in order to properly manage immovable property according to laws;
- “**Privilege**” means special right granted as a plus to any function or to any group;
- “**Preference**” means right granted to a person for doing or receiving something before the others;
- “**Deceased**” means those who have passed away.

Article 3:

A mortgage or transfer of rights over a long-term lease or right over an economic land concession shall not extend to the mortgage or the transfer of the concessionary land or the long-term leased land that the investor receives from the State.

The investor cannot transfer or mortgage his/her rights over an economic land concession which has not been developed in conformity with the conditions of the economic land concession agreement.

Article 4:

A land concession is a legal right granted in a legal document issued by a competent authority at its discretion to any natural person or legal entity or group of persons to occupy a land and to exercise the rights thereon in accordance with specific terms and condition.

A land concession can only create rights for the period specified in the agreement establishing such economic land concession. The right over land concession cannot create ownership on the conceded land for the benefit of the concessionaire.

Article 5:

Only immovable property registered in the Master Land Register can be subject of a concession or long-term lease.

In case the lease is made with the Royal Government and the land is not titled, the lease shall be signed by the Minister of the Ministry of Economy and Finance together with relevant ministers or heads of institutions, or provincial-municipal governors who are the trustee authorities of the said land.

Article 6:

The land concession or long-term lease shall be mentioned on the land title certificate at the Ministry of Land Management, Urban Planning and Construction. The Ministry of Land Management, Urban Planning and Construction shall issue “Certificates of long-term lease” and “Certificates of economic land concession”.

Every mortgage or transfer of the right over the long-term lease or right over land concession shall be recorded in the corresponding certificate of long-term lease or economic land concession.

Article 7:

The lessee or concessionaire shall have the right to mortgage or transfer his/her right over the long-term lease or the land concession as well as the buildings and/or other immovable properties that he/she has constructed on the land except as otherwise specified in the lease agreement or the economic land concession agreement or as restricted by law.

Article 8:

When the lessee or the concessionaire dies, his/her successors can inherit his/her rights over the long-term lease or land concession for the remaining period of the long-term lease or concession.

A natural person or legal entity or a group of peoples authorized to lease a land from the State can sub-lease to a third party but subject to prior approval from the competent authority.

Article 9:

In all cases, the creditor cannot become owner and has no right to claim ownership of the immovable property rented by or conceded to his debtor who has used his right over the lease or the concession as security. Any contract that would decide otherwise shall be considered null and void.

The creditor has the right to file a complaint at the court against his/her debtor who has mortgaged his/her rights for a settlement pursuant to applicable law and procedure for repayment of the debt according to the order of preference and privilege that he/she has with the other creditors and only for the period of time allowed in the lease or concession agreement.

The creditor shall not have the rights to claim the right to dispose of the immovable property leased or possessed through a concession by his/her debtor.

Article 10:

The certificates of long lease and economic land concession shall clearly specify the category of immovable property, its size, location, the identity of the owner of the land, the identity of the lessee or concessionaire as well as the duration of the lease or concession. The Certificate of long-term lease and the Certificate of economic land concession are attached as annexes 1 and 2 to this sub-decree.

The fees for issuing the certificate of long-term lease and of economic land concession and inscription shall be determined by a joint Prakas of the Ministry of Land Management, Urban Planning and Construction, and the Ministry of Economy and Finance.

Article 11:

Any provisions which are contrary to this sub-decree shall be deemed abrogated.

Article 12:

The Minister in charge of the Office of the Council of Ministers, the Minister of Economy and Finance, the Minister of Land Management, Urban Planning and Construction, the Minister of Commerce, the Minister of Agriculture, Forestry and Fisheries,, the relevant ministers-secretaries of State, the Council for the Development of Cambodia, the Governors of provinces and municipalities, the Directors of all relevant institutions-entities shall be in charge of implementing this sub-decree according to their duties respectively from the date of signature.

Phnom Penh, on 29th August 2007

The Prime Minister

Hun Sen

cc:

- The Ministry of the Royal Palace
- The Secretariat General of the Constitutional Council
- The Secretariat General of the Senate
- The Secretariat General of the National Assembly
- The Secretary General of the Royal Government
- The Cabinet of Samdech Prime Minister
- Cabinet of H.E. Deputy Prime Minister
- As in Article 12
- Official Gazette
- Document-Archive