

KINGDOM OF CAMBODIA
Nation - Religion - King

PRAKAS ON

LICENSING OF GENERAL AND LIFE INSURANCE COMPANIES

Senior Minister, Minister of Economy and Finance

- With reference to the Constitution of the Kingdom of Cambodia.
- With reference to the Royal Decree No. NS/RKT/0704/001 dated July 13, 2004.
- With reference to the Royal Decree No. NS/RKT/0704/124 dated July 15, 2004 on formation of Royal Government of Kingdom of Cambodia.
- With reference to Preah Reach Kram No 02/NS/94 dated July 20, 1994 on promulgation of the Law on Organization and Function of Council of Ministers.
- With reference to Preah Reach Kram No. NS/RKM/0196/18 dated January 24, 1996 on promulgation of the Law on Establishment of the Ministry of Economy and Finance.
- With reference to Preah Reach Kram No NS/RKM/0700/02 dated July 25, 2000 on promulgation of the Law on Insurance.
- With reference to the Sub Decree on Insurance No 106 ANKr. dated October 22, 2001.
- With reference to the Sub Decree No 04/ANKr.BK dated January 20, 2000 on promulgation of the Law on Establishment of the Ministry of Economy and Finance.
- With reference to the Sub Decree No 78/ANKr.BK dated November 18, 2000 on modifications of some departments of the Ministry of Economy and Finance.
- With reference to Prakas 584 MEF dated September 2005 on modifications of organization and function of Department of Financial Industry.
- Pursuant to the necessity of the supervision of insurance activities of the Department of Financial Industry.

Hereby Decides

Chapter I

General Provisions

Provision 1:

Insurance Company is a legal entity properly constituted under the laws of the Kingdom of Cambodia to assume the insurance risks under insurance contracts as defined in Chapter I of the Law on Insurance and must obtain a license from the Ministry of Economy and Finance before commencing business.

Provision 2:

An applicant for an insurance company license shall take one of the legal forms provided for in Chapter IV of the Law on Insurance. Further the new applicant is required to have a minimum of three shareholders.

Provision 3:

Before obtaining a license, an applicant is required to show evidence of compliance to Article 48 of the Law on Insurance as follows:

- (1) Maintain a deposit of a sum equal to 10% of the registered capital;
- (2) Maintain a minimum solvency margin of 50% of registered capital.

Chapter II

Procedure for Submitting a License Application

Provision 4:

The application for a license shall be submitted, on a form obtained from the Department of Financial Industry of the Ministry of Economy and Finance, by a duly authorized individual (Board member, general manager or other person expressly empowered to make such application) and shall indicate the following:

(a) Corporate Information

- (1) Name of the Insurance Company.
- (2) Address of the headquarters or of the branch office in the Kingdom of Cambodia.
- (3) Legal form and the Articles of Association, by-laws or other founding instruments.
- (4) Type of securities representing the capital and the relationship between the holders of such securities and the exercise of the voting rights.
- (5) Amount of existing or planned registered capital and paid-up capital.
- (6) Distribution of share and voting rights, possible agreements between shareholders acting in concert with a view to directing the policy of the insurance company.
- (7) Contributors of capital which will hold, directly or indirectly, 10 percent or more of the voting rights must provide the information listed in Provision 5 of this Prakas.
- (8) Identity of those persons (minimum of two) responsible for the effective direction of the insurance business or the management of any major functions thereof (sales, claims, underwriting, accounting). These designated managers must provide the information required in Provision 6 of this Prakas and the branch managers of foreign insurance companies in Cambodia must be appointed by the competent authorities at headquarters.
- (9) Identify the members of the decision-making body and the information required in Provision 6 of this Prakas.

- (10) If the legal entity for which the application is made has already been founded, provide a description of its business and certified copies of its last three audited financial statements.

(b) Business Plan

Description of the planned activity over the next three years:

- (1) Nature and volume of the different types of insurance to be written and the anticipated need of reinsurance.
- (2) Nature and volume of other services offered to customers (risk management, loss prevention, etc.)
- (3) Type of clients (private individuals, companies, international organization etc...) that the insurer intends to seek.
- (4) Nature of planned financial resources: own funds, shareholder advances, bank borrowing or other loans.
- (5) Development costs for setting up the company.
- (6) Likely number of employees over the next three years broken down by category of employment.
- (7) Likely number and location of branch offices in the Kingdom of Cambodia.
- (8) Balance sheet and profit and loss statement forecasts for the next three accounting periods

(c) Internal audit

- (1) Existing and planned internal audit structure to assume compliance with financial regulatory requirements.
- (2) Methods for setting internal limits on the various types of exposure and planned procedures for ensuring compliance including intended limitation on the authority of agents.
- (3) Planned procedures for establishing and ensuring compliance with ethical standards with particular regard to sales activity and fair competition.
- (4) Composition and duties of the Internal Audit department.

(d) External audit:

- (1) Identity of proposed auditors, who must be on or seek inclusion on the list of approved external auditors of insurance companies.
- (2) Nature of auditor's assignments.

(e) Sample of Policies:

Sample of insurance policies, endorsements, brochures or any type of advertising materials to be used.

(f) Additional Requirements for Branches or Subsidiaries of Foreign Insurers:

- (1) Description of procedures for parent company control of foreign branches or subsidiaries.

- (2) Description of supervision of foreign branches or subsidiaries by the competent home country authority.
- (3) Audited balance sheets and profit and loss statement for the last three accounting periods.
- (4) Auditing financial reports for the last three years that has been certified by domicile external auditors.
- (5) Designation of the location of its intended branch office in the Kingdom of Cambodia.
- (6) Translation of its certificate of authority to do business in its country of domicile.
- (7) Information and letter of approval from its domicile regulator, which certifies that Insurance Company is able to pay the claims and compliant with the requirement of domicile supervision (in Khmer Language)
- (8) Appointment letter of legal person or physical person fit and proper to manage the branch in Cambodia.
- (9) The information required in Provision 6 and accompanied by the curriculum vitae and criminal records, if any, of those persons who will be managing the branch.
- (10) Such other documents that may be required by the Financial Industry Department of the Ministry of Economy and Finance.

Provision 5:

Shareholders holding 10% *or* more of the applicant's capital or the voting rights must provide the following information:

(a) Identity of the capital contributor:

- In case of a legal entity: indicate the business name, legal form and address of headquarters.
- In case of an individual, the full name, date and place of birth, nationality (dual where applicable) and domicile address.
- Each individual and general manager of legal entity shall provide curriculum vitae and complete the questionnaire as stated in Provision 6.

(b) Indicate the amount and percentage of the proposed participation and its equivalent in the voting rights.

Describe in detail the legal and financial arrangements for the acquisition of the securities. If the contributor is an individual, indicate precisely the origin of funds for the purchase of the shares.

State whether the transaction is subject to particular formalities in respect of regulations such as those applicable to foreign investment in the Kingdom of Cambodia and whether such formalities have been complied with.

(c) Indicate the distribution of share capital of the capital contributor. If need be, state the distribution of share capital of the parent company and of intermediate holding companies (give percentages in terms of shareholdings and voting rights).

List the general manager and other managers of the capital contributor.

(d) Describe the activities of the capital contributor.

If the capital contributor is part of a group, provide a description of the main entities of said group together with an organization chart. Indicate whether the capital contributor has significant equity holdings in other insurance or banking institutions.

Indicate whether the group to which the capital contributor itself belongs has significant equity holding in insurance or banking institutions. If so, list such interests.

- (e) State whether the capital contributor and the companies possibly associated with it carry on insurance or banking activities.

If so, indicate the regulations and the authorities to which they are subject in this respect.

Provision 6:

Each of the person identified in Provision 4 as performing managerial position as those required to do so under Provision 5 must provide the following information by filling in the curriculum vitae and questionnaire.

- (a) Manager's identity:

(1) Full Name

(2) Date and place of birth

(3) Nationality

(4) Person address (give planned place of residence after taking up the appointment, if different; managers should have their residence close to the main place of business, namely inside Cambodia)

- (b) Qualifications and experience:

(1) Academic degrees as well as date and place where diplomas/degrees were awarded.

(2) Work experience over the past ten years, including the name, place of business and activity of the employer(s), the type of experience gained and the level of responsibility.

- (c) Indicate whether, in carrying out your duties, you will act in concert with or in accordance with the instructions of another individual or legal entity other than applicant. In either case, give all relevant information.

- (d) Describe the managerial tasks for which you will be directly responsible.

- (e) Indicate whether you are or in the past ten year have been a significant shareholder (namely holding directly or indirectly at least 10% of the share capital of voting rights) of a company or companies and the amount of your shareholding or interest in same.

- (f) Indicate, to the best of your knowledge, which of the company in which you have held or hold a position of responsibility, or in which you have been or are a significant shareholder, have or might soon have significant business relations with the applicant.

- (g) Indicate whether in Cambodia or abroad you have been the subject of a professional, administrative, or judicial proceeding resulting in a penalty. Give all relevant details, as appropriate.

- (h) Indicate whether you currently have, or intend to have, an amicable arrangement with creditors or any other judicial or extra judicial arrangement, in Cambodia or abroad, for the purpose of settling debts that you have been

unable to honor in accordance with your initial commitments. State whether you are aware of any such proceeding involving companies in which you are or have been a significant shareholder. Give all relevant details.

- (i) Indicate whether you have been the subject of disciplinary or dismissal proceedings by any of your employers, if so, give all relevant details.
- (j) Indicate whether you are a capital contributor to the applicant and whether you intend to carry out, either directly or through an intermediary, personal or professional transactions with the applicant.
- (k) Provide all additional information to the insurance regulator regarding your competence and character to hold a managerial position with the applicant.

Chapter III

Approval and Related Fee

Provision 7:

The Ministry of Economy and Finance shall provide written notification of its decision within 45 days from the receipt of application including all relevant documents. Where appropriate a conditional approval shall set out the specific conditions laid down by the Ministry of Economy and Finance for its entry into force and the timetable for the condition to be met. If the condition has not been met upon expiry of the deadline and if no extension has been granted, the conditional approval becomes void and no license will be issued.

Provision 8:

A license is valid for a period of three years from the approval date. A license shall be renewed on a three-year basis only if all infractions of relevant laws and prudential regulations have been remedied. The license fee is KHR 50 million.

Provision 9:

All licensees are required to make compulsory payments to the Government as follows:

- (a) The licensees shall pay to the National Treasury the various taxes as stated in the Law on Taxation of the Kingdom of Cambodia;
- (b) The licensees shall pay to the Financial Industry Department a levy of 0.5% of gross premium to cover the expense of promotion and advertisements for the development of the insurance sector in the country.

Chapter IV

Suspension and Revocation of License

Provision 10:

The Minister, on the recommendation of the Department of Financial Industry, may revoke the license of a licensed insurer, if-

- (a) the licensed insurer has ceased to issue any new policy in respect of its licensed business;

- (b) the licensee is carrying on its business in a manner which is likely to be detrimental to the interests of its customers;
- (c) the licensee is contravening or has contravened any of the provisions of the Insurance Law and subsidiary legislation;
- (d) the licensee, or any of its officers responsible for its management, has furnished false, misleading or inaccurate information or has concealed or failed to disclose material facts in its application for a license under this Prakas;
- (e) the licensee or any of its directors or officers responsible for its management, has been convicted of an offence under the Insurance Law or subsidiary legislation or an offence relating to fraud or dishonesty under any other written law;
- (f) the licensee is unable to meet its obligations, financial or otherwise;
- (g) the licensee proposes to make or has made an arrangement with its creditors or has gone into liquidation or has been ordered to be wound up or otherwise dissolved;
- (h) a receiver or manager of the property of the licensee has been appointed;
- (i) possession of property of the licensee has been taken by or on behalf of a debenture holder pursuant to a charge on the property;
- (j) the licensee has failed to effect reinsurance arrangements appropriate to the business; or
- (k) it is in the interest of the public to do so.

Provision 11:

- (a) Where a license is proposed to be revoked, a written notice specifying the proposed revocation and the grounds for the revocation shall be given to the licensee.
- (b) The licensee shall be given an opportunity to make written representation to MEF within fourteen days of service of the notice.
- (c) Where no written representation is received by the Department of Financial Industry within the period specified in (b), the Minister shall revoke the license by written notice.
- (d) Where representation is received, the Minister upon consideration of the representation shall give the licensee written notice of the decision.
- (e) Where the Minister decides not to revoke the license, it may impose such condition or restriction on the license as may be specified in the notice.

Provision 12:

A licensee dissatisfied with the revocation of its license, within fourteen (14) days of the date written notice, may appeal against the decision to the Court.

Provision 13:

The Minister, the Department of Financial Industry, its director, employees or any persons acting on its behalf, shall not be liable to an action or other proceedings for damages for, or on account of, or in respect of, an act done or statement made, or omitted to be made, in the performance of a function under Provision 10 of this

Prakas if the act was done or statement was made, or omitted to be made, in good faith.

Chapter V

Other Provisions

Provision 14:

Whenever any proposed acquisition of shares in the insurance company shall result in shareholder having, directly or indirectly, 10% or more of the company's shares the proposed shareowner must file with the Financial Industry Department of the Ministry of Economy and Finance including the source of funds for the acquisition. Shares acquired without the prior approval have no rights, powers or knowledge until approval is obtained.

Provision 15:

In the event of the appointment of a new general manager or a change in any of the persons identified in Provision 4 as responsible for the effective direction of the insurance company, such new appointees must file with the Financial Industry Department of the Ministry of Economy and Finance the required curriculum vitae as stated in Provision 6.

Except in cases of the emergency appointment or replacement of such Individual, the required documents should be furnished at least one month before the person concerned assumes the position.

Provision 16:

If any persons serving as a general manager or as a person identified as responsible for the effective direction of the insurance company is determined by the Financial Industry Department to be incompetent or otherwise unqualified to hold such a position, that person may be ordered to be removed from Office within a specified time period made in an order. The insurance company may, if it believes that the order for removal is based on erroneous information, can appeal against such order to the Minister of Economy and Finance within ten days of the receipt of such order. If the Minister agrees with such order within ten (10) days from the appeal, the said order must be complied with.

Provision 17:

Other natural changes in the legal or financial status of an insurer must be submitted to the Financial Industry Department of the Ministry of Economy and Finance for approval. Application materials should be accompanied by a description of the reasons for the change in operation and, as applicable, by the following information:

- (1) Extension or redefinition of activity: the information referred to Provision 4(b) of this Prakas must be furnished.
- (2) Capital reduction: description of terms and conditions, namely legal and accounting arrangements and indication of the new amount of own funds with possible effects on future business and prudential ratios,
- (3) Change in legal form: draft amendments to the Articles of Association and information concerning management bodies.

(4) Change in type of business: draft amendments to the Articles of Association.

All these changes must be submitted to Department of Financial Industry of the Ministry of Economy and Finance at least two (2) months before their enforcement unless a shorter notification period has been approved by the Department of Financial Industry.

Provision 18:

The licensees can open domestic branch offices in Cambodia only with prior approval of the Ministry of Economy and Finance.

Provision 19:

Any person who contravenes or fails to comply with a provision of this Prakas commits an offence and is liable to a fine not exceeding KHR 10 million payable to National Treasury;

Provision 20:

Prakas 864 MEF dated 23 November 2001 and any other provisions contrary to those of this Prakas are hereby repealed.

Provision 21:

This Prakas is effective from the signing date.

Phnom Penh, 17 January 2007

**Senior Minister
Minister of Economy and Finance**

signed

Keat Chhon

Copied to:

- General Secretariat of the Senate
- General Secretariat of the National Assembly
- The Cabinet of Samdech Prime Minister
- The Council of Ministers
- Archives – records