

*Law adopted by the National Assembly
on 14-11-2001, during the 7th Session,
of its 2nd Legislature.*

(*UNOFFICIAL TRANSLATION*)
by Kimpo/LAU/COHCHR,
on 28-01-2002

**KINGDOM OF CAMBODIA
NATION-RELIGION-KING**

**LAW
ON
AMENDMENT TO THE LAW ON CRIMINAL PROCEDURE,
ARTICLES 36, 38, 90, AND 91**

ONE SOLE ARTICLE :

Article 36, 38, 90 and 91 of the Law on Criminal Procedure promulgated by the Kret (Decree) n° 21, dated 8th March 1993 by the State Council of the State of Cambodia are amended as follows:

NEW ARTICLE 36 :

Those who shall be considered as justice police officers or who may perform the function as justice police officers are:

- 1- Prosecutors and investigating judges (on duty only) ;
- 2- Governors, Deputy-Governors of the Municipalities, provinces, districts (Srok/Khan), and Commune Chiefs (Mekhum/Chau Sangkat);
- 3- Directors and Deputy-Directors of Departments, Chiefs and Deputy-Chiefs of offices, and Chiefs , and Deputy-Chiefs of Sections:
 - Department of Criminal Police;
 - Department of Economic Police;
 - Department of Technique and Scientific Police;
 - Department of Anti-Terrorism;
 - Department of Border Police (only for cross-border offense);
 - Department of Foreigners;
 - Department of Anti-drugs.
- 4- Municipal or Provincial Police Commissioners or Deputy-Commissioners;
- 5- Chiefs and Deputy-Chiefs of offices, and Chiefs , and Deputy-Chiefs of Sections responsible for criminal affairs subordinated to the provincial/municipal police commissariat.
 - Office of Serious Crime Police;
 - Office of Minor Crime Police;
 - Office of Economic Police;
 - Office of Technique and Scientific Criminal Police;
 - Office of Anti-drug Police;

- Office of Foreigner Police.
- 6- Inspectors, Deputy-Inspectors, and chiefs and Deputy-Chiefs of Criminal Sections of the Police Inspectorate of the District (Srok /Khan)
 - 7- Chiefs, Deputy-Chiefs of Sections of the Traffic Police, and Chiefs, and Deputy-Chiefs of Sections of the Traffic Police (for Traffic Contraventions).
 - 8- Chiefs and Deputy-Chiefs Commune(Khum/ Sangkat) Administrative Police Stations (for Criminal Offenses.
 - 9- Commanders, Deputy-Commanders, and officers ranking from Deputy-Chiefs of sections or above, of the Royal Gendarmerie who are responsible for criminal affairs “ for criminal offenses related to military affairs”.
 - 10- Officials of the Ministries or institutions which separate laws have delegated the power to control some offenses.

The operations of the justice police officers must be directed and coordinated by the prosecutor on the procedure and measure of investigation to ensure the effectiveness of the prosecution under the control of the general prosecutor to the Appeal court.

The Minister of Justice may delegate to the justice police officer any competence which has its scope over the whole area. The Minister of Justice issues a Prakas (Ministerial Proclamation) instructing of the work process, and administrative procedure to the justice police officers.

Governors, Deputy-governors of the provinces/municipalities , districts (Srok/Khan), Chiefs of communes (Mekhum/ Chausangkat) have competence to order and instruct the judicial police officers within the territory of their control to operate on the offence; and the operations shall also have collaboration from the prosecutor.

NEW ARTICLE 38:

The justice police officers :

- receives claims, defamation complaints and reports of the justice police related to crimes, misdemeanors and minor crimes;
- manages to collect evidence;
- may ask for assistance from the public forces;
- make up the minutes;
- may receive rogatory commission orders;
- may make decision to place in custody for a maximum of 48 hours ;
- may in cases of flagrante delicto or crimes, inquire the witnesses, conduct searches, seize the evidences, assign experts, decide to detain the offenders in custody for a maximum of 48 hours; detain any person if there is enough evidence or suspicion with founded ground as appropriate basis for the prosecution.
- may request to delay the period of detention in custody for a period not more than 24 hours, without taking into account of the duration necessary for the transportation, under the following 5 conditions:

- 1- Serious crime;
- 2- There is indication showing clearly that the offence was committed;
- 3- It is necessary measure for the investigation be conducted well;
- 4- The request (application) shall be made in writing and submitted to the prosecutor to verify the reasonability;
- 5- Upon there is an inscription of approval from the prosecutor.

The authorization for extension shall be included in the case file.

- The delay may not be approved if the person who is detained is under 18 years of age.
- Minors of less than 13 years of age may not be detained up to 36 hours.

NEW ARTICLE 90 :

If the investigating judge finds out that the incident occurred does not constitute a felony, misdemeanor or minor crime, or if there is no sufficient burden to prove against the offender of the charges, he/she may have rights to decide to issue a non-suit order. In principle, the investigating judge shall mention in his/her order , the reasons of the decision.

This order shall be submitted immediately to the prosecutor, in order that he/she will file an contested complaint to the Appeal Court within 24 hours . If there is a contested complaint from the prosecutor, the detaining accused shall remain the same in the detention. In the contrary, if there is no contested complaint from the prosecutor, the investigating judge issues an order to release the accused, if this person is not to be detained for other reasons.

This non-suit order shall notify the complainant or his/her representative no later than 7 days. In case the complainant or his/her representative disagrees, may file an appeal with the Court Clerk's office of that court from the date of receiving the notice.

In case the general prosecutor accept with the appeal complaint of the complainant or his/her representative, the general prosecutor shall order to the provincial or municipal court or other representative of the public prosecutor office to make out a charge.

The non-suit order shall be notified to the complainant or his/her representative no later than 7 days. If the complainant or his/her representative does not agree, may file a contested complaint to the Ministry of Justice directly or through the lawyer from the date of reception of the notice.

NEW ARTICLE 91:

If there is a civil action, the non-suit order, which also had an approval from the prosecutor, shall be informed to that plaintiff party within 60 day from the date of receiving the notice; the plaintiff of the civil action has the right to file an appeal to the appeal court.

This non-suit order shall be made copies to the local justice police.

If the appeal court overrules the non-suit order, the president of the appeal court can issue and order to re-arrest and detained the accused for temporary, if he/she is outside of the detention./.

**This Law is adopted by the National Assembly of
the Kingdom of Cambodia, on 14 November 2001,
during the 7th Ordinary Session of its 2nd
Legislature.**

Phnom Penh, 22 November, 2001
The President of the National Assembly;
Signature of : **Norodom Ranaridh**